

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

MAILED: January 15, 2003

In re SmartGate L.C.

Serial No. 76321534

Filed: 10/04/2001

THOMAS E. ANDERSON
Gifford, Krass, Groh, Sprinkle, etal
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ANGELA CAMPBELL, PARALEGAL SPECIALIST:

Applicant filed, on December 16, 2002, a notice of appeal, an amendment to allege use and an amendment to the Supplemental Register.

Because the amendment to the Supplemental Register may avoid the refusal of registration, the application is remanded to the Trademark Examining Attorney for consideration of the amendment to the Supplemental Register and the amendment to allege use. Action on the appeal is suspended.

The Examining Attorney should continue examination until final resolution of all new issues arising in the examination of applicant's amendment to allege use and amendment to the Supplemental Register.

If the Examining Attorney allows this application, the Board should be so notified.

If any issues are made the subject of a final action,¹ the Examining Attorney should return this application to the Board for appropriate action in this appeal.

¹In this connection, the amendment to the Supplemental Register should be treated as raising a new issue, such that any refusal to accept registration on the Supplemental Register cannot be made final until applicant has been given an opportunity to respond.