

From: Halmen, Katy

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To: TTAB EFiling

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Subject: U.S. TRADEMARK APPLICATION NO. 77820681 - CATCHFIRE MEDIA - T3000433-200 - Request for Reconsideration Denied - Return to TTAB - Message 1 of 3

Attachment Information:

Count: 6

Files: e1-1.jpg, e1-2.jpg, e2-1.jpg, e2-2.jpg, e3-1.jpg, 77820681.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77820681

MARK: CATCHFIRE MEDIA



CORRESPONDENT ADDRESS:

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

APPLICANT: Rock Communications Ltd.

CORRESPONDENT'S REFERENCE/DOCKET NO:

T3000433-200

CORRESPONDENT E-MAIL ADDRESS:

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REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 11/23/2010

Applicant is requesting reconsideration of a final refusal issued/mailed April 18, 2010.

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.

In its request for reconsideration, the applicant argues that the Section 2(d) refusal should be withdrawn in light of multiple third party uses of the term "CATCHFIRE" in connection with similar goods and/or services. The examining attorney is not persuaded.

Section 7(b) of the Trademark Act, 15 U.S.C. §1057(b), provides that a certificate of registration on the Principal Register shall be prima facie evidence of the validity of the registration, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the mark in commerce in connection with the goods or services specified in the certificate. Here, the registrant's mark "CATCHFIRE" is prima facie evidence of the registrant's exclusive right to use the mark in commerce in connection with the goods. Evidence of outside use, other than that of the registrant, is not convincing since the mark here is a valid registration.

Furthermore, the applicant argues that the registrant's mark is weak. The examining attorney is not persuaded. In particular, the term "CATCHFIRE" does not have any descriptive meaning in connection with the services, the registration exists on the Principal Register with no Section 2(f) claim of acquired distinctiveness, and no other registered "CATCHFIRE" marks exist for related services. Therefore, there is no indication that the registrant's mark is weak or entitled to less protection. Nevertheless, even if the registrant's mark could be considered weak (which it is not), the Court of Appeals for the Federal Circuit and the Trademark Trial and Appeal Board have recognized that marks deemed "weak" or merely descriptive are still entitled to protection against the registration by a subsequent user of a similar mark for closely related goods and/or services. *In re Colonial Stores, Inc.*, 216 USPQ 793, 795 (TTAB 1982); TMEP §1207.01(b)(ix); see *King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 1401, 182 USPQ 108, 109 (C.C.P.A. 1974). This protection extends to marks registered on the Supplemental Register. TMEP §1207.01(b)(ix); see, e.g., *In re Clorox Co.*, 578 F.2d 305, 307-08, 198 USPQ 337, 340 (C.C.P.A. 1978); *In re Hunke & Jochheim*, 185 USPQ 188 (TTAB 1975).

In further support of the refusal, the examining attorney has attached additional website evidence showing the relatedness of the applicant's and registrant's services.

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. §2.64(b); TMEP §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).

/Katy Halmen/
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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.