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Filing date: **12/13/2012**

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

Proceeding	91202450
Party	Defendant Modernizing Medicine, Inc.
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Date	12/13/2012
Attachments	SubNoticeofError.pdf (3 pages)(43358 bytes)

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

In re Application Nos.: 85/102,294, 85/102,289

Filed: August 6, 2010

Published: July 12, 2011 in the Official Gazette

Mark: M2 MODERNIZING MEDICINE & Design

M2 SOFTWARE, INC. and)	
DAVID ESCAMILLA,)	
)	
Opposers,)	
)	
v.)	Opposition No. 91202450
)	
MODERNIZING MEDICINE, INC.,)	
)	
Applicant.)	
)	

Substituted Notice of Error in Title

Applicant Modernizing Medicine, Inc. (“Modernizing Medicine”), by and through undersigned counsel, respectfully submits this Substituted Notice of Error in Title as to the Declaration of Hayden O’Byrne filed on November 14, 2012 in Support of Modernizing Medicine’s 56(d) Motion (“Declaration”). After reviewing the Declaration filed on November 14, 2012, in connection with its Rule 56(d) Motion, Modernizing Medicine discovered an unintended error in the title of the declaration. As such, for purposes of clarification, the title of the Declaration should be revised to read as follows:

DECLARATION OF HAYDEN O’BYRNE IN SUPPORT OF APPLICANT’S MOTION
UNDER FED. R. CIV. P. 56(D) IN RESPONSE TO OPPOSERS’ MOTION IN THE
ALTERNATIVE FOR SUMMARY JUDGMENT.

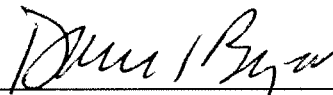
The Declaration was filed with Modernizing Medicine’s Rule 56(d) Motion, served simultaneously with the Rule 56(d) Motion, is referred to expressly in the Rule 56(d) Motion,

and clearly refers to and supports the Rule 56(d) Motion. The aforementioned error does not prejudice any party, as the Opposers already have substantively responded to the Declaration and argued, among other things, that it “does not support a request for Rule 56(d) relief.” See Opposer’s Response In Opposition to Applicant’s Rule 56(d) Motion, § 4.05.

Please substitute this Substituted Notice of Error in Title for the Notice of Error in Title filed on December 12, 2012, which inadvertently was not served on Opposers.

Date: December 13, 2012

Respectfully submitted,



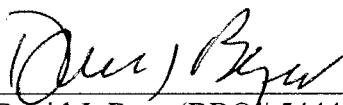
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document will be served on December 13, 2012, by electronic mail upon the following individual:

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