

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	88074600
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 106
<b>MARK SECTION</b>	
<b>MARK FILE NAME</b>	<a href="https://tmng-al.uspto.gov/resting2/api/img/88074600/large">https://tmng-al.uspto.gov/resting2/api/img/88074600/large</a>
<b>STANDARD CHARACTERS</b>	NO
<b>USPTO-GENERATED IMAGE</b>	NO
<b>ARGUMENT(S)</b>	
Please see the actual argument text attached within the Evidence section.	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_1618212129-20191107215044978417_.Gate.Design_88074600_Request_for_Reconsideration_TM1017_ev.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="#">\\TICRS\EXPORT17\IMAGEOUT17\880\746\88074600\xml9\RFR0002.JPG</a>
	<a href="#">\\TICRS\EXPORT17\IMAGEOUT17\880\746\88074600\xml9\RFR0003.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	actual argument text
<b>GOODS AND/OR SERVICES SECTION (003)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (005)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (007)(current)</b>	
<b>INTERNATIONAL CLASS</b>	007
<b>DESCRIPTION</b>	machines for use in agriculture, namely, indoor farming
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (007)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	007
<b>TRACKED TEXT DESCRIPTION</b>	
<del>machines for use in agriculture, namely, indoor farming</del> ; <a href="#">Machines for use in agriculture, namely, indoor farming, namely, systems or equipment for agricultural irrigation, fertilizer distribution, temperature sensing, air conditioning and heat pumping, harvesting, packaging food, and weeding</a>	
<b>FINAL DESCRIPTION</b>	
Machines for use in agriculture, namely, indoor farming, namely, systems or equipment for agricultural irrigation, fertilizer distribution,	

temperature sensing, air conditioning and heat pumping, harvesting, packaging food, and weeding	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (009)(current)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>DESCRIPTION</b>	
downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; controls for irrigation systems, namely, electrical controls for indoor farming; computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (009)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>TRACKED TEXT DESCRIPTION</b>	
Downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; <del>controls for irrigation systems, namely, electrical controls for indoor farming</del> ; <a href="#">controls for irrigation systems, namely, electrical controls for indoor farming for treating water, measuring environmental humidity, mold, bacteria, air quality and water quality, measuring temperature and humidity levels in crops, recording field and crop observations and generating crop scouting reports</a> ; computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility	
<b>FINAL DESCRIPTION</b>	
Downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; controls for irrigation systems, namely, electrical controls for indoor farming for treating water, measuring environmental humidity, mold, bacteria, air quality and water quality, measuring temperature and humidity levels in crops, recording field and crop observations and generating crop scouting reports; computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (011)(current)</b>	
<b>INTERNATIONAL CLASS</b>	011
<b>DESCRIPTION</b>	
agriculture environmental controls, namely, for indoor farming	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (011)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	011
<b>TRACKED TEXT DESCRIPTION</b>	
<del>agriculture environmental controls, namely, for indoor farming</del> ; <a href="#">Agriculture environmental controls, namely, for indoor farming, namely, automatic temperature regulators for indoor use, humidifiers for central heating devices, air cooling apparatuses, heating and cooling panels used for indoor heating and cooling purposes</a> ; <a href="#">hydroponic grow kits for commercial agriculture, namely, for indoor and outdoor food production for growing fruits and vegetables</a>	
<b>FINAL DESCRIPTION</b>	
Agriculture environmental controls, namely, for indoor farming, namely, automatic temperature regulators for indoor use, humidifiers for central heating devices, air cooling apparatuses, heating and cooling panels used for indoor heating and cooling purposes; hydroponic grow kits for commercial agriculture, namely, for indoor and outdoor food production for growing fruits and vegetables	

<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (020)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (021)(class deleted)</b>	
<b>GOODS AND/OR SERVICES SECTION (031)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (035)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (036)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (042)(current)</b>	
<b>INTERNATIONAL CLASS</b>	042
<b>DESCRIPTION</b>	
Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; leasing of agricultural facilities for indoor and outdoor food production; agricultural services, namely, production of fruits and vegetables for others	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (042)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	042
<b>TRACKED TEXT DESCRIPTION</b>	
Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; <del>leasing of agricultural facilities for indoor and outdoor food production; agricultural services, namely, production of fruits and vegetables for others, namely, design, development, and testing of production methods for growing of fruits and vegetables;</del> <del>agricultural services, namely, production of fruits and vegetables for others</del>	
<b>FINAL DESCRIPTION</b>	
Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; agricultural services, namely, production of fruits and vegetables for others, namely, design, development, and testing of production methods for growing of fruits and vegetables	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (043)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (044)(current)</b>	
<b>INTERNATIONAL CLASS</b>	044
<b>DESCRIPTION</b>	
agricultural services, namely, indoor and outdoor production of fruits and vegetables for others health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others for others	

<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (044)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	044
<b>TRACKED TEXT DESCRIPTION</b>	
<p>agricultural services, namely, indoor and outdoor production of fruits and vegetables for others health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; <del>leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others for others;</del> <a href="#">leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others</a></p>	
<b>FINAL DESCRIPTION</b>	
<p>agricultural services, namely, indoor and outdoor production of fruits and vegetables for others health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others</p>	
<b>FILING BASIS</b>	Section 1(b)
<b>ATTORNEY SECTION (current)</b>	
<b>NAME</b>	John L. Slafsky
<b>ATTORNEY BAR MEMBERSHIP NUMBER</b>	NOT SPECIFIED
<b>YEAR OF ADMISSION</b>	NOT SPECIFIED
<b>U.S. STATE/ COMMONWEALTH/ TERRITORY</b>	NOT SPECIFIED
<b>FIRM NAME</b>	WILSON SONSINI GOODRICH & ROSATI
<b>STREET</b>	650 PAGE MILL ROAD
<b>CITY</b>	PALO ALTO
<b>STATE</b>	California
<b>POSTAL CODE</b>	94304-1050
<b>COUNTRY</b>	US
<b>PHONE</b>	650-493-9300
<b>FAX</b>	650-493-6811
<b>EMAIL</b>	trademarks@wsgr.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes

<b>DOCKET/REFERENCE NUMBER</b>	51476-TM1017
<b>ATTORNEY SECTION (proposed)</b>	
<b>NAME</b>	John L. Slafsky
<b>ATTORNEY BAR MEMBERSHIP NUMBER</b>	XXX
<b>YEAR OF ADMISSION</b>	XXXX
<b>U.S. STATE/ COMMONWEALTH/ TERRITORY</b>	XX
<b>FIRM NAME</b>	WILSON SONSINI GOODRICH & ROSATI
<b>STREET</b>	650 PAGE MILL ROAD
<b>CITY</b>	PALO ALTO
<b>STATE</b>	California
<b>POSTAL CODE</b>	94304-1050
<b>COUNTRY</b>	United States
<b>PHONE</b>	650-493-9300
<b>FAX</b>	650-493-6811
<b>EMAIL</b>	trademarks@wsgr.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>DOCKET/REFERENCE NUMBER</b>	51476-TM1017
<b>OTHER APPOINTED ATTORNEY</b>	Aaron D. Hendelman, Alyssa M. Worsham, Christine K. Au-Yeung, Brandon P. Leahy, Chelsea E. Carbone, Susanna P. Lichter, Ava R. Miller
<b>CORRESPONDENCE SECTION (current)</b>	
<b>NAME</b>	JOHN L. SLAFSKY
<b>FIRM NAME</b>	WILSON SONSINI GOODRICH & ROSATI
<b>STREET</b>	650 PAGE MILL ROAD
<b>CITY</b>	PALO ALTO
<b>STATE</b>	California
<b>POSTAL CODE</b>	94304-1050
<b>COUNTRY</b>	US
<b>PHONE</b>	650-493-9300
<b>FAX</b>	650-493-6811
<b>EMAIL</b>	trademarks@wsgr.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>DOCKET/REFERENCE NUMBER</b>	51476-TM1017
<b>CORRESPONDENCE SECTION (proposed)</b>	

NAME	John L. Slafsky
FIRM NAME	WILSON SONSINI GOODRICH & ROSATI
STREET	650 PAGE MILL ROAD
CITY	PALO ALTO
STATE	California
POSTAL CODE	94304-1050
COUNTRY	United States
PHONE	650-493-9300
FAX	650-493-6811
EMAIL	trademarks@wsgr.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
DOCKET/REFERENCE NUMBER	51476-TM1017
<b>SIGNATURE SECTION</b>	
RESPONSE SIGNATURE	/John Slafsky/
SIGNATORY'S NAME	John Slafsky
SIGNATORY'S POSITION	Attorney of Record, California bar member
DATE SIGNED	11/08/2019
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Fri Nov 08 19:42:48 EST 2019
TEAS STAMP	USPTO/RFR-XX.XXX.XXX.XXX- 20191108194248086847-8807 4600-700b752f6a092b6d24a4 7cb94aa1ac49ffe7ca13a082c 9e7add4f084c929635da0-N/A -N/A-20191107215044978417

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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. **88074600** (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/88074600/large>) has been amended as follows:

## ARGUMENT(S)

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

Please see the actual argument text attached within the Evidence section.

## EVIDENCE

Evidence in the nature of actual argument text has been attached.

**Original PDF file:**

[evi\\_1618212129-20191107215044978417\\_.Gate.Design\\_88074600\\_Request\\_for\\_Reconsideration\\_TM1017\\_ev.pdf](#)

**Converted PDF file(s)** ( 2 pages)

[Evidence-1](#)

[Evidence-2](#)

## CLASSIFICATION AND LISTING OF GOODS/SERVICES

**Applicant hereby deletes the following class of goods/services from the application.**

Class 021 for hydroponic grow kits for commercial agriculture, namely, for indoor and outdoor food production

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

**Current:** Class 007 for machines for use in agriculture, namely, indoor farming

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.

**Proposed:**

**Tracked Text Description:** ~~machines for use in agriculture, namely, indoor farming;~~ [Machines for use in agriculture, namely, indoor farming, namely, systems or equipment for agricultural irrigation, fertilizer distribution, temperature sensing, air conditioning and heat pumping, harvesting, packaging food, and weeding](#)

Class 007 for Machines for use in agriculture, namely, indoor farming, namely, systems or equipment for agricultural irrigation, fertilizer distribution, temperature sensing, air conditioning and heat pumping, harvesting, packaging food, and weeding

**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.

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

**Current:** Class 009 for downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; controls for irrigation systems, namely, electrical controls for indoor farming; computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility

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.

**Proposed:**

**Tracked Text Description:** Downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; ~~controls for irrigation systems, namely, electrical controls for indoor farming;~~ [controls for irrigation systems, namely, electrical controls for indoor farming for treating water, measuring environmental humidity, mold, bacteria, air quality and water quality, measuring temperature and humidity levels in crops, recording field and crop observations and generating crop scouting reports;](#) computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility

Class 009 for Downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; controls for irrigation systems, namely, electrical controls for indoor farming for treating water, measuring environmental humidity, mold, bacteria, air quality and water quality, measuring temperature and humidity levels in crops, recording field and crop observations and generating crop scouting reports; computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility

**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.

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

**Current:** Class 011 for agriculture environmental controls, namely, for indoor farming

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.

**Proposed:**

**Tracked Text Description:** ~~agriculture environmental controls, namely, for indoor farming;~~ [Agriculture environmental controls, namely, for indoor farming, namely, automatic temperature regulators for indoor use, humidifiers for central heating devices, air cooling apparatuses, heating and cooling panels used for indoor heating and cooling purposes; hydroponic grow kits for commercial agriculture, namely, for indoor and outdoor food production for growing fruits and vegetables](#)

Class 011 for Agriculture environmental controls, namely, for indoor farming, namely, automatic temperature regulators for indoor use, humidifiers for central heating devices, air cooling apparatuses, heating and cooling panels used for indoor heating and cooling purposes; hydroponic grow kits for commercial agriculture, namely, for indoor and outdoor food production for growing fruits and vegetables

**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.

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

**Current:** Class 042 for Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and

managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; leasing of agricultural facilities for indoor and outdoor food production; agricultural services, namely, production of fruits and vegetables for others

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.

#### **Proposed:**

**Tracked Text Description:** Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; ~~leasing of agricultural facilities for indoor and outdoor food production;~~ agricultural services, namely, production of fruits and vegetables for others, namely, design, development, and testing of production methods for growing of fruits and vegetables; ~~agricultural services, namely, production of fruits and vegetables for others~~

Class 042 for Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; agricultural services, namely, production of fruits and vegetables for others, namely, design, development, and testing of production methods for growing of fruits and vegetables

**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.

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

**Current:** Class 044 for agricultural services, namely, indoor and outdoor production of fruits and vegetables for others health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others for others

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.

**Proposed:**

**Tracked Text Description:** agricultural services, namely, indoor and outdoor production of fruits and vegetables for others health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; ~~leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others for others;~~ [leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others](#)

Class 044 for agricultural services, namely, indoor and outdoor production of fruits and vegetables for others health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others

**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.

The applicant's current attorney information: John L. Slafsky. John L. Slafsky of WILSON SONSINI GOODRICH & ROSATI, is located at

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The docket/reference number is 51476-TM1017.

The phone number is 650-493-9300.

The fax number is 650-493-6811.

The email address is trademarks@wsgr.com

The applicants proposed attorney information: John L. Slafsky. Other appointed attorneys are Aaron D. Hendelman, Alyssa M. Worsham, Christine K. Au-Yeung, Brandon P. Leahy, Chelsea E. Carbone, Susanna P. Lichter, Ava R. Miller. John L. Slafsky of WILSON SONSINI GOODRICH & ROSATI, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, and the attorney(s) is located at

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John L. Slafsky submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current correspondence information: JOHN L. SLAFSKY. JOHN L. SLAFSKY of WILSON SONSINI GOODRICH & ROSATI, is located at

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**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /John Slafsky/ Date: 11/08/2019

Signatory's Name: John Slafsky

Signatory's Position: Attorney of Record, California bar member

The signatory has confirmed that he/she is a U.S.-licensed attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any U.S. Commonwealth or territory); 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.-licensed attorney not currently associated with his/her company/firm previously represented the owner/holder in this matter: the owner/holder has revoked their power of attorney by a signed revocation or substitute power of attorney with the USPTO; the USPTO has granted that attorney's withdrawal request; the owner/holder has filed a power of attorney appointing him/her in this matter; or the owner's/holder's appointed U.S.-licensed attorney has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

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WILSON SONSINI GOODRICH & ROSATI

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Serial Number: 88074600

Internet Transmission Date: Fri Nov 08 19:42:48 EST 2019

TEAS Stamp: USPTO/RFR-XX.XXX.XXX.XXX-201911081942480

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November 8, 2019

**RE: Application Serial No.:** 88/074,600  
**Mark:** Torii Gate Design  
**Filing Date:** August 10, 2018  
**Applicant:** Sensei Holdings, Inc.  
**Office Action Mailing Date:** May 17, 2019  
**Examining Attorney:** Bernice Middleton, Law Office 106  
**Attorney Reference No.:** 51476-TM1017

**REQUEST FOR RECONSIDERATION**

Sensei Holdings, Inc. (“Applicant”) hereby requests that the U.S. Patent and Trademark Office (USPTO) reconsider its final refusal, issued in the Final Office Action mailed on May 17, 2019. The Trademark Manual of Examining Procedure (TMEP) permits applicants to request reconsideration after final action. Section 715.03 of the TMEP, in particular, cites new amendments as a proper basis for such requests. Applicant is submitting limiting amendments in further support of its trademark application.

**I. Identification of Goods and Recitation of Services**

Applicant hereby amends its identification of goods and recitation of services as follows:

Class 7: Machines for use in agriculture, namely, indoor farming, **namely, systems or equipment for agricultural irrigation, fertilizer distribution, temperature sensing, air conditioning and heat pumping, harvesting, packaging food, and weeding**

Class 9: Downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; downloadable computer software for booking and assessing visits to wellness retreats; downloadable computer software for monitoring health and wellness for patient vitals; controls for irrigation systems, namely, electrical controls for indoor farming **for treating water, measuring environmental humidity, mold, bacteria, air quality and water quality, measuring temperature and humidity levels in crops, recording field and crop observations and generating crop scouting reports**; computer hardware and software system for remotely monitoring environmental conditions and controlling devices within an agricultural facility

Class 11: Agriculture environmental controls, namely, for indoor farming, **namely, automatic temperature regulators for indoor use, humidifiers for central heating devices, air cooling apparatuses, heating and cooling panels used for indoor heating**

**and cooling purposes; hydroponic grow kits for commercial agriculture, namely, for indoor and outdoor food production for growing fruits and vegetables**

Class 21: [Reclassified in Class 11]

Class 42: Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring and managing agricultural and hydroponic conditions and growing patterns; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for booking and assessing visits to wellness retreats; Software as a Service (SaaS) services, namely, providing non-downloadable computer software for monitoring health and wellness for patient vitals; ~~leasing of agricultural facilities for indoor and outdoor food production;~~ agricultural services, namely, production of fruits and vegetables for others, **namely, design, development, and testing of production methods for growing of fruits and vegetables**

Class 44: Agricultural services, namely, indoor and outdoor production of fruits and vegetables for others, health spa services for health and wellness of the body and spirit; health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, and cosmetic body care services; health spa services, namely, skin care, body wraps, facials, massages, mud treatments, seaweed treatments, hydrotherapy baths, and body scrub services; health spa services, namely, laser treatments for acne, rejuvenation, cellulite, wrinkle reduction, skin resurfacing, skin tightening, scar removal, tattoo removal, hair removal and for facials and massage; aromatherapy services; day spa services, namely, nail care services, manicures, hand grooming in the nature of nail care services and hand massages, pedicures, foot grooming in the nature of nail care services, foot massages, and providing foot scrub services; providing wellness services, namely, personal assessments, personalized routines, maintenance schedules, and counseling; providing a website featuring information about nutrition, health and wellness; providing information, news and commentary in the field of nutrition, health and wellness; consulting and counseling services in the fields of nutrition, health and wellness; leasing of agricultural facilities for indoor and outdoor production of fruits and vegetables for others ~~for others~~

These amendments should address any concerns about indefiniteness.

## II. Conclusion

In view of these amendments, Applicant submits that this application is in proper condition for publication and respectfully requests that it be forwarded.