

ESTTA Tracking number: **ESTTA309361**Filing date: **10/01/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Salesforce.com, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	The Landmark @ One Market Street San Francisco, CA 94105 UNITED STATES		

Attorney information	Noel M. Cook Owen, Wickersham & Erickson, P.C. 455 Market Street 19th Floor San Francisco, CA 94118 UNITED STATES ncook@owe.com, gowen@owe.com, adelvalle@owe.com, bdunne@owe.com, johara@owe.com Phone:415-882-3200
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Registration Subject to Cancellation

Registration No	3389464	Registration date	02/26/2008
Registrant	ClearMomentum, Inc. One Keuka Business Park Penn Yan, NY 14527 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 2006/01/00 First Use In Commerce: 2007/09/01
All goods and services in the class are cancelled, namely: Financial analysis services delivered by way of a global computer network

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Lack of use of mark in connection with services recited in registration. Trademark Act Section 1(a); Marshall Field & Co. v. Mrs. Fields Cookies, 11 USPQ2d 1355 (TTAB 1989).


Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2684824	Application Date	10/29/1999
Registration Date	02/04/2003	Foreign Priority Date	NONE

Word Mark	SALESFORCE.COM
Design Mark	SALESFORCE.COM
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1999/09/27 First Use In Commerce: 1999/09/27 Providing temporary use of on-line non-downloadable software for storing, managing, tracking and analyzing data in the field of marketing, promotion, sales, customer information management, customer support services and employee efficiency; providing temporary use of on-line non-downloadable software to create statistical and management reports on marketing, promotion, sales, customer information management, customer support services and employee efficiency; providing temporary use of on-line non-downloadable multimedia computer program for communicating with peer professionals; computer services, namely, designing, implementing, and maintaining computer software for others; providing internal company computer networks; providing search engines for obtaining a wide variety of data on a global computer network


U.S. Registration No.	2964712	Application Date	02/10/2004
Registration Date	07/05/2005	Foreign Priority Date	NONE
Word Mark	SALESFORCE.COM		
Design Mark	SALESFORCE.COM		
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1999/09/27 First Use In Commerce: 1999/09/27 BUSINESS MANAGEMENT SERVICES, NAMELY, PROVIDING CUSTOMER RELATIONSHIP MANAGEMENT SERVICES AND SALES SUPPORT MANAGEMENT SERVICES; BUSINESS MANAGEMENT CONSULTING SERVICES RELATING TO CUSTOMER RELATIONSHIP MANAGEMENT, SALES SUPPORT MANAGEMENT, AND MARKETING AUTOMATION; PROVIDING A WEBSITE WITH GENERAL INFORMATION OF INTEREST TO THE FIELDS OF ADVERTISING, MARKETING AND BUSINESS SERVICES</p> <p>Class 042. First use: First Use: 1999/09/27 First Use In Commerce: 1999/09/27 PROVIDING TEMPORARY USE OF ON-LINE NON-DOWNLOADABLE SOFTWARE TO STORE, MANAGE, TRACK, ANALYZE AND REPORT DATA IN THE FIELD OF MARKETING, PROMOTION, SALES, CUSTOMER INFORMATION, CUSTOMER RELATIONSHIP MANAGEMENT, SALES SUPPORT AND EMPLOYEE EFFICIENCY; PROVIDING TEMPORARY USE OF ON-LINE NON-DOWNLOADABLE SOFTWARE TO FACILITATE COMMUNICATING AMONG PEER PROFESSIONALS IN THE ADVERTISING,</p>		

MARKETING AND BUSINESS SERVICES FIELDS			
U.S. Registration No.	2998330	Application Date	11/16/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	CUSTOMFORCE.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2004/11/15 First Use In Commerce: 2004/11/15 application service provider (ASP), namely, hosting computer software application development tools; and computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto		
U.S. Registration No.	3035403	Application Date	11/01/2004
Registration Date	12/27/2005	Foreign Priority Date	NONE
Word Mark	DREAMFORCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2003/07/00 First Use In Commerce: 2003/07/00 educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency, and distributing course materials in connection therewith		
U.S. Registration No.	3138749	Application Date	09/14/2005

Registration Date	09/05/2006	Foreign Priority Date	NONE
Word Mark	SALESFORCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/03/09 First Use In Commerce: 2005/03/09 downloadable software for use in web site development; downloadable software for use in computer e-commerce which allows users to perform electronic business transactions, communicate with other users, and access and exchange information via a global computer network; downloadable computer software for use in customizing computer application user interfaces		

U.S. Registration No.	3141697	Application Date	09/14/2005
Registration Date	09/12/2006	Foreign Priority Date	NONE
Word Mark	SALESFORCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/03/09 First Use In Commerce: 2005/03/09 business management services, namely, providing customer relationship management services and sales support management services; business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing a website with general information of interest to the fields of advertising, marketing and business services		

U.S. Registration No.	3164978	Application Date	09/14/2005
Registration Date	10/31/2006	Foreign Priority Date	NONE

Word Mark	SALESFORCE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2005/03/09 First Use In Commerce: 2005/03/09 providing temporary use of on-line non-downloadable software to store, manage, track, analyze, and report data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the advertising, marketing and business services fields, and for customizing computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto

U.S. Registration No.	3330398	Application Date	06/11/2003
Registration Date	11/06/2007	Foreign Priority Date	NONE
Word Mark	SFORCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2003/09/00 First Use In Commerce: 2003/09/00 Application service provider (ASP), namely, hosting computer software applications and internal company computer networks of others; hosting the web sites of others on a computer server for a global computer network excluding online video games and video game software; computer services, namely, designing, developing and maintaining computer software for others and consulting services related thereto; technical support services, namely, troubleshooting of computer software problems excluding online video games and video game software		

U.S. Registration No.	3336535	Application Date	09/30/2005
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	MIRRORFORCE		

Design Mark	MIRRORFORCE
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2006/01/00 First Use In Commerce: 2006/01/00 automated computer file and data protection services, namely, replication, failover, mirroring, restoring, failure recovery and disaster recovery for others; computer services, namely, data recovery services and data warehousing; remote monitoring of computer systems for technical purposes for others, and providing back-up computer programs and facilities

U.S. Registration No.	3437848	Application Date	09/28/2005
Registration Date	05/27/2008	Foreign Priority Date	NONE
Word Mark	SUCCESSFORCE		
Design Mark	SUCCESSFORCE		
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2006/03/00 First Use In Commerce: 2006/03/00 Business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing a website with general information of interest to the fields of advertising, marketing and business services</p> <p>Class 038. First use: First Use: 2006/03/00 First Use In Commerce: 2006/03/00 Providing online forums for the transmission of messages among computer users on the subjects of business management, sales, marketing, customer relationship management, and software applications</p> <p>Class 041. First use: First Use: 2006/03/00 First Use In Commerce: 2006/03/00 Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of business management, sales, marketing, customer relationship management, and software applications</p> <p>Class 042. First use: First Use: 2006/03/00 First Use In Commerce: 2006/03/00</p>		


	Providing temporary use of on-line non-downloadable software for use in storing, managing, tracking, analyzing and reporting data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency; providing temporary use of online non-downloadable software to facilitate communicating among peer professionals in the advertising, marketing and business services fields; and providing online journals, namely, blogs on the subject of business management, sales, marketing, customer relationship management, and software applications; technical support services, namely, troubleshooting computer software problems
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U.S. Registration No.	3592166	Application Date	07/30/2007
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	FORCE.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2007/09/17 First Use In Commerce: 2007/09/17 Providing temporary use of online non-downloadable computer software application development tools; online hosted computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto		

U.S. Registration No.	3594599	Application Date	08/14/2008
Registration Date	03/24/2009	Foreign Priority Date	NONE
Word Mark	SALESFORCE IDEAS		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 042. First use: First Use: 2007/10/01 First Use In Commerce: 2007/10/01 Providing temporary use of on-line non-downloadable software for use in application development, website design and development, for creating online user communities to allow users to post ratings, reviews, comments, votes, and recommendations regarding products, services, events and activities, and for storing, managing, tracking, analyzing and reporting online user community, website, and application use data
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U.S. Application No.	77698786	Application Date	03/25/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLOUDFORCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2008/12/08 First Use In Commerce: 2008/12/08 EDUCATIONAL SERVICES, NAMELY, CONDUCTING SEMINARS, CONFERENCES, WORKSHOPS, AND COMPUTER APPLICATION TRAINING IN THE FIELDS OF MARKETING, PROMOTION, SALES, CUSTOMER INFORMATION, CUSTOMER RELATIONSHIP MANAGEMENT, SALES SUPPORT AND EMPLOYEE EFFICIENCY, AND DISTRIBUTING COURSE MATERIALS IN CONNECTION THEREWITH		

U.S. Application No.	77698819	Application Date	03/25/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLOUDFORCE		
Design Mark			
Description of Mark	The mark consists of the word CLOUDFORCE in stylized letters.		
Goods/Services	Class 041. First use: First Use: 2008/12/08 First Use In Commerce: 2008/12/08		

	EDUCATIONAL SERVICES, NAMELY, CONDUCTING SEMINARS, CONFERENCES, WORKSHOPS, AND COMPUTER APPLICATION TRAINING IN THE FIELDS OF MARKETING, PROMOTION, SALES, CUSTOMER INFORMATION, CUSTOMER RELATIONSHIP MANAGEMENT, SALES SUPPORT AND EMPLOYEE EFFICIENCY, AND DISTRIBUTING COURSE MATERIALS IN CONNECTION THEREWITH
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U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
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Design Mark	
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Goods/Services	Downloadable software for use in web site development; downloadable software for use in computer e-commerce which allows users to perform electronic business transactions, communicate with other users, and access and exchange information via a global computer network; downloadable computer software for use in customizing computer application user interfaces in International Class 9 Business management services, namely, providing customizable on-demand software; providing a website with general information relating to business management services in International Class 35 Providing online forums for the transmission of messages among computer users on the subjects of business management, sales, marketing, customer relationship management, and software applications in International Class 38 Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of business management, sales, marketing, customer relationship management, and software applications in International Class 41 Providing temporary use of on-line non-downloadable software to store, manage, track, analyze and report data, facilitate communicating among peer professionals, and customize computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software
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	applications for others and consulting services related thereto in International Class 42
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Alica Del Valle/
Name	Alica Del Valle
Date	10/01/2009

SALESFORCE.COM

SALESFORCE.COM

CUSTOMFORCE.COM

DREAMFORCE

SALESFORCE

SALESFORCE

SALESFORCE

MIRRORFORCE

SUCCESSFORCE

FORCE.COM

SALESFORCE IDEAS

CLOUDFORCE

cloud*force*

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

In re registration of:

Registrant: ClearMomentum, Inc.
Registration No.: 3,389,464
Date of Issue: February 26, 2008
Mark: **FINANCEFORCE**

SALESFORCE.COM, INC.

Petitioner,

v.

CLEARMOMENTUM, INC.

Registrant.

Petition for Cancellation

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Salesforce.com, Inc. (hereinafter "Petitioner"), a corporation duly organized and existing under the laws of Delaware, believes that it will be damaged by U.S. Registration No. 3,389,464, issued on February 26, 2008, to ClearMomentum, Inc., (hereinafter "Registrant"), which, to the best of Petitioner's knowledge, is a corporation duly organized and existing under the laws of New York, and hereby petitions to cancel the same.

As grounds for this Petition, Petitioner alleges:

1. Petitioner was founded in 1999 based on a then innovative business model, which

focused on offering enterprise applications by way of a global computer network rather than through software systems.

2. In order to implement its innovative business model, Petitioner launched its www.salesforce.com website in late 1999, through which it has offered and continues to offer its comprehensive on-demand business enterprise applications and related services. Since its launch in 1999, the www.salesforce.com website has received considerable traffic, currently averaging nearly 20 million visits per month.

3. Petitioner's customers span across numerous industries and include multi-national corporations and industry leaders, including CNN Networks, Fujitsu Network Communications, Dolby, Starbucks, Dr. Pepper Snapple Group, E*Trade Financial, Cisco, Dell, Motorola, Avis Budget Group, Hotwire, Travelocity, Kaiser Permanente, and Toyota Motor Europe. Petitioner has additionally partnered with various industry leaders who provide products and services which compliment the products and services it provides, including Cisco, Accenture, Fujitsu, Hitachi, and Deloitte.

4. Petitioner's customer base has grown exponentially throughout the years, currently comprising over 55,000 corporate customers around the world, which amount to approximately 1,550,000 individual subscribers accessing Petitioner's products and services.

5. A significant segment of Petitioner's customers are in the finance industry, including financial services leaders such as Merrill Lynch, SunTrust, E*Trade Financial, and Aon.

6. Petitioner has developed and uses a family of "FORCE" suffix formative marks in connection with its comprehensive on-demand business enterprise applications and related services offered through its www.salesforce.com website.

7. Petitioner's FORCE-formative family of marks is evidenced by the following federal registrations:

MARK	REG. NO./ REG. DATE	GOODS/ SERVICES
SALESFORCE.COM	Reg. No. 2,684,824 Reg. Date: Feb. 4, 2003	Providing temporary use of on-line non-downloadable software for storing, managing, tracking and analyzing data in the field of marketing, promotion, sales, customer information management, customer support services and employee efficiency; providing temporary use of on-line non-downloadable software to create statistical and management reports on marketing, promotion, sales, customer information management, customer support services and employee efficiency; providing temporary use of on-line non-downloadable multimedia computer program for communicating with peer professionals; computer services, namely, designing, implementing, and maintaining computer software for others; providing internal company computer networks; providing search engines for obtaining a wide variety of data on a global computer network in International Class 42 First Use/In Commerce: Sept. 27, 1999
SALESFORCE.COM	Reg. No. 2,964,712 Reg. Date: July 5, 2005	Business management services, namely, providing customer relationship management services and sales support management services; business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing a website with general information of interest to the fields of advertising, marketing and business services in International Class 35 First Use/In Commerce: Sept. 27, 1999 Providing temporary use of on-line non-downloadable software to store, manage, track, analyze and report data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the advertising, marketing and business services fields in International Class 42 First Use/In Commerce: Sept. 27, 1999
CUSTOMFORCE.COM	Reg. No. 2,998,330 Reg. Date: Sept. 20, 2005	Application service provider (ASP), namely, hosting computer software application development tools; and computer services, namely, designing, developing, and maintaining computer software

MARK	REG. NO./ REG. DATE	GOODS/ SERVICES
		applications for others and consulting services related thereto in International Class 42 First Use/In Commerce: Nov. 15, 2004
DREAMFORCE	Reg. No. 3,035,403 Reg. Date: Dec. 27, 2005	Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency, and distributing course materials in connection therewith in International Class 41 First Use/In Commerce: July 2003
SALESFORCE	Reg. No. 3,138,749 Reg. Date: Sept. 5, 2006	Downloadable software for use in web site development; downloadable software for use in computer e-commerce which allows users to perform electronic business transactions, communicate with other users, and access and exchange information via a global computer network; downloadable computer software for use in customizing computer application user interfaces in International Class 9 First Use/In Commerce: March 9, 2005
SALESFORCE	Reg. No. 3,141,697 Reg. Date: Sept. 12, 2006	Business management services, namely, providing customer relationship management services and sales support management services; business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing a website with general information of interest to the fields of advertising, marketing and business services in International Class 35 First Use/In Commerce: March 9, 2005
SALESFORCE	Reg. No. 3,164,978 Reg. Date: Oct. 31, 2006	Providing temporary use of on-line non-downloadable software to store, manage, track, analyze, and report data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the advertising, marketing and business services fields, and for customizing computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto in International Class 42 First Use/In Commerce: March 9, 2005


MARK	REG. NO./ REG. DATE	GOODS/ SERVICES
SFORCE	Reg. No. 3,330,398 Reg. Date: Nov. 6, 2007	Application service provider (ASP), namely, hosting computer software applications and internal company computer networks of others; hosting the web sites of others on a computer server for a global computer network excluding online video games and video game software; computer services, namely, designing, developing and maintaining computer software for others and consulting services related thereto; technical support services, namely, troubleshooting of computer software problems excluding online video games and video game software in International Class 42 First Use/In Commerce: Sept. 2003
MIRRORFORCE	Reg. No. 3,336,535 Reg. Date: Nov. 13, 2007	Automated computer file and data protection services, namely, replication, failover, mirroring, restoring, failure recovery and disaster recovery for others; computer services, namely, data recovery services and data warehousing; remote monitoring of computer systems for technical purposes for others, and providing back-up computer programs and facilities in International Class 42 First Use/In Commerce: Jan. 2006
SUCCESSFORCE	Reg. No. 3,437,848 Reg. Date: May 27, 2008	Business management consulting services relating to customer relationship management, sales support management, and marketing automation; providing a website with general information of interest to the fields of advertising, marketing and business services in International Class 35 First Use/In Commerce: March 2006 Providing online forums for the transmission of messages among computer users on the subjects of business management, sales, marketing, customer relationship management, and software applications in International Class 38 First Use/In Commerce: March 2006 Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of business management, sales, marketing, customer relationship management, and software applications in International Class 41 First Use/In Commerce: March 2006. Providing temporary use of on-line non-downloadable software for use in storing, managing, tracking, analyzing and reporting data in the field of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency; providing temporary use of online non-downloadable software

MARK	REG. NO./ REG. DATE	GOODS/ SERVICES
		to facilitate communicating among peer professionals in the advertising, marketing and business services fields; and providing online journals, namely, blogs on the subject of business management, sales, marketing, customer relationship management, and software applications; technical support services, namely, troubleshooting computer software problems in International Class 42 First Use/In Commerce: March 2006.
FORCE.COM	Reg. No. 3,592,166 Reg. Date: March 17, 2009	Providing temporary use of online non-downloadable computer software application development tools; online hosted computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto in International Class 42. First Use/In Commerce: Sept. 17, 2007
SALESFORCE IDEAS	Reg. No. 3,594,599 Reg. Date: March 24, 2009	Providing temporary use of on-line non-downloadable software for use in application development, website design and development, for creating online user communities to allow users to post ratings, reviews, comments, votes, and recommendations regarding products, services, events and activities, and for storing, managing, tracking, analyzing and reporting online user community, website, and application use data in International Class 42. First Use/In Commerce: Oct. 1, 2007

8. Each of the registrations listed above is in all respects valid and subsisting and is presumptive evidence of Petitioner's ownership and exclusive right to use the registered marks in commerce in association with the goods and/or services recited therein.

9. Petitioner's FORCE-formative family of marks additionally includes the marks reflected in the following pending applications:

MARK	SERIAL NO./ FILING DATE	GOODS/ SERVICES
CLOUDFORCE	Serial No. 77/698,786 Filing Date: March 25, 2009	Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of marketing, promotion, sales, customer information, customer relationship

MARK	SERIAL NO./ FILING DATE	GOODS/ SERVICES
		management, sales support and employee efficiency, and distributing course materials in connection therewith in International Class 41 First Use/In Commerce: Dec. 8, 2008
	Serial No. 77/698,819 Filing Date: March 25, 2009	Educational services, namely, conducting seminars, conferences, workshops, and computer application training in the fields of marketing, promotion, sales, customer information, customer relationship management, sales support and employee efficiency, and distributing course materials in connection therewith in International Class 41 First Use/In Commerce: Dec. 8, 2008
FINANCIALFORCE	Serial No. 77/804,904 Filing Date: August 14, 2009	Providing temporary use of on-line non-downloadable software in the fields of accounting and billing; providing temporary use of on-line non-downloadable software to store, manage, track, analyze, and report data in the fields of accounting, accounting management and business management; providing temporary use of on-line non-downloadable software for the electronic interface between third party software applications that enables the exchange of data; providing temporary use of on-line non-downloadable software that allows customers to securely access their accounts to obtain proprietary accounting and business intelligence data; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the fields of accounting management and business management, and for customizing computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto in International Class 42
FINANCIALFORCE.COM	Serial No. 77/804,901 Filing Date: August 14, 2009	providing temporary use of on-line non-downloadable software in the fields of accounting and billing; providing temporary use of on-line non-downloadable software to store, manage, track, analyze, and report data in the fields of accounting, accounting management and business management; providing temporary use of on-line non-downloadable software for the electronic

MARK	SERIAL NO./ FILING DATE	GOODS/ SERVICES
		interface between third party software applications that enables the exchange of data; providing temporary use of on-line non-downloadable software that allows customers to securely access their accounts to obtain proprietary accounting and business intelligence data; providing temporary use of on-line non-downloadable software to facilitate communicating among peer professionals in the fields of accounting management and business management, and for customizing computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto in International Class 42
MARKETINGFORCE	Serial No. 77/830,324 Filing Date: Sept. 18, 2009	Business management services, namely, providing customizable on-demand software; providing a website with general information relating to business management services in International Class 35 Providing temporary use of on-line non-downloadable software to store, manage, track, analyze and report data, facilitate communicating among peer professionals, and customize computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto in International Class 42
MARKETINGFORCE.COM	Serial No. 77/830,327 Filing Date: Sept. 18, 2009	Business management services, namely, providing customizable on-demand software; providing a website with general information relating to business management services in International Class 35 Providing temporary use of on-line non-downloadable software to store, manage, track, analyze and report data, facilitate communicating among peer professionals, and customize computer application user interfaces; computer services, namely, designing, developing, and maintaining computer software applications for others and consulting services related thereto in International Class 42

10. Petitioner's FORCE-formative family of marks additionally includes various marks for which it owns common law rights, including its distinctive SALESFORCE.COM Design Mark:



11. Petitioner has used its SALESFORCE.COM Design Mark since as early as 2002, and prominently features it on its www.salesforce.com website in connection with its comprehensive on-demand business enterprise applications and related services.

12. Petitioner has expended substantial effort and expense in the advertising and promotion of its FORCE-formative family of marks throughout the United States with the result that customers, the public, and trade have come to know, rely upon and recognize the services and products of Petitioner by such marks. Petitioner primarily advertises the services and products offered under its FORCE-formative family of marks through online media advertising and through trade shows and conferences, including DREAMFORCE – its annual user and developer conference – and its TOUR DE FORCE mini conferences. As a result of Petitioner's efforts and by virtue of the excellence of its services and products, Petitioner has garnered a most valuable reputation and goodwill in a significant number of its FORCE-formative marks well before any date of first use upon which Registrant can rely.

13. Registrant obtained a registration for FINANCEFORCE for financial analysis services delivered by way of a global computer network on February 26, 2008, claiming a first use date of January 2006 and first use in interstate commerce on September 1, 2007, and having a constructive first use date of October 26, 2006.

14. Registrant's FINANCEFORCE mark so resembles Petitioner's previously adopted and continually expanding FORCE-formative family of marks as to be likely, when applied to "financial analysis services delivered by way of a global computer network," to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act.

15. If Registrant is permitted to retain Reg. No. 3,389,464 for the FINANCEFORCE mark, and thereby, the prima facie exclusive right to use that mark in commerce in connection with the services covered by the registration, confusion among consumers and in the trade is likely to result from the concurrent use of Petitioner's FORCE-formative family of marks for its comprehensive on-demand business enterprise applications and related services and Registrant's FINANCEFORCE mark for "financial analysis services delivered by way of a global computer network," all to the detriment of Petitioner. Further, consumers are likely to consider any "financial analysis services delivered by way of a global computer network" offered by Registrant under the FINANCEFORCE mark as emanating from Petitioner, resulting in irreparable damage to Petitioner's reputation and goodwill.

16. Upon information and belief, Registrant's adoption of the FINANCEFORCE mark was with the intent to derive benefit from the value and reputation of Petitioner's FORCE-formative marks.

17. Petitioner learned of Registrant and its FINANCEFORCE registration during the clearance process for Petitioner's FINANCIALFORCE and FINANCIALFORCE.COM marks. An investigation of Registrant's use of the FINANCEFORCE mark conducted by an investigator for Petitioner included the investigator's communication with Registrant. During those communications, Registrant stated in the context of the perceived value of the FINANCEFORCE mark: **"This is a very serious mark; think salesforce."**

18. Petitioner's investigation further revealed Registrant currently features a depiction of its FINANCEFORCE mark on its website with the addition of the .COM suffix in a stylized form that is confusingly similar to Petitioner's SALESFORCE.COM Design Mark:



19. Upon information and belief, Registrant's communication with Petitioner's investigator alluding to Petitioner in the context of the value of the FINANCEFORCE mark and the stylization of its FINANCEFORCE mark in a manner confusingly similar to Registrant's SALESFORCE.COM Design Mark, reflects Registrant's acknowledgment of the value of Petitioner's established goodwill in its FORCE-formative family of marks and Registrant's clear intent to trade thereon.

20. If Registrant is permitted to retain Registration No. 3,389,464 for the FINANCEFORCE mark for "financial analysis services delivered by way of a global computer network," a cloud will improperly be placed on Petitioner's FORCE-formative family of marks, including its related pending applications, and on Petitioner's right to use, register and expand the use of the marks comprising its FORCE-formative family of marks.

21. Specifically, Petitioner – holder of prior rights in FORCE-formative marks for comprehensive on-demand business enterprise applications delivered by way of a global computer network – will be damaged by the fact that, *inter alia*, its applications to register FINANCIALFORCE and FINANCIALFORCE.COM may be subject to interference under

Section 2(d) of the Trademark Act based upon a perceived likelihood of confusion with Registrant's registration.

22. Upon information and belief, Registrant's registration is invalid and subject to complete cancellation because it was obtained through fraud.

23. As part of its application for registration of the FINANCEFORCE mark, Registrant submitted on or about November 16, 2007 a petition to amend its mark from FINANCEFORCE.COM to FINANCEFORCE together with a Statement of Use, which included the following statements:

- "The applicant . . . is using or is using through a related company or licensee the mark in commerce on or in connection with . . . financial analysis services delivered by way of a global computer network."
- "The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 01/00/2006, and first used in commerce at least as early as 09/01/2007, and is now in use in such commerce."

As a specimen of use, Registrant submitted a price list, which it characterized as "advertising and promotional material for the services." Attached hereto as Exhibit A is a true and correct copy of the Nov. 16, 2007 submission, obtained through the USPTO TDR Portlet.

24. Registrant's Nov. 16, 2007 statement of use included a declaration signed by Stephen B. Salai on behalf of Registrant, which included the following material representations:

- "Applicant . . . *is using* the mark in commerce *on or in connection with the goods/services identified above.*" (Emphasis added).
- "The undersigned being hereby warned . . . willful false statements and the like . . . may jeopardize the validity of this document, declares . . . all statements made of his/her own

knowledge are true and that all statements made on information and belief are believed to be true.”

See Exhibit A.

25. On December 31, 2007, the Examining Attorney assigned to review Registrant’s application issued an office action indicating Registrant’s specimen was unacceptable “because it does not show the applied-for mark used in connection with any of the services specified in the application.” According to the Examining Attorney, “the specimen appears to be marketing/pricing information for ClearMomentum and Clear Financials. The wording “FinanceForce” appears on the top right. But the specimen does not seem to connect the services, ‘financial analysis services delivered by way of a global computer network,’ to the FinanceForce mark.” The Examining Attorney required Registrant to submit substitute specimens. Attached hereto as Exhibit B is a true and correct copy of the December 31, 2007 office action, obtained through the USPTO TDR Portlet.

26. On or about January 7, 2008, Registrant filed with the USPTO a response to the pending office action submitting a substitute specimen comprised of the same price sheet submitted in its November 16, 2007 filing and an additional piece of “advertising/promotional material” entitled “ClearMomentum - Financeforce™ Channel Partner Information,” which includes the following explanation regarding Registrant and its services:

“ClearMomentum develops products that make it easy for business owners and corporate executives to plan, analyze, report, and manage the performance of their organization. ClearFinancials™ is a Corporate Performance Management (CPM) solution that integrates with QuickBooks™ to deliver financial management capabilities typically limited to Fortune 500 organizations.

ClearMomentum has established Financeforce™, a network of independent business advisors, to market ClearFinancials™ to executives of the small to mid-size enterprise.” Registrant again characterized its substitute specimens as “advertising/promotional material *for the services*” in the registration. Attached hereto as Exhibit C is a true and correct copy of Registrant’s January 7, 2008 submission, obtained through the USPTO TDR Portlet.

27. Registrant’s response and substitute specimens were again accompanied by a declaration signed by Stephen B. Salai, which represented “the applicant 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* . . . services as of the filing date of this application,” and acknowledged “willful false statements and the like . . . may jeopardize the validity of . . . any resulting registration.” See Exhibit C.

28. As reflected in Registrant’s substitute specimen, Registrant seems to be using the FINANCEFORCE mark in connection with services different from those recited in its registration. Specifically, Registrant seems to be using the FINANCEFORCE mark to identify a marketing team for its services comprised of “a network of independent business advisors.” See Exhibit C.

29. During the communications between Petitioner’s investigator and Registrant which were part of Petitioner’s investigation into Registrant’s use of the FINANCEFORCE mark, Registrant repeatedly admitted that it did not offer any products or services under the FINANCEFORCE mark. Registrant further indicated to Petitioner’s investigator that if it did, in fact, begin to offer products or services under the FINANCEFORCE mark, it would likely not do so until mid to late 2010.

30. Upon information and belief and based on Petitioner's investigation into Registrant's use of the FINANCEFORCE mark, Registrant is not now using and has never used the FINANCEFORCE mark in association with "financial analysis services delivered by way of a global computer network."

31. Based on the foregoing, Registrant knew that it had not begun use of the FINANCEFORCE mark in connection with the rendering of the services recited in the registration, yet *twice* fraudulently declared that it had begun making use of the FINANCEFORCE mark in commerce for "financial analysis services delivered by way of a global computer network." Registrant further fraudulently declared that the specimens of use submitted were comprised of "advertising/promotional material" for those services.

32. Upon information and belief and based on the foregoing circumstances, Registrant's false claim of use of the FINANCEFORCE mark for "financial analysis services delivered by way of a global computer network" and its false characterization of its specimens of use constitute material misrepresentations and were made with the intent to deceive the U.S. Patent and Trademark Office. But for these misrepresentations, the U.S. Patent and Trademark Office would not have granted the registration.

33. As a separate and independent matter, upon information and belief and based on the foregoing circumstances, at the time Registrant filed its Statement of Use for the FINANCEFORCE mark, Registrant had made no, and as of the date of this Petition for Cancellation, has made no bona fide use of the mark FINANCEFORCE in U.S. commerce for the services recited in the subject registration, in contravention of Section 1(a) of the Trademark Act.

34. If Registrant is permitted to retain Registration No. 3,389,464 for the FINANCEFORCE mark for "financial analysis services delivered by way of a global computer network," a cloud will be placed upon Petitioner's right to use and expand its FORCE-formative family of marks for use in connection with its comprehensive on-demand business enterprise applications and related services in the United States. Such registration is a source of damage and injury to Petitioner.

WHEREFORE, Petitioner prays that Registration No. 3,389,464 be canceled in its entirety and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

OWEN, WICKERSHAM & ERICKSON, P.C.

Dated: 10.1.09

By: 

Gregory N. Owen
Noel M. Cook
Alica Del Valle

Attorneys for Petitioner,
SALESFORCE.COM, INC.

455 Market Street, 19th Floor
San Francisco, CA 94105
Phone: (415) 882-3200
Fax: (415) 882-3232
E-mail: gowen@owe.com
ncook@owe.com
adelvalle@owe.com

EXHIBIT A

TRADEMARKS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: ClearMomentum, Inc. Atty. Docket: 93336.000004
Application No.: 77/030,041 Filed: October 26, 2006
Title: FINANCEFORCE.COM

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451



11-16-2007

PETITION FOR AMENDMENT OF MARK

U.S. Patent & TM Office/TM Mail Rpt. Dt. #30

Sir:

Please amend the mark that is the subject of this application from "FINANCEFORCE.COM" to "FINANCEFORCE" by deleting the letters ".COM" from the originally applied for mark. This amendment is in accordance with 37 C.F.R. §2.72(b) because the change does not materially alter the mark, and the specimens submitted with the accompanying Statement of Use support the amendment.

An amendment of a mark is acceptable if the modified mark contains the essence of the original mark, and the mark as amended creates essentially the same impression as the original mark. Applicant submits that "FINANCEFORCE" "contains the essence of" "FINANCEFORCE.COM and creates essentially the same impression.

A new drawing displaying the amended mark is submitted herewith, pursuant to 37 C.F.R. §2.173(a).

A Statement of Use, the required fee and a supporting specimen are also provided.

If any fee is due for this amendment, please charge Deposit Account No. 033875.

Favorable consideration and entry of this amendment are requested.

Respectfully submitted,

Stephen B. Salai, Registration No. 26,990
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, New York 14604-2711

**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

Handwritten Signature

To the Commissioner for Trademarks:

MARK: FINANCEFORCE.COM
SERIAL NUMBER: 77030041

This Allegation of Use is being filed after a Notice of Allowance has issued.

The applicant, ClearMomentum, Inc., having an address of One Keuka Business Park, Penn Yan, New York United States 14527, is using or is using through a related company or licensee the mark in commerce on or in connection with the goods and/or services as follows:

For International Class 036:

Current identification: Financial analysis services delivered by way of a global computer network

The applicant, or the applicant's related company or licensee, is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 01/00/2006, and first used in commerce at least as early as 09/01/2007, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Advertising and promotional material for the services.

Specimen-1 [SPN0-64128166194-153239342_._specimen.pdf]

The applicant hereby appoints Stephen B. Salai of HARTER SECREST & EMERY LLP, 1600 BAUSCH AND LOMB PL, ROCHESTER, New York United States 14604-2711 to submit this Trademark/Service Mark Statement of Use on behalf of the applicant. The attorney docket/reference number is 93336.000004.


A fee payment in the amount of \$100 will be submitted with the form, representing payment for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature: 

Signatory's Name: STEPHEN B. SALAI

Signatory's Position: ATTORNEY AT LAW

Date Signed: Nov 8, 2007

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the boilerplate declaration language. Do **not** include the entire application, but do ensure that the boilerplate declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

FINANCEFORCE

ClearMomentum

Performance On Demand™

Financeforce™ Price List
Small to Midsize Enterprise

ClearMomentum develops products that make it easy for business owners and corporate executives to plan, analyze, report, and manage the performance of their organization. ClearFinancials™ is a Corporate Performance Management (CPM) solution available in several different packages designed to meet the strategic needs of your clients.

ClearFinancials™ Small Business Pack

Annual Subscription Price: \$1200

- Analyze history and identify trends using hundreds of financial and Key Performance Indicators.
- Compare actual performance to prior periods, budget or plan.
- Compare actual performance to industry specific benchmarks.
- Drill down by company division or business unit.
- Consolidate data from disparate operating systems.
- Build personalized dashboards.
- Share information with banks, investors, management, and board members with boardroom-ready reporting.

The Small Business Pack is ideal for business owners or corporate executives who demand greater insight than their existing ERP systems can deliver. Leveraging powerful analytics and reporting features, the ClearFinancials™ Small Business Pack provides on-demand access to critical business performance information.

ClearFinancials Strategic Planning™

Annual Subscription Price: \$8700

- Build a detailed capital budget.
- Predict future cash flow requirements.
- Create scenarios to solve future cash deficits.
- Model proposed changes in the capital structure.
- Set optimal performance levels between conflicting objectives.
- Analyze the impact of an acquisition.

ClearMomentum delivers powerful planning, predictive modeling, and budgeting capabilities that make it easy for executives to define strategic goals. The added features of ClearFinancials Strategic Planning™ facilitate the identification, development and clear communication of a company's performance objectives.

ClearFinancials Strategic CPM™

Annual Subscription Price: Quoted Per Client

- Build a comprehensive corporate strategy within the framework of the Balanced Scorecard.
- Link non-financial performance objectives to financial outcomes.
- Deploy corporate strategy via individual customized dashboards.
- Adapt to changing business conditions with ease.
- Communicate expectations with clarity among stakeholders.
- Access critical performance information any time from anywhere.

ClearFinancials Strategic CPM™ provides an on-demand framework through which corporate executives can efficiently develop and deploy the strategic vision for their company. Strategic CPM™ allows the dissemination of critical performance objectives throughout an organization to ensure that the strategy remains on track and in focus.

ClearMomentum, Inc.
One Keuka Business Park
Perin Yan, NY 14527
(315) 536 - 6986
www.clearmomentum.com

Be Clear

EXHIBIT B

Document Description: **Offc Action Outgoing**

Mail / Create Date: **31-Dec-2007**

[Previous Page](#)

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You are currently on page 1 of 2



To: ClearMomentum, Inc. (ssalai@hselaw.com)
Subject: TRADEMARK APPLICATION NO. 77030041 -
FINANCEFORCE.COM - 93336.000004

Sent: 12/31/2007 4:08:23 PM

Sent As: ECOM102@USPTO.GOV

Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/030041

MARK: FINANCEFORCE.COM

77030041

CORRESPONDENT ADDRESS:

STEPHEN B. SALAI
HARTER SECREST & EMERY LLP
1600 BAUSCH AND LOMB PL
ROCHESTER, NY 14604-2711

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: ClearMomentum, Inc.

**CORRESPONDENT'S
REFERENCE/DOCKET NO:**

93336.000004

CORRESPONDENT E-MAIL ADDRESS:

ssalai@hselaw.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 12/31/2007

The assigned examining attorney has reviewed the statement of use filed on November 16, 2007 and has determined the following.

Specimen Not Acceptable

The specimen is not acceptable because it does not show the applied-for mark used in connection with any of the services specified in the application. An application must include a specimen showing the applied-for mark in use in commerce for each class of goods and/or services based on Section 1(a) in the application. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56; TMEP §§904, 904.07(a), 1301.04.

In this case, the specimen appears to be marketing materials/pricing information for ClearMomentum and ClearFinancials. The wording "FinanceForce" appears on the top right. But the specimen does not seem to connect the services, "financial analysis services delivered by way of a global computer network," to the FinanceForce mark. More particularly, the mark FinanceForce.com appears nowhere on the specimen.

Therefore, applicant must submit the following:

- (1) A substitute specimen showing use of the mark for each class of goods and/or services specified in the application; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **"The specimen was in use in commerce at least as early as the filing date of the application."** 37 C.F.R. §2.59(a); TMEP §904.05. If submitting a specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c).

Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale. TMEP §§904.03 *et seq.* Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the sale or advertising of the services. TMEP §§1301.04 *et seq.*

If applicant cannot satisfy the above requirements, applicant may amend the Section 1(a) filing basis (use in commerce) to Section 1(b) (intent to use basis), for which no specimen is required. However, should applicant amend the basis to Section 1(b), registration cannot be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. 15 U.S.C. §1051(c); 37 C.F.R. §§2.76, 2.88; TMEP Chapter 1100.

In order to amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **"Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application."** 15 U.S.C. §1051(b); 37 C.F.R. §§2.34(a)(2), 2.35(b)(1); TMEP §806.03(c).

Pending a proper response, registration is refused because the specimen does not show the applied-for mark in use in commerce as a trademark or service mark for the identified goods or services. 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56; TMEP §§904, 904.07(a).

/rscb/
Robin S. Chosid-Brown, Esq.
Law Office 102

(571) 272-9252
 robin.chosid-brown@uspto.gov

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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- **Technical help:** For instructions on how to use TDR, or help in resolving **technical** glitches, please e-mail TDR@uspto.gov. If outside of the normal business hours of the USPTO, please e-mail [Electronic Business Support](#), or call 1-800-786-9199.
- **Questions about USPTO programs:** Please e-mail [USPTO Contact Center \(UCC\)](#).

NOTE: Within any e-mail, please include your telephone number so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.

EXHIBIT C

Document Description: **Response to Office Action**Mail / Create Date: **07-Jan-2008**[Previous Page](#)[Next Page](#)

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PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77030041
LAW OFFICE ASSIGNED	LAW OFFICE 102
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	036
DESCRIPTION	
Financial analysis services delivered by way of a global computer network	
FIRST USE ANYWHERE DATE	At least as early as 01/00/2006
FIRST USE IN COMMERCE DATE	At least as early as 09/01/2007
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	036
DESCRIPTION	
Financial analysis services delivered by way of a global computer network	
FIRST USE ANYWHERE DATE	At least as early as 01/00/2006
FIRST USE IN COMMERCE DATE	At least as early as 09/01/2007
STATEMENT TYPE	"The substitute specimen(s) was in use in commerce prior to expiration of the filing deadline for filing a Statement of Use (SOU)."
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	.pdf

CONVERTED PDF FILE(S) (2 pages)	\\TICRS2\EXPORT15\770\300\77030041\xml1 \ROA0002.JPG
	\\TICRS2\EXPORT15\770\300\77030041\xml1 \ROA0003.JPG
SPECIMEN DESCRIPTION	advertising/promotional material for the services
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
DECLARATION SIGNATURE	/stephen b. salai/
SIGNATORY'S NAME	Stephen B. Salai
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	01/07/2008
RESPONSE SIGNATURE	/stephen b. salai/
SIGNATORY'S NAME	Stephen B. Salai
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	01/07/2008
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Jan 07 14:33:50 EST 2008
TEAS STAMP	USPTO/ROA-66.195.78.166-2 0080107143350371966-77030 041-410b33e9a51935dc47b56 7e667da3f79cc7-N/A-N/A-20 080107142825866233

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77030041** 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 036 for Financial analysis services delivered by way of a global computer network
Original Filing Basis:

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)).

In International Class 036, the mark was first used at least as early as 01/00/2006 and first used in commerce at least as early as 09/01/2007.

Proposed: Class 036 for Financial analysis services delivered by way of a global computer network

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)).

In International Class 036, the mark was first used at least as early as 01/00/2006. and first used in commerce at least as early as 09/01/2007:

Applicant hereby submits a new specimen for Class 036. The specimen(s) submitted consists of advertising/promotional material for the services.

For an application based on 1(b), Intent-to-Use, "The substitute specimen(s) was in use in commerce prior to expiration of the filing deadline for filing a Statement of Use (SOU)."

Original PDF file:

.pdf

Converted PDF file(s) (2 pages)

Specimen File1

Specimen File2

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant 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). 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 or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). 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. §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. §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: /stephen b. salai/ Date: 01/07/2008

Signatory's Name: Stephen B. Salai
Signatory's Position: Attorney of Record

Response Signature

Signature: /stephen b. salai/ Date: 01/07/2008

Signatory's Name: Stephen B. Salai
Signatory's Position: Attorney of Record

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.

Serial Number: 77030041

Internet Transmission Date: Mon Jan 07 14:33:50 EST 2008

TEAS Stamp: USPTO/ROA-66.195.78.166-2008010714335037

1966-77030041-410b33e9a51935dc47b567e667

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ClearMomentum

Performance On Demand™

Financeforce™ Channel Partner Information

An Opportunity for Sleeter Group Consultants

ClearMomentum develops products that make it easy for business owners and corporate executives to plan, analyze, report, and manage the performance of their organization. ClearFinancials™ is a Corporate Performance Management (CPM) solution that integrates with QuickBooks™ to deliver financial management capabilities typically limited to Fortune 500 organizations.

ClearMomentum has established Financeforce™, a network of independent business advisors, to market ClearFinancials™ to executives of the small to mid-size enterprise.



The benefits of Financeforce™ membership include:

- A compelling new solution to offer existing customers.
- An ongoing revenue stream via subscription renewals.
- Added consulting opportunities.
- Sales opportunities limited only to QuickBooks advisory consultants.
- Marketing, training and advertising material furnished by ClearMomentum.
- Lead generation and new customer referrals.
- Ongoing product and installation training.

Be Clear™

Contact ClearMomentum today for more details on how to join Financeforce™.

ClearMomentum, Inc.
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Penn Yan, NY 14527
(315) 536 - 6986
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ClearMomentum

Performance On Demand™

Financeforce™ Price List
Small to Midsize Enterprise

ClearMomentum develops products that make it easy for business owners and corporate executives to plan, analyze, report, and manage the performance of their organization. ClearFinancials™ is a Corporate Performance Management (CPM) solution available in several different packages designed to meet the strategic needs of your clients.

ClearFinancials™ Small Business Pack

Annual Subscription Price: \$1200

- Analyze history and identify trends using hundreds of financial and Key Performance Indicators.
- Compare actual performance to prior periods, budget or plan.
- Compare actual performance to industry specific benchmarks.
- Drill down by company division or business unit.
- Consolidate data from disparate operating systems.
- Build personalized dashboards.
- Share information with banks, investors, management, and board members with boardroom-ready reporting.

The Small Business Pack is ideal for business owners or corporate executives who demand greater insight than their existing ERP systems can deliver. Leveraging powerful analytics and reporting features, the ClearFinancials™ Small Business Pack provides on-demand access to critical business performance information.

ClearFinancials Strategic Planning™

Annual Subscription Price: \$8700

- Build a detailed capital budget.
- Predict future cash flow requirements.
- Create scenarios to solve future cash deficits.
- Model proposed changes in the capital structure.
- Set optimal performance levels between conflicting objectives.
- Analyze the impact of an acquisition.

ClearMomentum delivers powerful planning, predictive modeling, and budgeting capabilities that make it easy for executives to define strategic goals. The added features of ClearFinancials Strategic Planning™ facilitate the identification, development and clear communication of a company's performance objectives.

ClearFinancials Strategic CPM™

Annual Subscription Price: Quoted Per Client

- Build a comprehensive corporate strategy within the framework of the Balanced Scorecard.
- Link non-financial performance objectives to financial outcomes.
- Deploy corporate strategy via individual customized dashboards.
- Adapt to changing business conditions with ease.
- Communicate expectations with clarity among stakeholders.
- Access critical performance information any time from anywhere.

ClearFinancials Strategic CPM™ provides an on-demand framework through which corporate executives can efficiently develop and deploy the strategic vision for their company. Strategic CPM™ allows the dissemination of critical performance objectives throughout an organization to ensure that the strategy remains on track and in focus.

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