

From: Blohm, Linda

Sent: 5/3/2013 12:49:51 PM

To: TTAB E Filing

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 77940803 - CLINICAL CONSIDERATIONS - 46291.000 35 -
SU - Request for Reconsideration Denied - Return to TTAB

Attachment Information:

Count: 1

Files: 77940803.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 77940803

MARK: CLINICAL CONSIDERATIONS



CORRESPONDENT ADDRESS:

KEVIN OLIVEIRA

ODIN, FELDMAN & PITTLEMAN, PC

1775 WIEHLE AVENUE, SUITE 400

RESTON, VA 20190-5159

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: Comprehensive NeuroScience, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

46291.000 35

CORRESPONDENT E-MAIL ADDRESS:

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE:

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action mail dated October 19, 2012 are maintained and continue to be final. See TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. See 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. See TMEP §715.04(a).

The specimen submitted with the statement of use contains the following:

Products and Services ~ Care Management Technologies

Behavioral Pharmacy Management

In 2002, recognizing the tremendous increases in utilization of medication to treat behavioral illness, CNS developed the Behavioral Pharmacy Management (BPM) process to support the quality of this expanding prescribing. In applying the methodological rigor of CNS' Expert Consensus Guidelines with IT-enabled algorithms (Quality Indicators™) to retrospectively screen large pharmacy claims

databases, CNS identifies physicians who may be in need **re-alignment with evolving best practices in the prescribing of over 400 different psychotropic medications.**

Interventions with physician prescribers are consultative and educational, aiming to impart knowledge of best practices. By sensitively intervening with **Clinical Considerations™** based on **literature evidence** or **recognized expert opinion**, providers are given clear, simple suggestions for **improving the quality of treatment**. BPM acts as an information services and does not engage in the practice of medicine or other clinical activity. Information provided is evaluated by medical or other healthcare professionals in the exercise of their professional judgment. With BPM, no additions are made to the existing treatment team; rather the team is supplied with succinct information at the right times with educational around the best practice. BPM continues to analyze prescriber data monthly during the contract period to further refine and measure the effect of the intervention. Here, BPM provides for continuous monitoring over time, escalating the level of intervention as needed, including peer-to-peer physician contact.

BPM highlights include:

Continuous pharmacy surveillance to apply Quality Indicators™ and provide **Clinical Considerations™** to physician outside the best practices.

Growing portfolio of over 80 child, adult, and elderly Quality Indicators™.

- **Sensitive, evidence-based interventions** that include patient specific and best practice information regularly receive positive physician feedback.
- **Prescriber alert communications**, summarizing case demographics, 90-day pharmacy history, and a listing of all psychotropic prescribers, critical for physicians and health plans to review patient progress.
- **Change reports** to notify clients of the evolving status of identified patients and physicians.
- **No requirements** regarding the special collection of data.
- **Data warehousing and processing** which is fully certified and HIPAA compliant

BPM has enables client to recognize savings in behavioral pharmacy costs as a result of prescriber education and outlier management strategies. Recent studies have demonstrated that in addition to prescription drug savings, inpatient and outpatient costs are reduced for those patients whose physicians align their prescribing with best practices.

The “underlined” language is original to the document itself.

The applied-for mark is shown in **dark blue, CLINICAL CONSIDERATIONS**, and is in bold type [for emphasis in this Office action]

The wording shown in **light blue and bolded** is language referenced in applicant's request for reconsideration that purportedly shows that the applied-for mark is used to support the identified services. The colors and bolded language will show in the USPTO's database.

The specimen as a whole does not support that the applied-for mark, "CLINICAL CONSIDERATIONS" is being used as a service mark for any of the identified services.

The sentences,

"by sensitively intervening with **Clinical Considerations**[™] based on literature evidence or recognized expert opinion, providers are given clear, simple suggestions for improving the quality of treatment."

"Continuous pharmacy surveillance to apply Quality Indicators[™] and provide **Clinical Considerations**[™] to physician outside the best practices."

still fail to support the identified services.

The applied-for mark "CLINICAL CONSIDERATIONS" is not being used to indicate that applicant is providing "business management consulting; cost management for the health benefit plans of others; pharmaceutical cost management services and drug utilization review services" in International Class 035.

Substitute Specimen

The uses of the applied-for mark on the substitute specimen are as follows:

- **Clinical Considerations**[™], collegial communications that address issues identified by each QI, offer therapeutic alternative and provide supporting literature citations.
- **Prescriber Educational Letters**, in addition to the Clinical Considerations, provide case demographics, 90-day pharmacy history, and a list of all prescribers of pain and behavioral medication for each patient.

Again, this specimen, taken as a whole and the phrases in which the applied-for mark is used, do not show the applied-for mark being used to support/identify:

business management consulting; cost management for the health benefit plans of others; pharmaceutical cost management services and drug utilization review services” in International Class 035.

/Linda E. Blohm/

Trademark Examining Attorney

Law Office 110

linda.blohm@uspto.gov

phone: 571.272.9129

Fax: 571.273.9110