

From: Henry, Nakia

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Subject: U.S. TRADEMARK APPLICATION NO. 77857591 - EMDR INTENSIVES -  
N/A - Request for Reconsideration Denied - Return to TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 77857591

MARK: EMDR INTENSIVES



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

APPLICANT: Sierra Tucson, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

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**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE: 3/30/2011**

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. *See* 37 C.F.R. §2.64(b); TMEP §§715.03(a), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated 09/01/2010 are maintained and continue to be final. *See* TMEP §§715.03(a), 715.04(a).

Applicant argues that the term "EMDR" essentially should be afforded little to no protection because the undersigned has accepted the disclaimer of the term. 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). It is noteworthy that the cited registrations are linked together by ownership and consent agreements.

Furthermore, the applicant has referenced a cancellation proceeding, however, the undersigned was unable to locate the proceeding number after reviewing the documents and conferring with a TTAB paralegal. As a result, if a cancellation proceeding is pending, this application should be suspended pending the disposition of the proceeding. In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §§715.03, 715.03(a), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. *See* TMEP §715.04(a).

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

/Nakia D. Henry/  
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