

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Consolidated Specialty : BEFORE THE
Restaurants, Inc. :
Trademark: COLORADO STEAKHOUSE : TRADEMARK TRIAL
Serial No: 75/857797 : AND
Attorney: Scott J. Stevens : APPEAL BOARD
Address: Woodard, Emhardt, Naughton, : ON APPEAL
Moriarty & McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137

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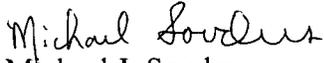
EXAMINING ATTORNEY'S REQUEST FOR REMAND

The examining attorney requests that the Trademark Trial and Appeal Board remand this case to the examining attorney under 37 C.F.R. §2.142(d) for the following reasons:

On January 7, 2003, the Trademark Trial and Appeal Board restored jurisdiction of this file to the examining attorney of record for preparation of the examiner's brief on the refusal to register the proposed mark under Trademark Act Section 2(e)(3), 15 U.S.C. Section 1052(e)(3). The examining attorney's appeal brief was filed on March 10, 2003 on the single issue of whether the applicant's mark is primarily geographically deceptively misdescriptive within the meaning of Section 2(e)(3) of the Trademark Act.

The examining attorney requests that the Trademark Trial and Appeal Board remand this case to the examining attorney for reconsideration in light of the decision in *In re California Innovations, Inc.*, 329 F.3d 1334; 66 USPQ 2D 1853 (Fed. Cir. 2003). The ruling in that case included new standards to be applied in determining whether a mark is primarily geographically deceptively misdescriptive under Section 2(e)(3). The examining attorney requests that the case be remanded for reconsideration and application of the new standards to the facts of the case.

Respectfully submitted,


Michael J. Souders
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