

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

dmd/jk

Mailed: December 22, 2014

Opposition No. 91217118

Wolters Kluwer U.S. Corporation

v.

Proximal, LLC (by assignment from
aTherapy, Inc.)

By the Trademark Trial and Appeal Board:

The Board notes applicant's motion (filed October 7, 2014) to substitute Proximal, LLC for aTherapy, Inc. as party defendant in this proceeding based on an assignment of the mark and of the involved applicant's application Serial No. 85750420 on February 14, 2014.¹ The assignment was recorded with the Assignment Branch of the Office on March 31, 2014 at Reel/Frame 5247/0688.

When there has been an assignment of a mark that is the subject of, or relied upon in, an inter partes proceeding before the Board, the assignee may be joined or substituted, as may be appropriate. The assignee may be substituted as a party if the assignment occurred prior to the commencement

¹ Applicant's motion incorrectly refers to the date of the assignment as February 14, 2004.

of the proceeding, or the opposing party raises no objections to substitution. *See* TBMP § 512.01 (2013).

Inasmuch as the assignment occurred prior to the commencement of the proceeding, the motion is granted. *See* Trademark Rule 2.127(a). Accordingly, Proximal, LLC is substituted as party defendant for aTherapy, Inc. in this proceeding.

On November 26, 2014, the parties filed a stipulated proposed amendment to application Serial No 85750420, with opposer's consent, and opposer's withdrawal of the opposition, contingent upon entry of the amendment.

By the proposed amendment, the parties seek to amend the drawing from:



to:



Applicant's proposed amendment to the drawing is in compliance with applicable authorities that govern amendments to drawings. *See* Trademark Rule 2.133(a).

Furthermore, applicant seeks to amend the recitation of services in International Class 44 to add the following underlined wording and to delete the wording shown in strike-through:²

² The recitation of services in International Class 45 remains unchanged.

Provision of medical services, behavioral health services, psychiatric services; providing an on-line computer database featuring medical information related to the diagnosis, treatment, and progress, and outcomes of individual patients, in the fields of behavioral health, psychiatry, psychology, clinical social work, behavioral modification, or population health, all related to the disease burden, progression, and outcomes of patient populations, the outcomes achieved by specific clinicians or groups of clinicians, and related to treatment protocols and diagnostic protocols; behavioral analysis for medical purposes; consulting services in the field of medical care; maintaining patient medical records and files; medical clinics; ~~providing medical information, consultancy and advisory services~~; provision of health care and medical services by health care professionals via the Internet or telecommunication networks; ~~providing a web site featuring medical information~~; provision of specialty medical services, provision of primary care medical services,; rehabilitation patient care services, namely, provision of inpatient outpatient in-home, detoxification, substance abuse, and ambulatory care services

The amended recitation of services in International Class 44 now reads as follows:

Provision of medical services, behavioral health services, psychiatric services; providing an on-line computer database featuring medical information related to the diagnosis, treatment, and progress, and outcomes of individual patients, in the fields of behavioral health, psychiatry, psychology, clinical social work, behavioral modification, or population health, all related to the disease burden, progression, and outcomes of patient populations, the outcomes achieved by specific clinicians or groups of clinicians, and related to treatment protocols and diagnostic protocols; behavioral analysis for medical purposes; consulting services in the field of medical care; maintaining patient medical records and files; medical clinics provision of health care and medical services by health care professionals via the Internet or telecommunication networks; provision of specialty medical services, provision of primary care medical services,; rehabilitation patient care services, namely, provision of inpatient outpatient in-home, detoxification, substance abuse, and ambulatory care services

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Inasmuch as the amendment is limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents, the amendment is approved and entered. *See* Trademark Rule 2.133(a).

The contingency in opposer's withdrawal having now been met, the opposition is dismissed in accordance with the agreement between the parties.