

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85174978
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	
REQUEST FOR RECONSIDERATION	
<p>Applicant owns, or itself controls the owner of, U.S. Federal Trademark Registration Nos. 4055074 (for TIPS in standard characters), 4055076 (for ETIPS in standard characters), 4055073 (for TIPS in stylized characters), 4055075 (for ETIPS in stylized characters), and, as previously claimed, 1551735 (for TIPS in standard characters) and 3044412 (for TIPS in stylized characters), each without a maintained claim of a refusal based in descriptiveness under Section 2(e)(1).</p>	
<p>These U.S. Federal Trademark Registrations are each on the Principal Register for the following marks, were registered on the date shown and for the services and goods hereinbelow summarized:</p>	
<p>(1) For the mark TIPS in Registration No. 1,551,735 as registered August 15, 1989 with first use in commerce in May 1983 for goods in the nature of “pre-recorded magnetic video tapes, pre-recorded magnetic audio tapes, and audio-video photograph slides pertaining to the education of servers of alcohol”, “training and trainee manuals pertaining to the education of servers of alcohol” and services in the nature of “health educational training of servers of alcohol for prevention of alcohol abuse;</p>	
<p>(2) For the mark TIPS (in stylized text) in Registration No. 3,044,412 as registered January 17, 2006 with first use in commerce as of January 1, 1995 for goods in the nature of “manuals and printed pamphlet materials for use in training and educating people on responsible alcohol sales and service”</p>	
<p>(3) For the mark TIPS in Registration No. 4,055,074 as registered November 15, 2011 with first use in commerce in April 1983 for goods in the nature of “prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale,</p>	

and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information” and with first use in commerce in May 1983 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce in May 1983 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of January 1, 1995 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and

events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

(4) For the mark TIPS (in stylized text) in Registration No. 4,055,073

with first use in commerce as of January 1, 1995 for goods in the nature of “prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information” and with first use in commerce as of January 1, 1995 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-

commerce”

and with first use in commerce as of January 1, 1995 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of January 1, 1995 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

(5) For the mark ETIPS in Registration No. 4,055,076

with first use in commerce as of October 20, 2005 for goods in the nature of “prerecorded

downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information” and with first use in commerce as of October 20, 2005 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce as of October 20, 2005 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of October 20, 2005 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for

organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

and

(6) For the mark ETIPS (in stylized text) in Registration No. 4,055,075 with first use in commerce as of October 20, 2005 for goods in the nature of “pre-recorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information” and with first use in commerce as of October 20, 2005 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages

and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce as of October 20, 2005 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of October 20, 2005 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that

enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

Applicant by itself or predecessors in interest has been using the TIPS mark in interstate commerce and has used it since at least as early as May 1983.

As stated by this Application for this mark TIPS FOR THE WORKPLACE, the Applicant intends to make use of this mark on goods and services similar and identical to those earlier offered and the subject of these aforementioned Registrations.

As a consequence, Applicant, in this Application, which has used the same relevant part, TIPS, within its marks on related goods and/or services may file a claim of acquired distinctiveness in part under Trademark Act Section 2(f) before filing an allegation of use, since Applicant hereby and in the evidence submitted can establish that, as a result of Applicant’s use of the relevant part, TIPS, within its marks on other related goods and/or services, the relevant part, TIPS, has become distinctive of the goods and/or services in the intent-to-use application, and that this previously created distinctiveness will transfer to the goods and/or services in the intent-to-use application when use in commerce begins. In re *Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1347, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001); In re *Nielsen Bus. Media, Inc.*, 93 USPQ2d 1545, 1547 (TTAB 2010); In re *Binion*, 93 USPQ2d 1531, 1538 (TTAB 2009); TMEP §1212.09(a).

In response to the request for information, Applicant submits that the information provided as specimen in each of these previously issued Registrations are sufficient information to respond to the information request. Additionally, the specimen provided in this application (albeit deemed insufficient by the examining attorney) also responds to the request for information and suitably meets the requirements for which such information has been deemed required.

Modification of the specifications of goods required by the examining attorney have been entered in the TEAS system to conform the specifications of these goods to the requirements of the examining attorney and to present such in the nature of those specifications that have just been made the subject of Registration in November 2011 (and specifically with respect to U.S. Federal Trademark Registration Nos. 4055074 (for TIPS in standard characters), 4055076 (for ETIPS in standard characters), 4055073 (for TIPS in stylized characters), and 4055075 (for ETIPS in stylized characters)).

Otherwise, as specifically mentioned, Applicant has modified its application for registration to be based in Section 1(b), and, in the TEAS system form, made a claim of 2(f) in part with respect to the TIPS component in this mark and disclaimed the descriptive element of the mark while also claiming the additional prior Registrations. (An amendment to the Supplemental Register would likely not be appropriate in light of the distinctiveness achieved by this Applicant in the TIPS component in this mark.)

Based upon the foregoing, the Applicant submits that it has responded in full to the Office Action and all further requirements of the trademark examining attorney and requests that the mark recited herein be published for opposition in the Official Gazette for registration on the Principal Register.

GOODS AND/OR SERVICES SECTION (009)(current)**INTERNATIONAL CLASS**

009

DESCRIPTION

prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 03/15/1987

FIRST USE IN COMMERCE DATE

At least as early as 07/13/1987

GOODS AND/OR SERVICES SECTION (009)(proposed)**INTERNATIONAL CLASS**

009

DESCRIPTION

prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information

FILING BASIS

Section 1(b)

GOODS AND/OR SERVICES SECTION (016)(current)

INTERNATIONAL CLASS

016

DESCRIPTION

printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationary, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 03/15/1987

FIRST USE IN COMMERCE DATE

At least as early as 07/13/1987

GOODS AND/OR SERVICES SECTION (016)(proposed)

INTERNATIONAL CLASS

016

TRACKED TEXT DESCRIPTION

~~printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationary, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers;~~ printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers

FINAL DESCRIPTION

printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers

FILING BASIS

Section 1(b)

GOODS AND/OR SERVICES SECTION (041)(current)

INTERNATIONAL CLASS

041

DESCRIPTION	
providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/15/1987
FIRST USE IN COMMERCE DATE	At least as early as 07/13/1987
GOODS AND/OR SERVICES SECTION (041)(proposed)	
INTERNATIONAL CLASS	041
DESCRIPTION	
providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments	
FILING BASIS	Section 1(b)
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use FOR THE WORKPLACE apart from the mark as shown.
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 4055074, 4055076, 4055073, and others.
SECTION 2(f), IN PART	TIPS has become distinctive of the goods/services as evidenced by the ownership on the Principal Register for the same mark for related goods or services of U.S. Registration No(s). 4055074.
SIGNATURE SECTION	
DECLARATION SIGNATURE	/ac/
SIGNATORY'S NAME	Adam Chafetz
SIGNATORY'S POSITION	Director
DATE SIGNED	03/09/2012

RESPONSE SIGNATURE	/kto/
SIGNATORY'S NAME	Kevin Oliveira
SIGNATORY'S POSITION	Attorney of record, Virginia bar member
SIGNATORY'S PHONE NUMBER	(703) 218-2138
DATE SIGNED	03/09/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Mar 09 12:53:35 EST 2012
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PTO Form 1930 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85174978** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

REQUEST FOR RECONSIDERATION

Applicant owns, or itself controls the owner of, U.S. Federal Trademark Registration Nos. 4055074 (for TIPS in standard characters), 4055076 (for ETIPS in standard characters), 4055073 (for TIPS in stylized characters), 4055075 (for ETIPS in stylized characters), and, as previously claimed, 1551735 (for TIPS in standard characters) and 3044412 (for TIPS in stylized characters), each without a maintained claim of a refusal based in descriptiveness under Section 2(e)(1).

These U.S. Federal Trademark Registrations are each on the Principal Register for the following marks, were registered on the date shown and for the services and goods hereinbelow summarized:

(1) For the mark TIPS in Registration No. 1,551,735 as registered August 15, 1989 with first use in commerce in May 1983 for goods in the nature of “pre-recorded magnetic video tapes, pre-recorded

magnetic audio tapes, and audio-video photograph slides pertaining to the education of servers of alcohol”, “training and trainee manuals pertaining to the education of servers of alcohol” and services in the nature of “health educational training of servers of alcohol for prevention of alcohol abuse;

(2) For the mark TIPS (in stylized text) in Registration No. 3,044,412 as registered January 17, 2006 with first use in commerce as of January 1, 1995 for goods in the nature of “manuals and printed pamphlet materials for use in training and educating people on responsible alcohol sales and service”

(3) For the mark TIPS in Registration No. 4,055,074 as registered November 15, 2011 with first use in commerce in April 1983 for goods in the nature of “prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information” and with first use in commerce in May 1983 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce in May 1983 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of January 1, 1995 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting

services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

(4) For the mark TIPS (in stylized text) in Registration No. 4,055,073

with first use in commerce as of January 1, 1995 for goods in the nature of “prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text,

electronic documents, databases, graphics and audio visual information”

and with first use in commerce as of January 1, 1995 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce as of January 1, 1995 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of January 1, 1995 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site

featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

(5) For the mark ETIPS in Registration No. 4,055,076

with first use in commerce as of October 20, 2005 for goods in the nature of “prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information”

and with first use in commerce as of October 20, 2005 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce as of October 20, 2005 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service

establishments”

and with first use in commerce as of October 20, 2005 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

and

(6) For the mark ETIPS (in stylized text) in Registration No. 4,055,075 with first use in commerce as of October 20, 2005 for goods in the nature of “prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and

consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information”

and with first use in commerce as of October 20, 2005 for goods in the nature of “printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers”

and with first use in commerce as of January 1, 1995 for services in the nature of “business consultation services on the subjects of business reengineering, e-commerce and on-line commerce; providing business information over global, local and internal computer networks on the subjects of business planning, business reengineering, on-line commerce and e-commerce; providing business information via the internet on the subjects of business planning, business reengineering, on-line commerce and e-commerce”

and with first use in commerce as of October 20, 2005 for services in the nature of “providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments”

and with first use in commerce as of October 20, 2005 for services in the nature of “consulting services in the field of design, selection, implementation and use of computer systems for others; computer consulting services for planning, design and analysis of information processes, systems and business reengineering; computer consulting services, namely, analysis and design of computer systems and information systems for others; design for others of software applications; providing design and development for others' computer networks; information technology consultation services; computer consulting services, namely, consultation on the computer-related aspects of e-commerce and information technology; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos and content; providing temporary use of non-downloadable software applications for transmission of photographic images, audio and video; electronic publishing services, namely, publishing of works of others online featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and

conducting meetings, events and interactive discussions via communication networks. application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data”

Applicant by itself or predecessors in interest has been using the TIPS mark in interstate commerce and has used it since at least as early as May 1983.

As stated by this Application for this mark TIPS FOR THE WORKPLACE, the Applicant intends to make use of this mark on goods and services similar and identical to those earlier offered and the subject of these aforementioned Registrations.

As a consequence, Applicant, in this Application, which has used the same relevant part, TIPS, within its marks on related goods and/or services may file a claim of acquired distinctiveness in part under Trademark Act Section 2(f) before filing an allegation of use, since Applicant hereby and in the evidence submitted can establish that, as a result of Applicant’s use of the relevant part, TIPS, within its marks on other related goods and/or services, the relevant part, TIPS, has become distinctive of the goods and/or services in the intent-to-use application, and that this previously created distinctiveness will transfer to the goods and/or services in the intent-to-use application when use in commerce begins. In re *Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1347, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001); In re *Nielsen Bus. Media, Inc.*, 93 USPQ2d 1545, 1547 (TTAB 2010); In re *Binion*, 93 USPQ2d 1531, 1538 (TTAB 2009); TMEP §1212.09(a).

In response to the request for information, Applicant submits that the information provided as specimen in each of these previously issued Registrations are sufficient information to respond to the information request. Additionally, the specimen provided in this application (albeit deemed insufficient by the examining attorney) also responds to the request for information and suitably meets the requirements for which such information has been deemed required.

Modification of the specifications of goods required by the examining attorney have been entered in the TEAS system to conform the specifications of these goods to the requirements of the examining attorney and to present such in the nature of those specifications that have just been made the subject of Registration in November 2011 (and specifically with respect to U.S. Federal Trademark Registration Nos. 4055074 (for TIPS in standard characters), 4055076 (for ETIPS in standard characters), 4055073 (for TIPS in stylized characters), and 4055075 (for ETIPS in stylized characters)).

Otherwise, as specifically mentioned, Applicant has modified its application for registration to be based in Section 1(b), and, in the TEAS system form, made a claim of 2(f) in part with respect to the TIPS component in this mark and disclaimed the descriptive element of the mark while also claiming the

additional prior Registrations. (An amendment to the Supplemental Register would likely not be appropriate in light of the distinctiveness achieved by this Applicant in the TIPS component in this mark.) Based upon the foregoing, the Applicant submits that it has responded in full to the Office Action and all further requirements of the trademark examining attorney and requests that the mark recited herein be published for opposition in the Official Gazette for registration on the Principal Register.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 009 for prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/15/1987 and first used in commerce at least as early as 07/13/1987, and is now in use in such commerce.

Proposed: Class 009 for prerecorded downloadable audio, photographic and video recordings, audiotapes, videotapes, CDs, DVDs featuring content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; audio-video photograph slides; electronic publications featuring educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments and electronic downloadable publications of educational, instructional, training, demonstrative and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; software featuring education, instruction, training, demonstration and testing content related to responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; electronic publications of audio, photographic and video recordings and audio-video photograph slides; software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; software providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information

Deleted Filing Basis: 1(a)

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 016 for printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/15/1987 and first used in commerce at least as early as 07/13/1987, and is now in use in such commerce.

Proposed:

Tracked Text Description: ~~printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers;~~ printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers

Class 016 for printed matter, namely, instructional teaching and training manuals, newsletters and periodicals, reference books, workbooks, textbooks in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments, catalogs, manuscripts, classroom and independent study guides, pamphlets, leaflets, directories, journals, calendars, brochures, charts, fact sheets, practice sheets, folios, notebooks, appointment books, appointment cards, note cards, post cards, folders, stationery, note pads, pens, pencils, binders, loose-leaf binders, bumper stickers, decals, stickers

Deleted Filing Basis: 1(a)

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 041 for providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and

operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/15/1987 and first used in commerce at least as early as 07/13/1987, and is now in use in such commerce.

Proposed: Class 041 for providing educational services, namely, conducting seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, the training of others through courses, seminars, programs and workshops in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments; educational services, namely, providing courses of instruction at the secondary, post-secondary and college level in the field of responsible service, sale, and consumption of alcohol, beverages and food and operations of food and beverage service establishments

Deleted Filing Basis: 1(a)

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use FOR THE WORKPLACE apart from the mark as shown.

Claim of Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 4055074, 4055076, 4055073, and others.

Section 2(f), in part, Prior Registration(s)

TIPS has become distinctive of the goods/services as evidenced by the ownership on the Principal Register for the same mark for related goods or services of U.S. Registration No(s). 4055074.

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 2.44. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section

1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /ac/ Date: 03/09/2012

Signatory's Name: Adam Chafetz

Signatory's Position: Director

Request for Reconsideration Signature

Signature: /kto/ Date: 03/09/2012

Signatory's Name: Kevin Oliveira

Signatory's Position: Attorney of record, Virginia bar member

Signatory's Phone Number: (703) 218-2138

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85174978

Internet Transmission Date: Fri Mar 09 12:53:35 EST 2012

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