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Filing date: **10/09/2007**

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

Proceeding	76535843
Applicant	PENNINGTON SEED, INC.
Applied for Mark	REBEL
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Submission	Request for Remand
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Date	10/09/2007

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

Application Serial No.: 76/535,843
Filing Date: July 30, 2003
Trademark: **REBEL w/Design**
Examining Attorney: Ronald E. Aikens
Law Office: 103

REQUEST FOR REMAND

Pursuant to TBMP §1209.04, Applicant submits this Request for Remand in the appeal filed January 24, 2005 regarding the referenced application for the mark REBEL (w/Design) for use with grass seed. Applicant hereby submits this Request for Remand in view of the recent decision in In re Pennington Seed, Inc., 466. F.3d 1053 (Fed. Cir. 2006), which involved an application for a similar mark also owned by the Applicant in the instant case.

REMARKS

The Examining Attorney issued a final refusal to register Applicant's mark REBEL (w/Design) ("Applicant's Mark") on grounds that a disclaimer for a portion of the mark, the term REBEL, had not been entered. The Examining Attorney deemed the term REBEL generic for grass seed because the term is a recognized varietal name for grass seed and the Trademark Office has concluded that varietal names are incapable of serving as source identifiers. The Applicant then filed a Notice of Appeal and Appeal Brief in the case. The appeal was later suspended pending the disposition of Trademark Application No. 76/289,621, an application for the mark REBEL also owned by the Applicant herein and in which the assigned examining attorney therein refused registration of the mark on similar grounds.

The Trademark Trial and Appeal Board recently decided the appeal in Trademark Application No. 76/289,621 for the mark REBEL affirming the examining attorney's refusal to register the mark. In view thereof, Applicant hereby submits this Request for Remand in the instant case to request that the Examining Attorney enter the required disclaimer in the application for the mark REBEL (w/Design) as follows:

No claim is made to the exclusive right to use the term REBEL apart from the mark as shown.

As all outstanding issues with respect to this application have been herein addressed, Applicant prays that this Request for Remand be granted and that Applicant's Mark be approved for registration.

By: *Sarah Anne Keefe (SAA)*

Sarah Anne Keefe

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