

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3514**

BAC

Mailed: October 7, 2003

In re Consolidated Specialty  
Restaurants, Inc.

Serial No. 75857797

Filed: November 24, 1999

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Rochelle Ricks, Paralegal Specialist:

On October 6, 2003, the Examining Attorney submitted a request for remand under Trademark Rule 2.142(d), based on the recent decision of the Court of Appeals for the Federal Circuit in the case of *In re California Innovations, Inc.*, 329 F.3d 1334, 66 USPQ2d 1853.<sup>1</sup> Specifically, the Examining Attorney requested a remand "for reconsideration [of the Section 2(e)(3)("primarily geographically deceptively

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<sup>1</sup> A copy of the Examining Attorney's request for remand is enclosed for applicant's attorney.

misdescriptive") refusal] and application of the new standards to the facts of the case."

The Examining Attorney's request for remand is granted. Action on the appeal is suspended and the file is remanded to the Trademark Examining Attorney to reconsider the refusal under Section 2(e)(3) in light of the new standard set forth by the Court in the California Innovations case.

If the Examining Attorney finds the mark is registrable, the appeal will be moot. If the Examining Attorney maintains the refusal to register, the Examining Attorney should issue an Office Action so indicating, along with any additional supporting evidence, and return the file to the Board. The appeal will then be resumed and applicant and will be allowed time in which to file a substitute appeal brief. In view of the advanced stage of the appeal, applicant may submit any responsive evidence with its substitute appeal brief. Following the submission of applicant's substitute brief, the Examining Attorney will be allowed time in which to file a substitute brief (without any further evidence), and applicant may then file a substitute reply brief (without any further evidence), and if it wishes, applicant may submit a request for an oral hearing under Trademark Rule 2.142(e)(1).