

ESTTA Tracking number: **ESTTA322262**

Filing date: **12/15/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	76293327
Applicant	Prema Jyothi Light
Applied for Mark	SHIMMERING RAINFOREST
Correspondence Address	PREMA JYOTHI LIGHT 8601 W. Cross Dr., F5-135 Littleton, CO 80123 UNITED STATES wintersparkling@inbox.com
Submission	Notice of Appeal to New Final Action
Attachments	NoticeOfAppeal2NewActionShimRainforest.pdf (2 pages)(75484 bytes)
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Signature	/ prema jyothi light /
Date	12/15/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD (TTAB)

NAME OF APPLICANT: Prema Jyothi Light

NAME OF TRADEMARK: SHIMMERING RAINFOREST

SERIAL NUMBER: 76293327

FILING DATE OF APPLICATION: First filed July 9, 2001
Later refiled July 31, 2001

DATE OF FINAL OFFICE ACTION: June 15, 2009

DATE OF THIS REQUEST FOR RECONSIDERATION: December 15, 2009

EXAMINING ATTORNEY: Paul F. Gast, Law Office 106

NOTICE OF APPEAL TO NEW FINAL ACTION

This is a little bit unusual situation in which the TTAB remanded the Trademark application, for an Appeal already before the TTAB, back to the Examining Attorney for further consideration of issues. He issued a new Final Action, and Applicant is concurrently filing a timely REQUEST FOR RECONSIDERATION of the new Final Action, via TEAS.

Statutes seem to require a timely Notice of Appeal to the TTAB for Final Actions from the Examining Attorneys. Therefore, to be sure of complying with the statutes, just in case this is needed, Applicant is hereby timely filing this NOTICE OF APPEAL TO NEW FINAL ACTION, with the TTAB via ESTTA.

She tried to submit this as a NOTICE OF APPEAL to the TTAB via ESTTA, but when she entered the Serial Number for the Trademark, received a message onscreen that since an Appeal had already been filed with the TTAB for this Trademark, no new Notice of Appeal, and no new fees, were permitted.

It appears that the previously-paid appeal fee still holds good for this Appeal.

ESTTA would not allow Applicant to file any new fees associated with this NOTICE OF APPEAL TO NEW FINAL ACTION. She was only allowed to submit this as an *ex parte* appeal document, not as a formal NOTICE OF APPEAL. Therefore, all of this is probably considered part of the ongoing case on appeal.

If a new fee is needed, Applicant hopes that it will not be held against her that she could not pay it today, as ESTTA would not accept any fees from her online for the filing this document.

As stated in TMEP § 715.04, “If an applicant files a notice of appeal with a request for reconsideration, the Trademark Trial and Appeal Board will acknowledge the appeal, suspend further proceedings with respect to the appeal, including the applicant’s time to file an appeal brief, and remand the application to the examining attorney for review of the request for reconsideration. TBMP §1204.”

At the present time, the case is still in process with the Examining Attorney, as he still needs to respond to the concurrently filed REQUEST FOR RECONSIDERATION.

But just to be on the safe side, sure to preserve her rights to appeal, Applicant is timely submitting this NOTICE OF APPEAL TO NEW FINAL ACTION, in accord with U.S.C. §1062(b); 37 C.F.R. §2.62, within six months of the new Final Action issued by the Examining Attorney in this case, dated June 15, 2009.

Respectfully submitted,

/ Prema Jyothi Light /

Prema Jyothi Light,
Appellant, *In propria persona*