

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86807158
LAW OFFICE ASSIGNED	LAW OFFICE 118
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/86807158/large
LITERAL ELEMENT	REALIZEIT
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
GOODS AND/OR SERVICES SECTION (009)(current)	
INTERNATIONAL CLASS	009
DESCRIPTION	
Computer software for use in intelligent adaptive learning, curriculum map authoring, content authoring, intelligent adaptive engine and data analytics engine	
FIRST USE ANYWHERE DATE	At least as early as 10/20/2013
FIRST USE IN COMMERCE DATE	At least as early as 10/20/2013
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (009)(proposed)	
INTERNATIONAL CLASS	009
DESCRIPTION	
Computer software for use in intelligent adaptive learning, curriculum map authoring, content authoring, intelligent adaptive engine and data analytics engine	
FIRST USE ANYWHERE DATE	At least as early as 10/20/2013
FIRST USE IN COMMERCE DATE	At least as early as 10/20/2013
STATEMENT TYPE	"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application"[for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use" [for an illegible specimen].
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT17\IMAGEOUT 17\868\071\86807158\xml10 \RFR0002.JPG
SPECIMEN DESCRIPTION	scanned copy of a photograph of the mark appearing on a disc for the Class 009

	software
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (042)(current)	
INTERNATIONAL CLASS	042
DESCRIPTION	
Providing a website featuring a search engine for intelligent adaptive learning system	
FIRST USE ANYWHERE DATE	At least as early as 10/20/2013
FIRST USE IN COMMERCE DATE	At least as early as 10/20/2013
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (042)(proposed)	
INTERNATIONAL CLASS	042
DESCRIPTION	
Providing a website featuring a search engine for intelligent adaptive learning system	
FIRST USE ANYWHERE DATE	At least as early as 10/20/2013
FIRST USE IN COMMERCE DATE	At least as early as 10/20/2013
STATEMENT TYPE	"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use" [for an illegible specimen].
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT17\IMAGEOUT 17\868\071\86807158\xml10 \RFR0003.JPG
	\\TICRS\EXPORT17\IMAGEOUT 17\868\071\86807158\xml10 \RFR0004.JPG
	\\TICRS\EXPORT17\IMAGEOUT 17\868\071\86807158\xml10 \RFR0005.JPG
SPECIMEN DESCRIPTION	scanned copies of three images for the Class 042 services. The first image is the search engine login page, the second image is the query line for executung searches on the engine and the third image is content from the search. This format of specimen was discussed with manager Golden.
FILING BASIS	Section 1(b)
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	The examining attorney has made the requirement to submit specimens for Classes 9 and 42 final. Applicant hereby submits substitute specimens for both classes which were in use in commerce at least as early as November 30, 2016 supported by a declaration. Applicant's Attorney left detailed voice mail messages for manager Baird and manager Golden along with an e-mail on August 27th. Mr. Golden returned the phone call that day and the specimen issue was discussed. It is respectfully submitted that the mark is used in compound form; however, if the manager believes that the mark as registered is displayed as two (2) words, please know that an amendment to the drawing is authorized. Applicant respectfully requests that the Statement of use be accepted and the application proceed to registration based on Section 1(a) use basis only.
SIGNATURE SECTION	
DECLARATION SIGNATURE	/jas/

SIGNATORY'S NAME	Jeffrey Smith
SIGNATORY'S POSITION	Applicant's Attorney
SIGNATORY'S PHONE NUMBER	7034655355
DATE SIGNED	08/28/2018
RESPONSE SIGNATURE	/jas/
SIGNATORY'S NAME	Jeffrey Smith
SIGNATORY'S POSITION	Applicant's Attorney
SIGNATORY'S PHONE NUMBER	7034655355
DATE SIGNED	08/28/2018
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Aug 28 19:27:11 EDT 2018
TEAS STAMP	USPTO/RFR-XXX.XXX.XXX.XX- 20180828192711817873-8680 7158-6106a3e0e57653147366 c3c5e6319cc2e2ca219c44bd1 15ad5304de4422f4064-N/A-N /A-20180828191704734692

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PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 09/20/2020)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **86807158** REALIZEIT(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/86807158/large>) has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 009 for Computer software for use in intelligent adaptive learning, curriculum map authoring, content authoring, intelligent adaptive engine and data analytics engine

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 009, the mark was first used at least as early as 10/20/2013 and first used in commerce at least as early as 10/20/2013 .

Proposed: Class 009 for Computer software for use in intelligent adaptive learning, curriculum map authoring, content authoring, intelligent adaptive engine and data analytics engine

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 009, the mark was first used at least as early as 10/20/2013 . and first used in commerce at least as early as 10/20/2013 .

Applicant hereby submits one(or more) specimen(s) for Class 009 . The specimen(s) submitted consists of scanned copy of a photograph of the mark appearing on a disc for the Class 009 software .

"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR **"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use"** [for an application based on Section 1(b) Intent-to-Use]. OR **"The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use"** [for an illegible specimen]. [Specimen File1](#)

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

Current: Class 042 for Providing a website featuring a search engine for intelligent adaptive learning system

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 042, the mark was first used at least as early as 10/20/2013 and first used in commerce at least as early as 10/20/2013 .

Proposed: Class 042 for Providing a website featuring a search engine for intelligent adaptive learning system

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 042, the mark was first used at least as early as 10/20/2013 . and first used in commerce at least as early as 10/20/2013 .

Applicant hereby submits one(or more) specimen(s) for Class 042 . The specimen(s) submitted consists of scanned copies of three images for the Class 042 services. The first image is the search engine login page, the second image is the query line for executung searches on the engine and the third image is content from the search. This format of specimen was discussed with manager Golden. .

"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR **"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use"** [for an application based on Section 1(b) Intent-to-Use]. OR **"The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use"** [for an illegible specimen]. [Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

ADDITIONAL STATEMENTS

Miscellaneous Statement

The examining attorney has made the requirement to submit specimens for Classes 9 and 42 final. Applicant hereby submits substitute specimens for both classes which were in use in commerce at least as early as November 30, 2016 supported by a declaration. Applicant's Attorney left detailed voice mail messages for manager Baird and manager Golden along with an e-mail on August 27th. Mr. Golden returned the phone call that day and the specimen issue was discussed. It is respectfully submitted that the mark is used in compound form; however, if the manager believes that the mark as registered is displayed as two (2) words, please know that an amendment to the drawing is authorized. Applicant respectfully requests that the Statement of use be accepted and the application proceed to registration based on Section 1(a) use basis only.

SIGNATURE(S)

Declaration Signature

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or allegation of use (AOU) unsigned, all statements in the application or AOU and this submission based on the signatory's own knowledge are true, and all statements in the application or AOU and this submission made on information and belief are believed to be true.

STATEMENTS FOR UNSIGNED SECTION 1(a) APPLICATION/AOU: If the applicant filed an unsigned application under 15 U.S.C. §1051(a) or AOU under 15 U.S.C. §1051(c), the signatory additionally believes that: the applicant is the owner of the mark sought to be registered; the mark is in use in commerce and was in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; the original specimen(s), if applicable, shows the mark in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; **for a collective trademark, collective service mark, collective membership mark application, or certification mark application**, the applicant is exercising legitimate control over the use of the mark in commerce and was exercising legitimate control over the use of the mark in commerce as of the filing date of the application or AOU; **for a certification mark application**, the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION AND FOR SECTION 66(a)

COLLECTIVE/CERTIFICATION MARK APPLICATION: If the applicant filed an unsigned application under 15 U.S.C. §§ 1051(b), 1126(d), and/or 1126(e), or filed a collective/certification mark application under 15 U.S.C. §1141f(a), the signatory additionally believes that: **for a trademark or service mark application**, the applicant is entitled to use the mark in commerce on or in connection with the goods/services specified in the application; the applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date; **for a collective trademark, collective service mark, collective membership mark, or certification mark application**, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; **for a certification mark application**, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

Signature: /jas/ Date: 08/28/2018
Signatory's Name: Jeffrey Smith
Signatory's Position: Applicant's Attorney
Signatory's Phone Number: 7034655355

Request for Reconsideration Signature

Signature: /jas/ Date: 08/28/2018
Signatory's Name: Jeffrey Smith
Signatory's Position: Applicant's Attorney

Signatory's Phone Number: 7034655355

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 owner's/holder'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 owner/holder in this matter: (1) the owner/holder 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 owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder'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: 86807158

Internet Transmission Date: Tue Aug 28 19:27:11 EDT 2018

TEAS Stamp: USPTO/RFR-XXX.XXX.XXX.XX-201808281927118

17873-86807158-6106a3e0e57653147366c3c5e

6319cc2e2ca219c44bd115ad5304de4422f4064-

N/A-N/A-20180828191704734692





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