

In the Office Action issued on July 10, 2019, the Examiner refused the registration of Applicant's design mark,



(Serial No. 88/399,036) ("**Applicant Mark**").

The refusal is based on the grounds that the Applicant Mark is likely to cause confusion with the following registered design mark in accordance with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d):



(Reg. No. 5,235,246) ("**Cited Mark**").

Applicant respectfully requests that the Examiner withdraw the refusal, because Applicant and the Registrant of the Cited Mark constitute a single source through separate legal entities. The Applicant substantially owns and controls the Registrant, including its trademarks. "If either the applicant or the registrant substantially owns all of the other entity and asserts control over the activities of the other entity, including its trademarks, and there is no contradictory evidence, the examining attorney should conclude that unity of control is present, that the entities constitute a single source, and that there is no likelihood of confusion under §2(d)." TMEP 1201.07(b)(ii); *see In re Wella A.G.*, 5 USPQ2d 1359, 1361 (TTAB 1987) , rev'd on other grounds, 858 F.2d 725, 8 USPQ2d 1365 (Fed. Cir. 1988).

The Registrant is Providence Health & Service – Washington, a Washington non-profit corporation ("**PHSW**"). The Applicant is Providence St. Joseph Health, also a Washington non-profit corporation ("**PSJH**"). Applicant has attached a declaration from John D. Whipple, Assistant Corporate Secretary of PSJH stating that PSJH is the parent and sole owner of Providence Health & Services ("**PHS**"), and PHS is the parent and sole owner of PHSW (the owner of the Cited Mark). As the parent company and sole owner, PSJH exerts unity of control over the nature and quality of the services offered by PSJH, PHS and PHSW. See John D. Whipple's declaration attached as Exhibit A.

Therefore, the Applicant owns substantially all of the legal entity of the Registrant and controls all activities of the Registrant, including its trademarks. The attached declaration establishes unity of control of PSJH as a single source and removes the potential for any likelihood of confusion between the Applicant Mark and the Cited Mark. As a result, Applicant requests that the refusal to register based on the likelihood of confusion of the Cited Mark be withdrawn.