
To: MBL/TONI&GUY PRODUCTS, LP (clkiedrowski@jonesday.com)
Subject: TRADEMARK APPLICATION NO. 77144728 - TONI&GUY GLAM - 245586-62039
Sent: 8/14/2008 11:48:26 AM
Sent As: ECOM102@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE**SERIAL NO:** 77/144728**MARK:** TONI&GUY GLAM

CORRESPONDENT ADDRESS:
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JONES DAY
1420 PEACHTREE ST NE STE 800
ATLANTA, GA 30309-3053

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: MBL/TONI&GUY
PRODUCTS, LP

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

245586-62039

CORRESPONDENT E-MAIL ADDRESS:
clkiedrowski@jonesday.com

REQUEST FOR RECONSIDERATION DENIED**ISSUE/MAILING DATE: 8/14/2008**

Applicant is requesting reconsideration of a final refusal issued/mailed January 18, 2008.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Applicant has submitted a statement that "MBL/TONI&GUY Products, LP and TONI&GUY (USA) Limited (UK) are sister companies whose ultimate ownership is exactly the same." And, "[t]here is a unity of control, a single source, accordingly, likelihood of confusion is not a factor." Request for Reconsideration. However, Applicant has not supported this statement as required because one sister company does not own all or substantially all of the other entity.

If neither the applicant nor the registrant owns all or substantially all of the other entity, the applicant bears a more substantial burden to establish that unity of control is present. For instance, if both the applicant and the registrant are wholly owned by a third common parent, the applicant would have to provide detailed evidence to establish how one sister corporation controlled the trademark activities of the other to establish unity of control to support the contention that the sister corporations constitute a single source. *See In re Pharmacia Inc.*, 2 USPQ2d 1883 (TTAB 1987); *Greyhound Corp. v. Armour Life Ins. Co.*, 214 USPQ 473 (TTAB 1982). Likewise, where an applicant and registrant have certain stockholders, directors or officers in common, the applicant must demonstrate with detailed evidence or explanation how those relationships establish unity of control. *See Pneutek, Inc. v. Scherr*, 211 USPQ 824 (TTAB 1981). The applicant's evidence or explanation should generally be supported by an affidavit or a declaration under 37 C.F.R. §2.20.

TMEP § 1201.07(b)(iii).

Applicant has stated that the three entities are sister companies. However, Applicant must provide detailed evidence or explanation how the relationship of the three entities establish unity of control.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney. Thank you.

/Michael Webster/

Michael Webster
Examining Attorney
USPTO Law Office 102
571-272-9266

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 8/14/2008 FOR
APPLICATION SERIAL NO. 77144728

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77144728&doc_type=REC&mail_date=20080814 (or copy and paste this URL into the address field of your browser), or visit <http://tportal.uspto.gov/external/portal/tow> and enter the application serial number to **access** the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable **response time period**. Your response deadline will be calculated from **8/14/2008**.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**