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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
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Submission	REQUEST FOR SETTING NEW DUE DATE DUE TO WILDFIRES IN COLORADO & REQUEST FOR SYNCHRONIZED DUE DATES & PARALLEL HANDLING FOR TWO SISTER TRADEMARKS
Attachments	SHIMMERING RAINFOREST Req4SetDateEtcNE.pdf (8 pages)(22810 bytes)
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Date	09/27/2010

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

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 THIS REQUEST: Sunday, September 26, 2010

EXAMINING ATTORNEY: Paul F. Gast, Esq., Law Office 106

**REQUEST FOR SETTING A NEW DUE DATE DUE TO UNEXPECTED
WILDFIRE DISASTER EMERGENCY SITUATION IN COLORADO,
& DUE TO
FAILURE TO RECEIVE ANY RESPONSE FROM THE TTAB TO THE REQUEST
FOR EXTENSION OF TIME, SUBMITTED JUNE 21, 2010, FOR THIS MARK,
&
REQUEST FOR SYNCHRONIZED DUE DATES & PARALLEL HANDLING
FOR THE TWO SISTER TRADEMARK APPLICATIONS,
SHIMMERING BALLERINAS & DANCERS, AND SHIMMERING RAINFOREST**

- 1. Requests for Extension of Time for both Trademarks, SHIMMERING BALLERINAS & DANCERS and SHIMMERIN RAINFOREST, were submitted via ESTTA on June 21, 2010.**

On June 21, 2010, two REQUESTS FOR EXTENSION OF TIME were submitted to the TTAB via ESTTA, one for SHIMMERING BALLERINAS & DANCERS (Application Number 76293326, and one for SHIMMERING RAINFOREST (Application Number 76293327). These two REQUESTS were submitted one immediately after the other on the same day. The REQUEST for SHIMMERING RAINFOREST received ESTTA Tracking Number ESTTA 331030, with an immediate filing receipt in confirmation, and SHIMMERING BALLERINAS & DANCERS received ESTTA Tracking Number ESTTA331045, with an immediate filing receipt in confirmation.

These are two sister Trademarks which were denied by the Trademark Examining Attorney for the same reasons. These two Trademarks were both handled by the same Examining Attorney.

2. A TTAB Order was issued to extend time for SHIMMERING BALLERINAS & DANCERS, but no Order has yet been issued for SHIMMERING RAINFOREST.

On July 6, 2010, Applicant Prema Light received an Order transmitted by paralegal Tyrone Craven approving of an extension of time until September 8, 2010, for SHIMMERING BALLERINAS & DANCERS.

However, although Applicant Light waited to hear from the PTO about an extension of time for SHIMMERING RAINFOREST, no Order pertaining to her REQUEST FOR EXTENSION OF TIME for this Trademark has ever been issued or received.

3. The two Trademarks are being handled by separate paralegals.

When Applicant Light called in to the PTO to ask about this, she was told that the two Trademarks were being handled by two different paralegals who probably had differing workloads, and just to wait. She was told that SHIMMERING BALLERINAS & DANCERS was being handled by paralegal Tyrone Craven, and SHIMMERING RAINFOREST was being handled by his wife, paralegal Tina Craven.

4. A serious wildfires emergency broke out in Boulder, Colorado on September 6, 2010, placing the contiguous Denver-Boulder metropolitan area on disaster alert.

Unexpectedly, on September 6, 2010, serious wildfires broke out in the canyons just north of Boulder, Colorado, which threatened to engulf the Boulder metropolitan area. Denver and Boulder are contiguous urban areas, and downtown Denver is just about 30 minutes drive from downtown Boulder. Many people live in Boulder but commute to Denver for work, or live in Denver and commute to Boulder. The wildfires threw the Denver-Boulder metropolitan area into an emergency disaster alert.

5. High winds resulted in a rapidly worsening disaster situation.

High winds quickly blew the wildfires out of control and many Boulder residents were evacuated on as little as five minutes notice. Their homes were burned to the ground. The rapid burn area extended to just a few blocks from downtown Boulder and the University of Colorado. Denver area residents were also advised to prepare for possible evacuation, as winds of up to 60 miles an hour were expected, and local firefighting resources were not enough to contain the blazes. National assistance was needed and it was not known how the situation would go or when or how the blazes could be contained. It was a bona fide widespread emergency.

On September 7, 2010, it was reported that the blazes were zero contained and spreading.

Residents in the metropolitan area were advised to have important documents, medication, clothing, food, blankets, and personal effects ready to go immediately if necessary, and to pack in possible preparation for an immediate move if there was time.

6. State of Emergency declared by Colorado Governor.

Colorado Governor Ritter declared a state of emergency, issuing an emergency disaster declaration, and requested relief assistance from FEMA, the Federal Emergency Management Agency.

7. Firefighters arrive from ten other states.

When federal aid finally arrived, there was an influx of more firefighters, and slurry dumps from helicopters were tried in an effort to control the fires. Firefighters started arriving from up to ten other nearby states, to help fight the blazes.

8. The disaster was unpredictable and residents of the Denver-Boulder metropolitan area were greatly anxious about the spreading wildfires.

Hundreds of people were gathering into emergency shelters, and there were news reports that progress was being made in the firefighting, but that high winds could change everything. Boulder County Sheriff Pelle said, "We are dealing with a very large, very chaotic and very unpredictable situation." People in the contiguous urban areas, including Denver, were advised to pack up, and be ready to go, in case the emergency situation continued to spread. Thousands of acres were engulfed in flames, in a rapidly worsening emergency situation. Dozens of buildings were burning down.

As of September 10, 2010, news stories were reporting that gusts of wind up to 60 mph were driving the flames into the urban areas, and that the situation was still unpredictable. Thousands of people in the Denver-Boulder metropolitan area were trying to pack up all their belongings, in disaster readiness for possible evacuation, and awaiting further news.

9. The wildfires seemed to be contained by September 14, but then broke out again on September 17, 2010.

It wasn't until September 14, 2010, that the wildfires were finally considered contained. With relief, people hoped that life could go back to normal.

However, three days later, on September 17, 2010, another wildfire was reported blazing out of control in Boulder just about three miles from the earlier burn area, with firefighters battling the blazes far into the night.

People in the Denver-Boulder metro area went back into a panic mode. Contained or not contained? To unpack or not to unpack? Wait!

10. Finally the blazes were contained on September 18, 2010, with total damages of over \$217 million.

Luckily, due to the large number of firefighters and equipment still in the area, these blazes were more quickly contained, with the new situation was successfully doused by the following day, September 18, 2010. At this point, the overall damage from the wildfires, assessed by insurance adjusters, was over \$217 million.

11. Applicant Light missed the September 8, 2010 deadline for submission of her Trademark specimens to the TTAB, due to emergency circumstances beyond her control.

On September 6, She had to stop all work in preparation for submission of her Trademark specimens in order to try to pack up all of her belongings, and prepare for possible emergency evacuation. She lives just a few minutes drive from downtown Denver, which is less than 30 minutes drive away from downtown Boulder, which was in danger of being engulfed in flames, with high winds gusting. No one wanted to be caught in a five-minutes notice ultimatum to evacuate, without preparation, because of the wildfires in the Boulder metro area which were out of control and spreading.

The emergency situation eased but was not considered to be over until after the September 17 blazes were brought under control and extinguished on September 18 (about one week ago).

Applicant Light was then able to again turn her attention to the needed submission of her Trademark specimens, which had to be packed up due to the emergency situation.

12. A new due date needed to be reset by the TTAB for submission of specimens for SHIMMERING BALLERINAS & DANCERS, as the previous due date was September 8, 2010, and the Colorado wildfires which began on September 6th were not fully extinguished until September 18th.

If she submitted her SHIMMERING BALLERINAS & DANCERS specimens, although unavoidably late, they might not be accepted, as the wildfires emergency had caused her to miss the due date. She realized that she first needed to ask that the due date be reset, before sending in the specimens, so that there was a new Order with a new date to be complied with, and so that the specimens for SHIMMERING BALLERINAS & DANCERS could be sent in, in compliance with the new due date.

- 13. However, still no Order had yet been issued with respect to her REQUEST FOR EXTENSION OF TIME for SHIMMERING RAINFOREST, so she had been left dangling on this. But, she could not be expected to comply with an Order which had not yet been issued.**

Applicant realized that although it was past the September 8 due date, she had still not received any word, or TTAB Order, about her request for extension of time for SHIMMERING RAINFOREST. She could not be expected to comply with an Order which had never been issued.

As no Order had ever been issued with respect to her REQUEST FOR EXTENSION OF TIME for SHIMMERING RAINFOREST, there was no due date to be complied with, and she had been left dangling.

- 14. Though no TTAB Order had been issued to extend time for SHIMMERING RAINFOREST, a parallel Order would have been reasonable, and no refusal to extend time for this Trademark had been issued either.**

Since the due date for SHIMMERING BALLERINIAS & DANCERS had been extended, and since the two Trademarks were highly similar, with the same issues, in all likelihood the due date for SHIMMERING RAINFOREST should have been similarly extended. There was no particular reason for one to be extended and not the other. However, an Order was still needed for SHIMMERING RAINFOREST, and the needed Order had never been issued.

Yet, the REQUEST FOR EXTENSION OF TIME for SHIMMERING RAINFOREST had not been denied, either. And, the requested due date of September 8, 2010 had already gone by.

- 15. Therefore, Applicant Light hereby requests the setting of a new due date for submission of the specimens for Trademark SHIMMERING RAINFOREST.**

So in addition to requesting a resetting of the due date for the specimens for Trademark SHIMMERING BALLERINAS & DANCERS, Applicant Light hereby requests the setting of a new due date for the specimens for Trademark SHIMMERING RAINFOREST.

- 16. Applicant Light hereby requests parallel handling for the two sister Trademarks.**

Applicant Light also feels that a request needs to be made for parallel handling of the two sister Trademarks. Otherwise, if the specimens are sent in for only one Trademark, time begins to run from the submission of the specimens for that Trademark, and then time will be running differently for the second Trademark, with non-parallel handling, non-parallel review, and possibly non-parallel judgments.

- 17. Applicant Light hereby requests synchronized due dates for the submission of specimens for the two sister Trademarks.**

It would be easier, and more conducive to just resolution of the disputes, if the handling of the two sister Trademarks can be synchronized, with respect to the due dates.

- 18. There has so far been a three-month discrepancy in time in the handling of the two REQUESTS FOR EXTENSION OF TIME for the two sister Trademarks, though the two REQUESTS were submitted via ESTTA on the same day, one immediately after the other.**

The two REQUESTS FOR EXTENSION OF TIME were submitted on June 21, 2010 via ESTTA, one immediately after the other. The REQUEST for SHIMMERING RAINFOREST received ESTTA Tracking Number ESTTA 331030, with an immediate filing receipt in confirmation, and SHIMMERING BALLERINAS & DANCERS received ESTTA Tracking Number ESTTA331045, with an immediate filing receipt in confirmation.

For unknown reasons, these were given to two different paralegals.

Paralegal Tyrone Craven transmitted Applicant Light's REQUEST FOR EXTENSION OF TIME to the TTAB Judges promptly, and transmitted an Order approving this REQUEST to Applicant Light, two weeks after the transmission by Applicant Light of her REQUEST to the TTAB.

But, paralegal Tina Craven has either not yet transmitted Applicant Light's REQUEST FOR EXTENSION OF TIME to the TTAB Judges promptly, or at all, or the TTAB Judges have not ruled on this REQUEST, even after 14 weeks have elapsed since the initial transmission by Applicant Light of her REQUEST to the TTAB via ESTTA.

This is a difference of 12 weeks, or three months, in the handling of the REQUESTS FOR EXTENSION OF TIME for the two sister Trademarks. This is a wide variance in time.

Applicant Light submitted these REQUESTS on June 21, 2010, two weeks in advance of the earlier due date given, and over eleven (11) weeks in advance of the requested due date of September 8, 2010.

Applicant Light has no way of knowing what differing workloads the paralegals may have at the TTAB. But, she cannot be expected to comply with an Order which has not yet been given, or with a due date which has not yet been decided.

- 19. It might be best if, in the future, both sister Trademarks were handled by the same paralegal.**

If the workloads of the paralegals are so different as to cause a 12-week or three-month difference in the handling of her two sister Trademarks, it might be best if, in the future, both Trademarks were handled by the same paralegal. This is especially true of the delay in response from the TTAB slides past the requested due date on a Request for Extension of Time. Ideally, these two sister Trademarks should be considered together, at the same time.

20. It is in the best interests of both the TTAB and Applicant Light, if the two sister Trademarks receive parallel handling, with synchronized due dates.

It is in the best interests of the TTAB, because the two sister Trademarks are similar in nature, and can both be considered together in reviewing the same issues. Since both were handled by the same Trademark Examining Attorney, perhaps both should be handled by the same one paralegal, and by the same TTAB Judges.

If, instead, there are widely varying discrepancies in due dates in handling the filings for these cases, this could result in widely varying discrepancies in rulings for the two Trademarks, by different TTAB Judges.

Applicant Light also feels that she has a stronger case if the two Trademarks are reviewed by the TTAB Judges together, rather than with widely varying discrepancies in due dates, by different individuals.

21. As no Order has yet been issued by the TTAB with respect to her REQUEST FOR EXTENSION OF TIME for SHIMMERING RAINFOREST, and as the Colorado wildfires emergency disaster situation caused Applicant Light to miss the September 8, 2010 due date for SHIMMERING BALLERINAS & DANCERS, Applicant Light hereby requests that the due dates for submission of specimens for both of these Trademarks be reset for the same future date.

The requested due date for the submission of the specimens for these Trademarks was September 8, 2010. As of this date, September 26, 2010, fourteen weeks later, no Order has yet been issued, or received by Applicant Light, with regard to her REQUEST FOR EXTENSION OF TIME, submitted on June 21, 2010, for her Trademark, SHIMMERING RAINFOREST.

As the deadline of September 8, 2010, for submission of the Trademark specimens for SHIMMERING BALLERINAS & DANCERS, could not be met due to spreading wildfire emergencies in the Denver-Boulder metro areas, which were officially declared a disaster emergency by the Colorado State Governor, and as there is a need for synchronicity of due dates and parallel handling for the two similar sister Trademarks, SHIMMERING BALLERINAS & DANCERS, and SHIMMERING RAINFOREST, Applicant Light hereby requests that the two due dates for specimens for the two Trademarks be reset for the same date.

- 22. Instead of requesting a specific due date, Applicant Light hereby requests that the due dates for the specimens for both Trademarks be reset for six weeks from the date of the latest Order to be issued, for either Trademark.**

Applicant Light is not requesting a specific date at this time, because of the variance which has occurred in the handling of her two sister Trademarks, and because of the need for a synchronized date. As has happened with these two sister Trademarks, the paralegal handling of similar documents can vary by three months, and apparently the backlog of work at the TTAB can result in no Order being received on a Request for Extension of Time before the requested due date has elapsed, even after three months from the date of the Request for Extension of Time.

Therefore, instead of requesting a specific due date, Applicant Light instead hereby requests that the due dates for the specimens for both Trademarks be reset for six weeks from the date of the latest Order issued, for either Trademark, in case the Orders for the two Trademarks have differing issuance dates. Applicant Light is still unpacking from the emergency pack-up, and she is on crutches.

Thank you in advance for your kind and just consideration of these issues.

Dated: September 26, 2010

Respectfully submitted,

/ Prema Jyothi Light /

Prema Jyothi Light
Applicant, *pro se*

[Please note that my mailing address and phone number have been changed via ESTTA on the same date that this filing is submitted.]