

ESTTA Tracking number: **ESTTA638768**

Filing date: **11/13/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                           |   |
|---------------------------|---|
| Proceeding                | 92053911  |
| Party                     | Defendant<br>Ovation, Inc.  |
| Correspondence<br>Address | PAIGE W MILLS<br>BASS BERRY & SIMS PLC<br>150 THIRD AVENUE SOUTH, SUITE 2800<br>NASHVILLE, TN 37201<br>UNITED STATES<br>pmills@bassberry.com, trademarks@bassberry.com, rbrewer@bassberry.com |
| Submission                | Other Motions/Papers  |
| Filer's Name              | Robert L. Brewer  |
| Filer's e-mail            | trademarks@bassberry.com  |
| Signature                 | /Robert L. Brewer/  |
| Date                      | 11/13/2014  |
| Attachments               | motion to amend and withdraw.pdf(360361 bytes )   |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

|  |   |                                    |
|--|---|------------------------------------|
| OVATION LLC, a Delaware limited liability company, | ) |                                    |
|  | ) |                                    |
| Opposer/Petitioner,                                | ) | <u>Opposition No. 91-210,397</u>   |
|  | ) | Ser. No. 85/619,736                |
| vs.  | ) |                                    |
|  | ) |                                    |
| OVATION, INC., a Tennessee corporation,            | ) | <u>Cancellation No. 92-053,911</u> |
|  | ) | Reg. No. 3,670,163                 |
|  | ) | Reg. No. 3,755,678                 |
| Applicant/Respondent.                              | ) | Reg. No. 3,755,679                 |
|  | ) |                                    |
|  | ) |                                    |

---

**STIPULATED MOTION TO AMEND APPLICATION, CONSENT TO JUDGMENT, AND  
WITHDRAWAL OF NOTICE OF OPPOSITION AND PETITION FOR CANCELLATION  
WITHOUT PREJUDICE**

Pursuant to 37 CFR § 2.135, Applicant/Respondent hereby requests to delete Class 38 only from Applicant/Respondent's U.S. Application Serial No. 85/619,736. In addition, solely in order to resolve the dispute between the parties, pursuant to TBMP 604, Applicant/Respondent hereby consents to the Board's order issuing the cancellation of Applicant/Respondent's U.S. Registration No. 3,670,163 in Class 38 only, and U.S. Registration No. 3,755,678 in its entirety.

Upon Board approval of the above request to delete Class 38 only from Applicant/Respondent's U.S. Application Ser. No. 85/619,736 and consent to judgment, the parties hereby request to dismiss

///  
///  
///

Opposition No. 91-210,397 and Cancellation No. 92-053,911 without prejudice.

Dated: November <sup>15<sup>th</sup></sup>, 2014

Respectfully submitted,

BASS BERRY & SIMS PLC

GREENBERG TRAURIG LLP

By: 

Robert L. Brewer, Esq.  
150 Third Avenue South, Suite 2800  
Nashville, TN 37201  
Phone: 615.742.7760  
Email: rbrewer@bassberry.com

*Attorneys for Applicant/Respondent*

By: 

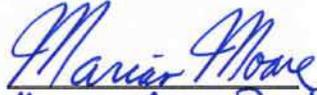
Candice E. Kim, Esq.  
1840 Century Park East, Suite 1900  
Los Angeles, California 90067  
Tel: 310.586.7700  
Email: LATM2@gtlaw.com

*Attorneys for Opposer/Petitioner*

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing STIPULATED MOTION TO AMEND APPLICATION, CONSENT TO JUDGMENT, AND WITHDRAWAL OF NOTICE OF OPPOSITION AND PETITION FOR CANCELLATION WITHOUT PREJUDICE upon Opposer/Petitioner via electronic mail to counsel on November 13, 2014.

Candice E. Kim  
Greenberg Traurig LLP  
1840 Century Park East, Suite 1900  
Los Angeles, CA 90067  
kimce@gtlaw.com  
LATM2@gtlaw.com

  
Marian Moore - Paralegal