

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
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dmd/ejs

Mailed: February 17, 2015

In re Masayoshi Takayama

Serial No. 77438476

Filed: 4/2/2008

By the Trademark Trial and Appeal Board:

This application is before the Board on appeal from the final refusal of the Trademark Examining Attorney on the ground that Applicant's mark, BAR MASA for "Japanese and sushi restaurant and bar services," in Class 43 is likely to cause confusion with Registration Nos. 3380250 and 3855043.

On January 7, 2013, the Board suspended action on the appeal pending a final determination of Opposition No. 91201540, in which the owner of Registration Nos. 3380250 and 3855043 brought an Opposition against Applicant's application Serial No. 76685731, inasmuch as the decision in the Opposition proceeding might have a bearing on the issues in this appeal.

A review of the proceedings in the Opposition reveals that judgment in the Opposition was entered against Applicant and the Opposition was converted to a Concurrent Use proceeding. As a result of the Concurrent Use proceeding, Applicant's application Serial No. 76685731 and Registration Nos. 3380250 and 3855043 were geographically restricted.

In view thereof, it is appropriate for Applicant and the Examining Attorney to consider what effect, if any, the decision in the Concurrent Use proceeding has on the refusal of registration of this application. Accordingly, Applicant is allowed 60 days to submit any argument or evidence regarding the Concurrent Use proceeding, including submitting a consent by the owner of the cited registrations, or amending the subject application to a concurrent use application. At that point, whether or not Applicant has filed any submission, the application will be remanded to the Examining Attorney.