

ESTTA Tracking number: **ESTTA558590**

Filing date: **09/10/2013**

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

Proceeding	92057050
Party	Defendant CareEvolution, Inc.
Correspondence Address	TIMOTHY M MCCARTHY CLARK HILL PLC 150 N MICHIGAN AVENUE, SUITE 2700 CHICAGO, IL 60601 UNITED STATES tmccarthy@clarkhill.com, mkitz@clarkhill.com, sschmidt@clarkhill.com
Submission	Motion to Amend Registration
Filer's Name	Timothy M. McCarthy
Filer's e-mail	tmccarthy@clarkhill.com, mkitz@clarkhill.com, sschmidt@clarkhill.com
Signature	/Timothy M. McCarthy/
Date	09/10/2013
Attachments	AmendedMotion.pdf(498076 bytes)

Registration Subject to the filing

Registration No	4304005	Registration date	03/19/2013
Registrant	CareEvolution, Inc. 521 Hillspur Rd 521 Hillspur Rd Ann Arbor, MI 48105 UNITED STATES		

Goods/Services Subject to the filing

<p>Class 035. First Use: 2003/04/01 First Use In Commerce: 2003/06/01 Requested goods and services in the class: Business and management consulting for healthcare providers and related businesses; Business management and consultation in the field of case management, integrated justice, data conversions, and business intelligence; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Electronic data collection and data submission services for business purposes in the fields of medicine and healthcare; Healthcare management service organization (MSO) services, namely, providing practice organization, management and administrative support services to individual physicians or small group practices; Providing reimbursement benchmarking information and other market intelligence to healthcare organizations</p>
<p>Class 038. First Use: 2003/03/01 First Use In Commerce: 2003/06/01 Requested goods and services in the class: Communications via multinational telecommunication networks; Consulting in the field of telecommunication services, namely, transmission of voice, data, and documents via telecommunications networks; healthcare transactions such as claims, eligibility, claim status, Electronic delivery of images and photographs via a global computer network; Peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers;</p>

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

BIO-REFERENCE LABORATORIES, INC.,)	
)	
Petitioner,)	
)	Cancellation No. 92057050
v.)	
)	Registration No. 4,304,005
CAREEVOLUTION, INC.,)	
)	
Respondent.)	

RESPONDENT’S AMENDED MOTION TO AMEND REGISTRATION

Respondent, CAREEVOLUTION, INC., by its attorneys, requests pursuant to 37 C.F.R. Section 2.133(c) and Section 605.03(b) of the Trademark Trial and Appeal Board Manual of Procedure, that the above-identified registration be amended, pursuant to a settlement agreement between the parties, and that this proceeding be thereafter dismissed, and in support states:

1. On March 19, 2013, the Office issued the above-referenced trademark registration to Respondent.
2. On April 2, 2013, Petitioner, BIO-REFERENCE LABORATORIES, INC., filed this cancellation proceeding. Petitioner seeks cancellation on the basis that Respondent’s mark is allegedly confusingly similar to Petitioner’s mark in Registration No. 2,747,755, in violation of 15 U.S.C. §1052(d). Petitioner also alleges dilution in violation of 15 U.S.C. §1125(c).
3. On May 2, 2013, Respondent filed Civil Action No. 2:13-cv-11966-DML-DRG in the United States District Court for the Eastern District of Michigan. The present cancellation proceeding was stayed pending resolution of the district court proceeding.
4. The parties have settled all matters in controversy between them. The district court matter has been or will concurrently be dismissed.

5. As part of the settlement, Respondent requests that the description of goods and services in its registration be amended to read as follows:

IC	CAREEVOLUTION Registration No. 4,304,005
9	Computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface.
35	Business information management, namely, electronic reporting of business information, business analytics, namely, business investigations, evaluations, expert appraisals, information and research, trade spend business management; Business services provided to the healthcare industry, namely, the collection, reporting, and analysis of healthcare quality data for business purposes; Collecting and analyzing claims data from healthcare organizations for business purposes; Consulting in the fields of healthcare operations management and hospital operations management; Promoting collaboration within the scientific, research and medical communities to achieve advances in the field of healthcare; Promoting collaboration within the scientific, research and provider communities to achieve advances in the field of healthcare; Promoting the exchange of information and resources within the scientific research and medical communities to achieve advances in the field of healthcare; Providing business intelligence services. Providing business intelligence services in the fields of medical devices, pharmaceuticals and the life sciences.
38	Computer transmission of information accessed via a code or a terminal; Electronic data interchange (EDI) services; Electronic data interchange services in the field of electronic remittance advice, prior authorizations, attachments and referrals that allow direct transaction and payment communications between healthcare providers and payers; Electronic exchange of data stored in databases accessible via telecommunication networks; Electronic exchange of medical records across a nationwide health information network; Information transmission services via digital networks; Providing access to an electronic exchange of medical records across a nationwide health information network.
44	Healthcare; Healthcare services, namely, integrated healthcare services with a network of international healthcare providers; Providing healthcare information.

6. Attached to this Motion as Exhibit A is a table comparing the goods and services as originally registered, with strike-throughs of the descriptive categories to be deleted, and the goods and services as proposed by this amendment. Respondent seeks merely to delete some descriptions. No additions to the subject matter are sought. No amendment to the mark is sought.

7. Upon amendment to the registration, the settlement between the parties will be complete. Accordingly, Respondent requests that the cancellation proceeding be dismissed after amendment of the registration.

8. This matter is pursuant to an agreement of the parties and counsel for the Petitioner has agreed to this amendment and dismissal.

9. A Declaration of Timothy M. McCarthy, counsel for Respondent and a qualified practitioner, is included with this Amended Motion.

WHEREFORE, Respondent, CAREEVOLUTION, INC., moves the Board to amend United States Trademark Registration No. 4,304,005 as requested, and, after amendment, to dismiss Cancellation No. 92057050 with prejudice.

Respectfully submitted,

CAREEVOLUTION, INC.

s/Timothy M. McCarthy/
One of its attorneys

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IC	Registration No. 4,304,005 As issued	Registration No. 4,304,005 As amended
9	Computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface.	Computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface.
35	Business and management consulting for healthcare providers and related businesses; Business information management, namely, electronic reporting of business information, business analytics, namely, business investigations, evaluations, expert appraisals, information and research, trade spend business management; Business management and consultation in the field of case management, integrated justice, data conversions, and business intelligence; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Business services provided to the healthcare industry, namely, the collection, reporting, and analysis of healthcare quality data for business purposes; Collecting and analyzing claims data from healthcare organizations for business purposes; Consulting in the fields of healthcare operations management and hospital operations management; Electronic data collection and data submission services for business purposes in the fields of medicine and healthcare; Healthcare management service organization (MSO) services, namely, providing practice organization, management and administrative support	Business and management consulting for healthcare providers and related businesses; Business information management, namely, electronic reporting of business information, business analytics, namely, business investigations, evaluations, expert appraisals, information and research, trade spend business management; Business management and consultation in the field of case management, integrated justice, data conversions, and business intelligence; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Business services provided to the healthcare industry, namely, the collection, reporting, and analysis of healthcare quality data for business purposes; Collecting and analyzing claims data from healthcare organizations for business purposes; Consulting in the fields of healthcare operations management and hospital operations management; Electronic data collection and data submission services for business purposes in the fields of medicine and healthcare; Healthcare management service organization (MSO) services, namely, providing practice organization, management and administrative support

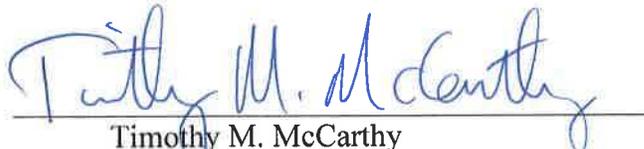
IC	Registration No. 4,304,005 As issued	Registration No. 4,304,005 As amended
	<p>services to individual physicians or small group practices; Promoting collaboration within the scientific, research and medical communities to achieve advances in the field of healthcare; Promoting collaboration within the scientific, research and provider communities to achieve advances in the field of healthcare; Promoting the exchange of information and resources within the scientific research and medical communities to achieve advances in the field of healthcare; Providing business intelligence services. Providing business intelligence services in the fields of medical devices, pharmaceuticals and the life sciences; Providing reimbursement benchmarking information and other market intelligence to healthcare organizations.</p>	<p>services to individual physicians or small group practices; Promoting collaboration within the scientific, research and medical communities to achieve advances in the field of healthcare; Promoting collaboration within the scientific, research and provider communities to achieve advances in the field of healthcare; Promoting the exchange of information and resources within the scientific research and medical communities to achieve advances in the field of healthcare; Providing business intelligence services. Providing business intelligence services in the fields of medical devices, pharmaceuticals and the life sciences; Providing reimbursement benchmarking information and other market intelligence to healthcare organizations.</p>
38	<p>Communications via multinational telecommunication networks; Computer transmission of information accessed via a code or a terminal; Consulting in the field of telecommunication services, namely, transmission of voice, data, and documents via telecommunications networks; Electronic data interchange (EDI) services; Electronic data interchange services in the field of healthcare transactions such as claims, eligibility, claim status, electronic remittance advice, prior authorizations, attachments and referrals that allow direct transaction and payment communications between healthcare providers and payers; Electronic delivery of images and photographs via a global computer network; Electronic exchange of data stored in databases accessible via telecommunication networks; Electronic exchange of medical records across a nationwide health information network;</p>	<p>Communications via multinational telecommunication networks; Computer transmission of information accessed via a code or a terminal; Consulting in the field of telecommunication services, namely, transmission of voice, data, and documents via telecommunications networks; Electronic data interchange (EDI) services; Electronic data interchange services in the field of healthcare transactions such as claims, eligibility, claim status, electronic remittance advice, prior authorizations, attachments and referrals that allow direct transaction and payment communications between healthcare providers and payers; Electronic delivery of images and photographs via a global computer network; Electronic exchange of data stored in databases accessible via telecommunication networks; Electronic exchange of medical records across a nationwide health information network;</p>

IC	Registration No. 4,304,005 As issued	Registration No. 4,304,005 As amended
	Information transmission services via digital networks; Peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; Providing access to an electronic exchange of medical records across a nationwide health information network.	Information transmission services via digital networks; Peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers; Providing access to an electronic exchange of medical records across a nationwide health information network.
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Declaration Pursuant to Trademark Rule 2.20

1. My name is Timothy M. McCarthy. I am an attorney licensed to practice in the State of Illinois by the Supreme Court of the State of Illinois.
2. I am authorized by CAREEVOLUTION, INC. to represent it in this proceeding.
3. I also represented CAREEVOLUTION, INC. in Civil Action No. 2:13-cv-11966-DML-DRG in the United States District Court for the Eastern District of Michigan. That action has been dismissed.
4. Having been warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, I declare that all statements made of my own knowledge in the foregoing Motion to Amend Registration are true; and all statements made on information and belief are believed to be true.

September ¹⁹ 6, 2013



Timothy M. McCarthy
Member of Illinois bar

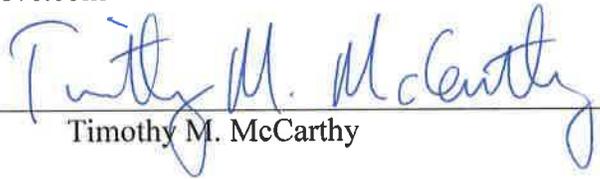
Certificate of Service

On September 6, 2013, I emailed a copy of the foregoing Amended Motion to Amend Registration to Arthur Lessler, counsel for Petitioner:

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September 6, 2013



Timothy M. McCarthy

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