

United States Patent and Trademark Office

Mark: ECOSYS EPC  
Serial No: 86/594,769  
Applicant Name: EcoSys Management LLC  
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**Response to Office Action** In response to the Office Action dated July 24, 2015, EcoSys Management, LLC (“EcoSys”), through its attorneys, submits the following remarks. The examiner refused registration of the ECOSYS EPC application for a number of reasons, including likelihood of confusion with the following marks:

- U.S. Reg. No. 1,784,793 for the mark ECOSYS for computer printers owned by Kyocera Corporation,
- U.S. Reg. No. 1,784,799 for the mark ECOSYS ASI PRINTER for computer printers also owned by Kyocera Corporation,
- U.S. Reg. No. 4,391,437 for the mark ECOSYSTEM for “computer software for management of direct costs and for profitability analysis in the field of health care” owned by Surgical Care Affiliates, LLC, and
- U.S. Reg. No. 3,029,340 for the mark EPC (plus stylization) for use with “professional business consultancy; employment agencies, business appraisals; economic forecasting; internet advertising for others, in Class 35, “investment planning; financial analysis and evaluation,” in Class 36, and “scientific, and technological services, namely, in the fields of industrial plants and industrial buildings, and research projects and designer services relating thereto; Industrial analysis and research services; Engineering consultation in view of planning, constructing and implementing industrial plants and industrial buildings; architecture; Chemistry consultation and research in the field of chemistry; Urban planning; Consultation in environment protection; Engineering; Computer programming for others; Design of computer software; Development of databases; Development and research services relating to new products for others; Development and planning of chemical technologies and methods,” in Class 42, owned by EPC Engineering Consulting GmbH of Rudolstadt, Germany.

In order to bring the Applicant's application in to line with current USPTO guidelines on goods and service descriptions, as well as to differentiate the Applicant's core goods and services from those of the cited marks, Applicant hereby adopts the following goods and service description:

- Computer application software for enterprising planning and controls, namely, software for project cost controls; downloadable mobile applications for enterprise planning and controls, not for use in the management of direct costs and for profitability analysis in the field of health care, in Class 9, and
- Provision of web-based non-downloadable software for project management, project and operation budgeting and accounting; cloud computing featuring software for use in enterprise planning and controls; software as a service provider featuring software for use by industries that have any type of warehouse including food, pharmaceutical, storage and construction that lets them manage the business accounting and operation of such warehouses; cloud computing featuring software for use by industries in managing any type of warehouse, human resources, time and attendance and personnel evaluation tools; computer services, namely, acting as a software as a service provider in the field of enterprise project controls to host computer application software for the purpose of cost accounting, reporting, document repository, billing, timekeeping, human resources; design of computer software for enterprise planning and controls; technical support services, namely, troubleshooting of project cost control computer software problems, in Class 42

ECOSYS EPC is the Applicant's software suite for the project controls industry. In using the EPC mark the Applicant defines EPC for the consumer as "Enterprise Planning & Controls." Based on this use a consumer would recognize ECOSYS as the house mark and EPC as the portion of the mark that suggests the type of software. The ECOSYS portion of the ECOSYS EPC mark is the primary and most important impression of the mark.

The Applicant submits that the narrowing amendments made to the goods and service description, together with the differences in the sight, sound, and meaning between the cited marks and in particular the unrelatedness of the applicant's goods and services with Surgical Care Affiliates, Inc. field of use is enough to distinguish the applicant's mark from the cited marks.

Dated: January 22, 2016

Respectfully submitted,

/SAA/

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