

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**Trademark Trial and Appeal Board**  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: June 12, 2002

In re HelpMagic.Com Ltd

Serial No. 76/121865

Filed: 09/05/2000

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On June 7, 2002, the Board sent applicant a notice acknowledging receipt of its notice of appeal, and indicating that applicant's appeal brief was due by July 19, 2002. At that time, however, the Board was unaware that applicant had also filed, on May 20, 2002, a request for reconsideration. That paper requires consideration by the Trademark Examining Attorney. Accordingly, action on the appeal is suspended, and the application is hereby remanded to the Examining Attorney for consideration of the request for reconsideration.

One basis of the final refusal was the unacceptability of the identification of goods, and the request contains a proposed amendment to the identification. If the amendment

is accepted and the mark is found registrable on the basis of this paper, the appeal will be moot. If the amendment is accepted but the refusal to register is maintained, the Examining Attorney should issue an Office Action so indicating, amend the Office computer database to reflect entry of the amendment, and return the file to the Board. The appeal will then be resumed and applicant allowed time in which to file its appeal brief. If the Examining Attorney determines that the amendment to the identification is not acceptable, the Examining Attorney should indicate in the Office Action the reasons why the proposed amendment is unacceptable, and return the file to the Board for resumption of proceedings in the appeal.<sup>1</sup> However, if the Examining Attorney believes that the problems with the proposed identification can be resolved, the Examining Attorney is encouraged to contact applicant, either by telephone or written Office Action, in an attempt to do so.

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<sup>1</sup> If the Examining Attorney believes that the proposed amendment is unacceptable because it exceeds the scope of the original identification, or the identification as it has subsequently been amended, then the Examining Attorney may not issue a final refusal unless applicant was previously advised that amendments broadening the identification are prohibited under Trademark Rule 2.71(a). See Examination Guide No. 4-00.