

ESTTA Tracking number: **ESTTA1059**

Filing date: **06/11/2013**

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 12000 E 16TH AVE. #301 AURORA, CO 80010 UNITED STATES gloriously@india.com, gloriously@in.com, premajyothilight@shimmeringly.com
Submission	EXHIBIT G TO APPEAL BRIEF
Attachments	76293327 SHRF APPEAL BRIEF EXHIBIT G.pdf(15020 bytes)
Filer's Name	PREMA JYOTHI LIGHT
Filer's e-mail	premajyothilight@shimmeringly.com
Signature	/ prema jyothi light /
Date	06/11/2013

Trademark: SHIMMERING RAINFOREST
Serial #: 76293327
Applicant: Prema Jyothi Light

EXHIBIT G (Page 1 of 3)

**Email Response from Montia Givens Pressey,
Staff Attorney for Office of Trademark Policies & Procedures,
on referral from Ms. Lynch, dated 02-27-201**

Received: 02-27-13, 01:13 p.m.

TO: Prema Jyothi Light
FROM: Montia Givens Pressey
Staff Attorney, Office of the Commissioner of Trademarks

Dear Ms. Light:

Your emails to Cynthia Lynch were forwarded to me for response. We apologize for the delay in responding, but the emails were initially screened by a filter and were delayed in reaching us. I have reviewed the files for Application Serial Nos. 76293327 and 76293326, and agree with the determination by the Petitions Office paralegal specialist that a \$100 petition to revive fee is required for App. Serial No. 76293327. The petition to revive was granted as to App. Serial No. 76293326. It is noted that a prior Request for Reinstatement, submitted on February 5, 2013, seeking reinstatement of the application due to Office error (and with no fee) was properly denied as there is no evidence of Office error.

You refer to the trademark applications as "sister Trademarks," due to the similarity of the issues raised by the assigned examining attorney, as well as the TTAB's consolidation of the appeals in the two applications. You also note that a single brief petition to revive, submitted on January 28, 2013, referenced both applications and included identical claims regarding the grounds for revival. You therefore assert that only a single petition fee should be required.

The Trademark Rules require a petition fee for each application for which revival is sought, as explained in the below excerpt from the Trademark Manual of Examining Procedure. The appropriateness of the revival of an application is evaluated following a comprehensive review of the individual files for each application--despite the submission of one petition pertaining to both applications. Moreover, although the TTAB elected to consolidate the two proceedings, it is noted that the \$100 Notice of Appeal fee was still required for both applications. Accordingly, the requirement for the petition to revive fee for both applications is entirely consistent with TTAB practice.

Trademark: SHIMMERING RAINFOREST, Serial #: 76293327, Applicant: Prema Jyothi Light

EXHIBIT G (Page 2 of 3)

**Email Response from Montia Givens Pressey,
Staff Attorney for Office of Trademark Policies & Procedures,
on referral from Ms. Lynch, dated 02-27-201**

Accordingly, if you also wish to revive App. Serial No. 76293327, please promptly submit the \$100 petition fee.

1714.01 Procedural Requirements for Filing Petition to Revive

The procedural requirements for filing a petition to revive an application abandoned for failure to respond to an examining attorney's Office action are set forth in 37 C.F.R. §2.66(b). See TMEP §1714.01(a) et seq. The procedural requirements for filing a petition to revive an application abandoned for failure to timely file a statement of use or request for extension of time to file a statement of use are set forth in 37 C.F.R. §2.66(c). See TMEP §§1714.01(b) and (c).

When a petition does not meet the procedural requirements of 37 C.F.R. §2.66, a paralegal in the Office of the Deputy Commissioner for Trademark Examination Policy will notify the petitioner that the petition does not meet the requirements of the rule, and grant the petitioner 30 days to supplement the petition by submitting the missing element(s). If the petitioner does not submit the necessary information or fees within the time allowed, the petition will be denied.

If a petition to revive filed through TEAS is automatically granted by the electronic system and it is subsequently determined that the petition does not meet the procedural requirements of 37 C.F.R. §2.66, a paralegal in the Office of the Deputy Commissioner for Trademark Examination Policy will notify the petitioner that the granting of the petition has been rescinded because the petition does not meet the requirements of the rule. The petitioner will be granted 30 days to supplement the petition by submitting the missing element(s). If the petitioner does not submit the necessary information or fee(s) within the time allowed, the petition will be denied.

1714.01(a) Failure to Timely Respond to an Examining Attorney's Office Action

To expedite processing, the USPTO recommends that all petitions to revive be filed through TEAS, at <http://www.uspto.gov>.

1714.01(a)(i) Response to Nonfinal Office Action

Trademark: SHIMMERING RAINFOREST, Serial #: 76293327, Applicant: Prema Jyothi Light

EXHIBIT G (Page 3 of 3)

**Email Response from Montia Givens Pressey,
Staff Attorney for Office of Trademark Policies & Procedures,
on referral from Ms. Lynch, dated 02-27-201**

The procedural requirements for filing a petition to revive an application abandoned for failure to respond to an examining attorney's nonfinal Office action are listed in 37 C.F.R. §2.66(b). The petition must include all of the following:

- (1) The petition fee required by 37 C.F.R. §2.6;
- (2) A statement, signed by someone with firsthand knowledge of the facts, that the delay in filing the response on or before the due date was unintentional. The statement does not have to be verified; and
- (3) Unless the applicant alleges that it did not receive the Office action, the applicant's proposed response to the Office action. 37 C.F.R. §2.66(b)(3).

I hope this response has fully addressed your concerns.

Montia Givens Pressey
Staff Attorney, Office of the Commissioner
for Trademarks
Phone: (571) 272 8944
Fax: (571) 273 8944