

ESTTA Tracking number: **ESTTA572740**

Filing date: **11/25/2013**

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

**Petition for Cancellation**

Notice is hereby given that the following parties request to cancel indicated registration.

**Petitioner Information**

Name	Echo Health, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	868 Corporate Way Westlake, OH 44145 UNITED STATES		

Name	Simplicity Payment Alliance, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	24670 Center Ridge Road Suite 160 Westlake, OH 44145 UNITED STATES		

Attorney information	Keith A. Ashmus Frantz Ward LLP 127 Public Square 2500 Key Center Cleveland, OH 44114 UNITED STATES kashmus@frantzward.com, hlarsen@frantzward.com Phone:216-515-1660		
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**Registration Subject to Cancellation**

Registration No	3965689	Registration date	05/24/2011
Registrant	QuickPayNet Ltd. 20600 Chagrin Blvd Suite 450 Shaker Heights, OH 44122 OH		

**Goods/Services Subject to Cancellation**

Class 036. First Use: 2006/11/08 First Use In Commerce: 2009/06/15 All goods and services in the class are cancelled, namely: Electronic processing of healthcare claims and payment data for group health plans, health savings accounts, health reimbursement accounts and employer trust accounts; electronic payment services, namely, electronic processing and transmission of bill payments
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	1651009	Application Date	04/02/1990
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Registration Date	07/16/1991	Foreign Priority Date	NONE
Word Mark	SIMPLICITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/12/05 First Use In Commerce: 1990/04/02 financial services for physicians, insurers and other third party payors, and patients; namely, submission of claims forms to third party payors, verifying insurance eligibility, disbursing reimbursements for medical services, tracking of claims to and reimbursements from third party payors		

Attachments	Petition to Cancel Signed.pdf(227285 bytes ) Exhibits.pdf(297596 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Keith A. Ashmus/
Name	Keith A. Ashmus
Date	11/25/2013

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

In the matter of Trademark Registration No. 3,965,689  
For the mark SIMPLICITY HEALTH PLANS  
Date registered May 24, 2011

Simplicity Payment Alliance, Inc. and )  
ECHO Health, Inc., )  
 )  
Petitioners, )  
 )  
v. )  
 )  
QuickPayNet Ltd. DBA Simplicity Health )  
Plans, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Cancellation No. \_\_\_\_\_

**PETITION TO CANCEL**

Attention: TTAB  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

Simplicity Payment Alliance, Inc., a company organized and existing under the laws of the State of Ohio and having a principal place of business at 24670 Center Ridge Road, Suite 160, Westlake, Ohio 44145, and ECHO Health, Inc., an Ohio corporation having a principal place of business at 868 Corporate Way, Westlake, Ohio 44145 (collectively "Petitioners"), believe that they will be damaged by the continued registration of the mark SIMPLICITY HEALTH PLANS, subject of Registration No. 3,965,689, owned by Respondent QuickPayNet Ltd. DBA Simplicity Health Plans, registered in association with "electronic processing of healthcare claims and payment

data for group health plans, health savings accounts, health reimbursement accounts and employer trust accounts; electronic payment services, namely, electronic processing and transmission of bill payments” in Class 36, and hereby petitions for cancellation of the registration.

As grounds for this petition, Petitioners allege:

### **THE PARTIES**

1. Petitioner, Simplicity Payment Alliance, Inc., is an Ohio corporation, with a business address at 24670 Center Ridge Road, Suite 160, Westlake, Ohio 44145.
2. Petitioner, ECHO Health, Inc., is an Ohio corporation, with a place of business at 868 Corporate Way, Westlake, Ohio 44145.
3. ECHO Health, Inc. owns Simplicity Payment Alliance, Inc.
4. Upon information and belief, Respondent QuickPayNet Ltd. DBA Simplicity Health Plans is an Ohio Limited Liability Company having a business address at 20600 Chagrin Boulevard, Suite 450, Shaker Heights, Ohio 44122.

### **PETITIONERS AND THEIR TRADEMARKS**

5. Petitioner Simplicity Payment Alliance, Inc., long prior to any date of first use upon which Respondent can rely, has adopted, used and is using the trademark SIMPLICITY in association with processing and administering healthcare benefits, claims and payments. Such use of SIMPLICITY has been continuous and uninterrupted up to and including the present time.
6. Petitioner Simplicity Payment Alliance, Inc. is the record owner of United States Trademark Registration No. 1,651,009 (“009 registration”), issued July 16, 1991 for the trademark SIMPLICITY for “financial services for physicians, insurers and other

third party payors, and patients; namely, submission of claims forms to third party payors, verifying insurance eligibility, disbursing reimbursements for medical services, tracking of claims to and reimbursements from third party payors.” This registration is on the Principal Register and is valid, subsisting, unrevoked, uncanceled and incontestable. Attached hereto as Exhibit A and hereby made of record pursuant to 37 C.F.R. § 2.122(d)(1), is a current printout of information from the U.S. Patent and Trademark Office's electronic database showing the status and title for the '009 registration.

7. Petitioner ECHO Health, Inc. has applied to register SIMPLICITY QUICREMIT, subject of Application Serial No. 85/631,605 (“605 application”), filed May 22, 2012 in association with “facilitating healthcare benefit disbursements, namely, healthcare benefit claims administration” in Class 36. Attached hereto as Exhibit B and hereby made of record pursuant to 37 C.F.R. § 2.122(d)(1), is a current printout of information from the U.S. Patent and Trademark Office's electronic database showing the status and title for the '605 application.

8. Registration of Petitioner ECHO Health, Inc.'s '605 application to register SIMPLICITY QUICREMIT has been refused based on a likelihood of confusion with Respondent's Registration No. 3,965,689 (“689 registration”) for SIMPLICITY HEALTH PLANS.

#### **RESPONDENT'S TRADEMARK REGISTRATION**

9. On September 21, 2010, Respondent applied to register the mark SIMPLICITY HEALTH PLANS for “electronic processing of healthcare claims and payment data for group health plans, health savings accounts, health reimbursement

accounts and employer trust accounts; electronic payment services, namely, electronic processing and transmission of bill payments” in Class 36. This application was assigned Serial No. 85/134,770 and was based upon Respondent’s asserted use in commerce since at least as early as June 15, 2009.

10. On May 24, 2011, the ‘689 registration issued as a trademark registration for the mark SIMPLICITY HEALTH PLANS in association with “electronic processing of healthcare claims and payment data for group health plans, health savings accounts, health reimbursement accounts and employer trust accounts; electronic payment services, namely, electronic processing and transmission of bill payments” in Class 36.

**COUNT:**  
**LIKELIHOOD OF CONFUSION**  
**SECTION 2(d) OF THE LANHAM ACT, 15 U.S.C. §1052(d)**

11. Respondent’s mark SIMPLICITY HEALTH PLANS is confusingly similar to Petitioner Simplicity Payment Alliance Inc.’s senior mark SIMPLICITY in sight, sound and meaning. The entirety of Simplicity Payment Alliance Inc.’s mark is contained in Respondent’s mark.

12. The services identified in Respondent’s SIMPLICITY HEALTH PLANS ‘689 registration are virtually identical to or closely related to Petitioner’s services.

13. Petitioner Simplicity Payment Alliance Inc.’s use, filing and registration (the ‘009 registration) of the SIMPLICITY trademark is well before Respondent’s filing date of the mark SIMPLICITY HEALTH PLANS or any date of first use of the mark SIMPLICITY HEALTH PLANS on which Respondent can rely. Respondent’s mark SIMPLICITY HEALTH PLANS, which is the subject of the ‘689 registration, so resembles Petitioner’s previously used and registered SIMPLICITY trademark as to be

likely to cause confusion, mistake and/or deception for purposes of Section 2(d) of the Trademark Act.

14. Petitioners believe and, therefore, aver that continued registration of Respondent's SIMPLICITY HEALTH PLANS mark and the '689 registration will damage Petitioners. Purchasers of Petitioners' and Respondent's services will incorrectly assume that Respondent's services are associated with, endorsed by, or related to Petitioners and/or Petitioners' SIMPLICITY trademarks when they are not. Furthermore, Petitioner ECHO Health, Inc. will be unable to secure registration of its applied-for mark SIMPLICITY QUICREMIT.

WHEREFORE, Petitioners believe they will be damaged by continued registration of the mark in the SIMPLICITY HEALTH PLANS registration, and pray that Registration No. 3,965,689 be cancelled and that this cancellation proceeding be sustained in Petitioners' favor.

The required \$600.00 cancellation fee (one fee for each Petitioner) accompanies this Petition.

Dated: November 22, 2013

Respectfully submitted,

FRANTZ WARD LLLP



Keith A. Ashmus  
127 Pubic Square, 2500 Key Center  
Cleveland, Ohio 44114  
216-515-1660  
kashmus@frantzward.com

Attorneys for Petitioners

**CERTIFICATE OF SERVICE**

I hereby certify that this PETITION TO CANCEL was filed electronically with the United States Patent and Trademark Office, Trademark Trial and Appeal Board on **November 22, 2013**, and that a true and complete copy of the foregoing PETITION TO CANCEL has been served on the following Correspondent, as listed on the TSDR website of the United States Patent and Trademark Office, by mailing said copy via First Class Mail, postage prepaid, to:

QUICKPAYNET LTD.  
20600 CHAGRIN BLVD STE 450  
SHAKER HEIGHTS, OHIO 44122-5346



Keith A. Ashmus  
Attorney for Petitioners

# **EXHIBIT A**



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**Word Mark** SIMPLICITY

**Goods and Services** IC 036. US 101 102. G & S: financial services for physicians, insurers and other third party payors, and patients; namely, submission of claims forms to third party payors, verifying insurance eligibility, disbursing reimbursements for medical services, tracking of claims to and reimbursements from third party payors. FIRST USE: 19891205. FIRST USE IN COMMERCE: 19900402

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 74045161

**Filing Date** April 2, 1990

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 18, 1990

**Registration Number** 1651009

**Registration Date** July 16, 1991

**Owner** (REGISTRANT) Simplicity Payment Association, Inc. CORPORATION OHIO 24601 Center Ridge Road Westlake OHIO 441455623

(LAST LISTED OWNER) SIMPLICITY ALLIANCE, INC. CORPORATION OHIO 24670 CENTER RIDGE ROAD, SUITE 160 WESTLAKE OHIO 44145

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Sandra M. Koenig

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20110720.

**Renewal** 2ND RENEWAL 20110720

**Live/Dead Indicator** LIVE

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Mark: SIMPLICITY

No Image exists for this case.

US Serial Number: 74045161

Application Filing Date: Apr. 02, 1990

US Registration Number: 1651009

Registration Date: Jul. 16, 1991

Register: Principal

Mark Type: Service Mark

Status: The registration has been renewed.

Status Date: Jul. 20, 2011

Publication Date: Dec. 18, 1990

**Mark Information**

**Goods and Services**

**Basis Information (Case Level)**

**Current Owner(s) Information**

**Attorney/Correspondence Information**

**Prosecution History**

**Maintenance Filings or Post Registration Information**

**TM Staff and Location Information**

**Assignment Abstract Of Title Information**

**Summary**

Total Assignments: 4

Conveyance Filter  
Registrant: Simplicity Payment Association, Inc.

**Assignment 1 of 4**

**Assignment 2 of 4**

**Assignment 3 of 4**

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [3083/0397](#)

Pages: 4

Date Recorded: Nov. 18, 2004

Supporting Documents: [assignment-tm-3083-0397.pdf](#)

**Assignor**

Name: [ECHO HEALTH, INC.](#)

Execution Date: Nov. 03, 2004

Legal Entity Type: CORPORATION

State or Country Where Organized: OHIO

Organized:

**Assignee**

Name: [SIMPLICITY ALLIANCE, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: OHIO

Organized:

Address: 24670 CENTER RIDGE ROAD, SUITE 160  
WESTLAKE, OHIO 44145

**Correspondent**

**Correspondent Name:** THOMAS E. KOCOVSKY, JR.

**Correspondent Address:** FAY, SHARPE, FAGAN, MINNICH ET AL.  
1100 SUPERIOR AVENUE, SEVENTH FLOOR  
CLEVELAND, OH 44114-2518

**Domestic Representative - Not Found**

**Assignment 4 of 4**

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE NAME OF THE ASSIGNEE PREVIOUSLY RECORDED ON REEL 003083 FRAME 0397. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT OF REG. NO. 1651009 TO SIMPLICITY PAYMENT ALLIANCE, INC..

**Reel/Frame:** [4781/0627](#)

**Pages:** 5

**Date Recorded:** Apr. 12, 2012

**Supporting Documents:** [assignment-tm-4781-0627.pdf](#)

**Assignor**

**Name:** [ECHO HEALTH, INC.](#)

**Execution Date:** Nov. 03, 2004

**Legal Entity Type:** CORPORATION

**State or Country Where** OHIO

**Organized:**

**Assignee**

**Name:** [SIMPLICITY PAYMENT ALLIANCE, INC.](#)

**Legal Entity Type:** CORPORATION

**State or Country Where** OHIO

**Organized:**

**Address:** 24670 CENTER RIDGE ROAD, SUITE 160  
WESTLAKE, OHIO 44145

**Correspondent**

**Correspondent Name:** SANDRA M. KOENIG - FAY SHARPE LLP

**Correspondent Address:** 1228 EUCLID AVENUE, 5TH FLOOR  
CLEVELAND, OHIO 44115

**Domestic Representative - Not Found**

**Proceedings - [Click to Load](#)**

# **EXHIBIT B**



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# SIMPLICITY QuicRemit

<b>Word Mark</b>	SIMPLICITY QUICREMIT
<b>Goods and Services</b>	IC 036. US 100 101 102. G & S: Facilitating healthcare benefit disbursements, namely, healthcare benefit claims administration
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85631605
<b>Filing Date</b>	May 22, 2012
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Owner</b>	(APPLICANT) ECHO Health, Inc. CORPORATION OHIO 868 Corporate Way Westlake OHIO 44145
<b>Attorney of Record</b>	Sandra M. Koenig
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "QUICK REMIT" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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Mark: SIMPLICITY QUICREMIT

**SIMPLICITY QuicRemit**

US Serial Number: 85631605

Application Filing Date: May 22, 2012

Register: Principal

Mark Type: Service Mark

Status: An appeal of a final refusal to register the mark is pending before the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Oct. 29, 2013

**Mark Information****Goods and Services****Basis Information (Case Level)****Current Owner(s) Information****Attorney/Correspondence Information****Prosecution History****TM Staff and Location Information**

Assignment Abstract Of Title Information - None recorded

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