To:	Sarah Fisher(saanfish17@gmail.com)
Subject:	U.S. Trademark Application Serial No. 99077712 - HMS VALUATION PARTNERS
Sent:	August 14, 2025 01:21:11 PM EDT
Sent As:	tmng.notices@uspto.gov

Attachments

BUCKHEAD
AHD-partner

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 99077712

Mark: HMS VALUATION PARTNERS

Correspondence Address:
Sarah Fisher
Milling Benson Woodward LLP
68031 Capital Trace Row
Mandeville LA 70471-7514
United States

Applicant: HEALTH MANAGEMENT SOLUTIONS, L.L.C.

Reference/Docket No. N/A

Correspondence Email Address: saanfish17@gmail.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the "Issue date" below to avoid abandonment of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may request one three-month extension of the response deadline prior to filing a response. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the "Issue date" to avoid abandonment of the application.

Issue date: August 14, 2025

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant

must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SEARCH RESULTS – NO CONFLICTING MARKS FOUND

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

SUMMARY OF ISSUES:

- Sections 1 and 45 Refusal – Specimen Does Not Show Use
- Disclaimer Required

SECTIONS 1 AND 45 REFUSAL – SPECIMEN DOES NOT SHOW USE

Registration is refused because the specimen does not show a direct association between the mark and the services and fails to show the applied-for mark used in commerce with the identified services in **International Classes 35 or 36**. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (b)(2); TMEP §§904, 904.07(a), 1301.04(f)(ii), (g)(i). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of services identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

When determining whether a mark is used in connection with the services in the application, a key consideration is the perception of the user. *In re JobDiva, Inc.*, 843 F.3d 936, 942 (Fed. Cir. 2016) (citing *Lens.com, Inc. v. 1-800 Contacts, Inc.*, 686 F.3d 1376, 1381-82 (Fed Cir. 2012)). A specimen must show the mark used in a way that would create in the minds of potential consumers a sufficient nexus or direct association between the mark and the services being offered. *See* 37 C.F.R. §2.56(b)(2); *In re Universal Oil Prods. Co.*, 476 F.2d 653, 655 (C.C.P.A. 1973); TMEP §1301.04(f)(ii).

For specimens showing the mark used in advertising the identified services, a direct association between the mark and services is established when the specimen (1) explicitly references the services and (2) shows the mark used to identify the services and their source. *In re Weiss*, Ser. No. 88621608, 2024 TTAB LEXIS 277, at *12 (2024); (quoting *In re WAY Media, LLC*, Ser. No. 86325739, 2016 TTAB LEXIS 201, at *4-5 (2016)); TMEP §1301.04(f)(ii). The services need not be specified word for word on the specimen; but "a sufficient reference to the services themselves or a general reference to the trade, industry, or field of use is required." TMEP §1301.04(f)(ii); *see In re Pitney Bowes, Inc.*, Ser. No. 86502157, 2018 TTAB LEXIS 2, at *8-10 (2018); *In re Florists' Transworld Delivery, Inc.*, Ser. No. 85164876, 2016 TTAB LEXIS 192, at *13-14 (2016); *In re Ralph Mantia Inc.*, Ser. No. 74657328, 2000 TTAB LEXIS 62, at *5 (2000).

Specimens showing the mark used in rendering the identified services need not explicitly refer to those services to establish the required direct association, but "there must be something which creates in the mind of the purchaser an association between the mark and the service activity." *In re Weiss*, 2024 TTAB LEXIS 277, at *12-13 (quoting *In re Johnson Controls, Inc.*, Ser. No. 74195251, 1994 TTAB LEXIS 25, at *7 (1994)).

In the present case, the specimen does not show a direct association between the mark and services. There is no reference to the business administration services identified in Class 35 or the financial services identified in Class 36.

The only reference to services applicant provides is "healthcare valuation & consulting services." Applicant identified "consulting in the field of health care" in Class 44 and the specimen is acceptable for that class. "Healthcare valuation services" appears to refer to business appraisals in the field of healthcare. See Buckhead FMV, ID Manual Entry Nos. 036-1109 ("Financial appraisal and valuation of {indicate personal or real property, e.g., precious stones, art, vacation homes, etc.} [does not include business appraisal services in Class 35]") *and* No. 035-435.

Examples of specimens. Specimens for services must show a direct association between the mark and the services and include: (1) copies of advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services. *See* 37 C.F.R. §2.56(b)(2), (c); TMEP §1301.04(a), (h)(iv)(C). Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the electronic form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

Response options. Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

(1) Submit a different specimen (a verified "substitute" specimen) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the services identified in the application or amendment to allege use. A "verified substitute specimen" is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use." The substitute specimen cannot be accepted without this statement.

(2) Amend the filing basis to intent to use under Section 1(b) (which includes withdrawing an amendment to allege use, if one was filed), as no specimen is required before publication. This option will later necessitate additional fee(s) and filing requirements, including a specimen.

For an overview of the response options referenced above and instructions on how to satisfy these options using the electronic response form, see the Specimen webpage.

DISCLAIMER REQUIRED

Applicant must disclaim the wording "VALUATION PARTNERS" because it is merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods and/or services. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

The specimen indicates that applicant's services relate to valuation and the attached dictionary evidence shows that PARTNERS may refer to a business partnership. Thus, the wording merely describes the

purposes of applicant's services, namely, a business relationship for the purposes of valuation.

Applicant may respond to this issue by submitting a disclaimer in the following format:

> **No claim is made to the exclusive right to use "VALUATION PARTNERS" apart from the mark as shown.**

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. *See In re Stereotaxis Inc.*, 429 F.3d 1039, 1041, 77 USPQ2d 1087, 1089 (Fed. Cir. 2005); TMEP §1213.01(b).

For an overview of disclaimers and instructions on how to provide one using the electronic response form, see the Disclaimer webpage.

HOW TO RESPOND. File a **response form to this nonfinal Office action** or file a **request form for an extension of time to file a response**.

/John LaMont/
Examining Attorney
LO123--LAW OFFICE 123
(571) 270-0404
John.LaMont@USPTO.GOV

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to abandon.** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.

- **Responses signed by an unauthorized party** are not accepted and can **cause the application to abandon.** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.

- If needed, **find contact information for the supervisor** of the office or unit listed in the signature block.

https://www.buckheadfmv.com/single-post/healthcare-valuation-faqs at 01:12:09, 08/14/2025

Melanie Rosebrock, CVA
Jan 9, 2023 · 6 min read

Healthcare Valuation FAQs

Healthcare valuation is a niche industry that may be unfamiliar to most people, perhaps even to many professionals operating within the healthcare sphere. To help with developing a better understanding of the nature of our services, we have compiled some of the most common questions that come up around our work.

1. What is healthcare valuation?

Healthcare valuation involves the valuation or appraisal of healthcare-related businesses, assets, or services.

2. How are healthcare valuations different from other valuations?

The U.S. healthcare industry is highly regulated. The price paid for a healthcare business, asset, or service may be limited by state and federal laws. Valuators and appraisers who specialize in healthcare must understand the ever-evolving features of the industry, including federal fraud and abuse laws, IRS private inurement rules, and other regulatory and legal requirements.

3. What is the basis of healthcare valuation?

Two of the most important concepts in healthcare valuation are fair market value (FMV) and commercial reasonableness (CR).

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- FMV is what is known as a "standard of value". A standard of value is the definition of value used in a valuation or appraisal. FMV is the standard of value required by many healthcare laws in the U.S.
- Commercial reasonableness means that there is a legitimate business purpose for the arrangement between the two parties.

For most healthcare arrangements, both the FMV and commercial reasonableness standards must be met. The price paid for a healthcare business, asset, or service must be fair market value, and the overall arrangement must also be commercially reasonable.

4. What is FMV in healthcare?

The fair market value definition often used in healthcare valuation (see below) comes from the Physician Self-Referral Law, also known as the Stark Law.

Fair market value means the value in arm's-length transactions, consistent with the general market value of the subject transaction.

General market value means, with respect to compensation for services, the compensation that would be paid at the time the parties enter into the service arrangement as the result of bona fide bargaining between well-informed parties that are not otherwise in a position to generate business for each other. The determination of general market value should be based solely on consideration of the economics of the subject transaction and should not include consideration of other business the parties may have with one another.[1]

[1] 42 CFR § 411.351

5. How does an appraiser determine FMV?

FMV opinions are developed by appraisers who use their professional judgment and expertise. Appraisers may apply any number of acceptable methods, considering the facts and circumstances of the arrangement. The appropriate data and factors to be considered will vary based on the particular engagement. Data points used for an analysis may include a wide variety of sources, such as:

- Client-provided information
- National and regional survey data
- Reimbursement data
- Public equity markets
- Public transaction databases
- Press releases
- SEC filings
- Bond market research
- Lawsuits and reviews
- Attorney General reviews
- Certificate of Need filings
- Medicare cost reports
- Government studies
- Academic research

6. Why get a fair market value opinion?

Healthcare laws and regulations — such as the Stark Law, the Anti-Kickback Statute, and IRS rules for tax-exempt organizations — require transactions to be commercially reasonable and consistent with FMV. Given the potentially severe

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commercially reasonable and consistent with FMV. Given the potentially severe consequences for noncompliance, it is advisable for an organization to secure an independent third-party opinion as one element of its overall compliance efforts.

7. Does the buyer or the seller engage the appraiser?

The buyer or the seller can engage the appraiser. The appraisal report will identify the intended users and the intended purpose of the appraisal. If both parties plan to rely on the appraisal, the appraisal report needs to include a statement that both parties are intended users.

8. What if both parties get an appraisal or fair market value opinion and the results are different?

The parties should anticipate some differences between the two appraisals. Valuation opinions are based on the professional judgment of the appraiser, drawing on factual evidence along with subjective data. Different appraisers may arrive at different conclusions, depending on experience, limiting conditions, reasoning philosophies, availability of data, the defined scope of the engagement, and other factors. Extremely divergent values, however, may indicate that the appraisers weren't given the same assignment and/or didn't have access to the same amount or quality of information and data.

9. What designations/credentials/qualifications should a healthcare appraiser have in particular?

Appraisers should have credentials from one of the top national organizations for valuation professionals, including the American Society of Appraisers (ASA) and the National Association of Certified Valuators and Analysts (NACVA). To be credentialed by one of these organizations, an appraiser must meet training and experience requirements, pass an examination, and demonstrate competence through case studies or sample reports.

Credentialed appraisers are also required to complete continuing professional education and be recertified after a three- to five-year period. ASA's credentials include Accredited Senior Appraiser (ASA) and Accredited Member (AM). NACVA's credentials include Certified Valuation Analyst (CVA). Additionally, the appraiser should have sufficient experience performing valuations in the healthcare space and an understanding of the unique regulatory requirements impacting provider transactions.

10. What is the process for hiring a healthcare appraisal firm?

The process varies by firm. BuckheadFMV's process often starts with an initial phone call with the client and/or the client's legal representation. The next step is a conflict check. BuckheadFMV then issues a proposal outlining scope of work, data needed to complete the work, deliverables, timeline, and professional fees. If the client agrees to the proposal, BuckheadFMV will start work on the project.

11. What types of deliverables do healthcare valuation firms issue?

The deliverable for a healthcare valuation engagement is typically a written report. Appraisal reports should meet professional standards and clearly convey the evidence-based path to the valuation. They should never be misleading and should contain sufficient information for the intended users to understand the

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Physical Therapy
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Physician Compensation
Physician Compliance
Physician Incentives
Physician Leaders
Physician Needs

report. Reports must contain a signed statement by the appraiser.

The Uniform Standards of Professional Appraisal Practice (USPAP) are the generally recognized ethical and performance standards for the appraisal profession in the United States. USPAP contains standards for all types of appraisal services, including real estate, personal property, business, and mass appraisal. USPAP is updated every two years so that appraisers have the information they need to deliver unbiased and thoughtful opinions of value.

12. What is a fair market value "opinion letter"?

The healthcare appraisal industry typically refers to an appraisal report as a fair market value "opinion letter" when the subject of the report is a service (e.g., clinical or administrative work performed by a physician).

13. How long is a valuation report considered valid?

A valuation opinion represents the value of a business, asset, or service as of a specific identified date (the "valuation date"). The date the valuation findings are delivered to the client is the report date. The time period for which the findings remain valid following the valuation/report date will vary depending on the purpose of the engagement, the intended users of the report, and the specific facts and circumstances surrounding the arrangement. In many cases, valuations remain valid for at least one year. However, many factors can affect the validity period.

14. What types of healthcare organizations benefit from FMV appraisals?

Valuation clients can include healthcare organizations, healthcare providers, and other parties that work with healthcare organizations or providers. Some examples include:

- Hospital systems
- Physician groups
- Healthcare attorneys
- Ambulatory surgery centers
- Home health care providers
- Hospice providers
- ACOs, CINs, IPAs, and PHOs
- Ambulance and EMS companies
- Behavioral health companies
- Clinical laboratories
- Cancer centers
- Dialysis centers
- Imaging centers
- Endoscopy centers
- Physical therapy centers
- Infusion centers
- Rehabilitation hospitals
- Surgical hospitals
- Urgent care centers

15. What reasons do hospitals, physician groups, or other healthcare providers seek FMV appraisals?

Professional valuations are instrumental and beneficial to decision-making in cases of:

Physician Staffing

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July 2025 (1)
June 2025 (4)
May 2025 (3)
April 2025 (3)
March 2025 (2)
February 2025 (4)
January 2025 (2)
December 2024 (3)
November 2024 (3)
October 2024 (3)
September 2024 (3)
August 2024 (3)
July 2024 (3)
June 2024 (3)
May 2024 (4)
April 2024 (4)
March 2024 (1)
February 2024 (4)
January 2024 (2)
December 2023 (3)
November 2023 (3)
October 2023 (5)
September 2023 (1)
August 2023 (3)
July 2023 (3)
June 2023 (3)
May 2023 (3)
April 2023 (4)
March 2023 (2)
February 2023 (3)
January 2023 (4)
December 2022 (2)
November 2022 (4)
October 2022 (2)
September 2022 (2)
August 2022 (4)
July 2022 (2)
June 2022 (3)
May 2022 (3)
April 2022 (4)
March 2022 (3)
February 2022 (4)
January 2022 (3)
December 2021 (1)
November 2021 (2)
October 2021 (3)
September 2021 (1)
August 2021 (3)
June 2021 (4)
May 2021 (1)

cases of:

- Physician employment
- Call coverage
- Medical directorships
- Clinical co-management
- Midlevel supervision
- Hospital-based specialty stipends
- Mergers and acquisitions
- Joint ventures
- Asset valuations
- Machinery and equipment
- Patient charts
- Certificate of Need
- Non-compete agreements
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- New service valuations
- Reevaluation of arrangements
- Quality incentives
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- Management services
- Professional interpretations/reads
- Shared savings distribution
- Block leasing
- Marketing services
- Advisory board participation
- Consulting services
- Honorariums
- Speaking and teaching services
- Space, equipment, and staff leasing
- Sponsorships
- Physician recruitment incentives

16. How much does a business valuation or a fair market value opinion cost?

The cost varies widely and depends on the nature and scope of the valuation. For a relatively simple arrangement, such as a single physician's employment agreement, a professional healthcare FMV opinion may cost just a few thousand dollars.

However, analyses with a much broader scope, such as a comprehensive review of all provider compensation methodologies at a health system, can cost tens or hundreds of thousands of dollars. FMV engagement fees are based on the valuators' professional hourly rates and the time commitment required to complete the assignment based on the anticipated scope of services.

17. How long does it take to get a business valuation or an FMV opinion?

Depending on the nature and complexity of the valuation, and the availability of requested information from the client, preparing a business valuation or FMV opinion may require only a few days up to several months in some cases.

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part·ner

(pärt′nər)

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n.

1. One that is united or associated with another or others in an activity or a sphere of common interest, especially:
   - **a.** A member of a business partnership.
   - **b.** A spouse.
   - **c.** A domestic partner.
   - **d.** A lover.
   - **e.** Either of two persons dancing together.
   - **f.** One of a pair or team in a sport or game, such as tennis or bridge.
2. often **partners** *Nautical* A wooden framework used to strengthen a ship's deck at the point where a mast or other structure passes through it.

v. **part·nered, part·ner·ing, part·ners**

v.intr.

To become partners or work or associate as partners: *partnered with a friend in a new venture.*

v.tr.

To be or make a partner of: *She was partnered with her brother in the canoe race.*

[Middle English *partener*, alteration (influenced by *part*, part) of *parcener*, parcener; see PARCENER.]

Synonyms: **partner, colleague, ally, confederate**

These nouns all denote one who is united or associated with another, as in a venture or relationship. A *partner* participates in a relationship in which each member has equal status: *a partner in a law firm.* A *colleague* is an associate in an occupation or a profession: *a colleague and fellow professor.* An *ally* is one who associates with another, at least temporarily, in a common cause: *countries that were allies in World War II.* A *confederate* is a member of a confederacy, league, or alliance or sometimes a collaborator in a suspicious venture: *confederates in a scheme to oust the chairman.*

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Indo-European & Semitic Roots Appendices

Thousands of entries in the dictionary include etymologies that trace their origins back to reconstructed proto-languages. You can obtain more information about these forms in our online appendices:

Indo-European Roots

Semitic Roots

The Indo-European appendix covers nearly half of the Indo-European roots that have left their mark on English words. A more complete treatment of Indo-European roots and the English words derived from them is available in our **Dictionary of Indo-European Roots**.

American Heritage Dictionary Products

HOW TO USE THE DICTIONARY

To look up an entry in *The American Heritage Dictionary of the English Language*, use the search window above. For best results, after typing in the word, click on the "Search" button instead of using the "enter" key.

Some compound words (like *bus rapid transit*, *dog whistle*, or *identity theft*) don't appear on the drop-down list when you type them in the search bar. For best results with compound words, place a quotation mark before the compound word in the search window.

GUIDE TO THE DICTIONARY

THE USAGE PANEL

The Usage Panel is a group of nearly 200 prominent scholars, creative writers, journalists, diplomats, and others in occupations requiring mastery of language. Annual surveys have gauged the acceptability of particular usages and grammatical constructions.

THE PANELISTS

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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 14, 2025 for
U.S. Trademark Application Serial No. 99077712

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

(1) Read the Office action. This email is NOT the Office action.

(2) Respond to the Office action by the deadline using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be abandoned. See the Office action itself regarding how to respond.

(3) Direct general questions about using USPTO electronic forms, the USPTO website, the application process, the status of your application, and whether there are outstanding deadlines to the Trademark Assistance Center (TAC).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **Check the status of your application periodically** in the Trademark Status & Document Retrieval (TSDR) database to avoid missing critical deadlines.

- **Update your correspondence email address** to ensure you receive important USPTO notices about your application.

- **Beware of trademark-related scams**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, TSDR, to confirm that it appears under the "Documents" tab, or contact the Trademark Assistance Center.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.