

LAW OFFICES

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Reply to:

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January 13, 2009

**TTAB**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**In re: WHERE TO DINE** (Ser. No. 78736536)  
Appeal No. 78736536 (filed 10/27/2008)

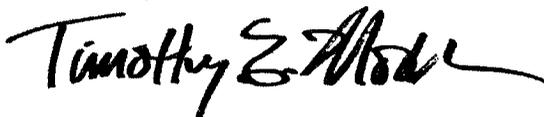
Dear Sir:

Please accept this letter as an *ex parte* **objection** to the above-referenced appeal for the above-referenced mark on the basis that the appeal is untimely.

The final Office Action related to WHERE TO DINE was issued on April 24, 2008. Any appeal filed under the provisions of § 2.141 was required to be filed within six (6) months from the date of final refusal. (37 CFR § 2.142(a).) Thus, Applicant had until October 24, 2008, in which to file an appeal. Applicant's appeal, however, was not received until October 27, 2008, three (3) days beyond the deadline. (See enclosed confirmation letter of Tina Craven, Paralegal Specialist, and appeal package submitted by Applicant's attorney.)

If the notice of appeal and fee are not timely filed, the application will be deemed to have been abandoned, and the Board cannot entertain the appeal unless applicant successfully petitions the Director to revive the application. (See Section 12(b) of the Act, 15 U.S.C. § 1062; 37 CFR §§ 2.64(a), 2.65(a), and 2.66; and TMEP §§ 718.02, 718.05, 1501.04, 1714 and 1714.01(a).) Applicant has not sought to revive the application. Thus, the pending appeal should be dismissed as untimely, and the application deemed to have been abandoned.

Very truly yours,



w/ enclosures



01-15-2009

SOUTH CAROLINA OFFICE:  
111 PARK AVENUE, S.W., AIKEN, SOUTH CAROLINA 29801  
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U.S. Patent & TM Office/TTAB Rept. Ct. #72

Tuesday, January 13, 2009  
Page 2

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cc: Examining Attorney: Ronald L. Fairbanks, M8X – Law Office 117

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

MAILED: November 10, 2008

IN RE:  
Morris Sendor

SERIAL NO. 78736536

APPEAL RECEIVED: 10/27/08

BRIEF DUE: 12/26/08

PANAGIOTA BETTY TUFARIELLO  
INTELLECTUAL  
THE LAW OFFICES OF P.B. T, 25 LITTLE HARBOR RD.  
MOUNT SINAI NY 11766 UNITED STATES

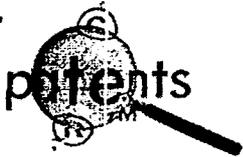
*Eliza Croven, Paralegal Specialist:*

The appeal and appeal fee in the above-entitled application were received on the date indicated above.

The Trademark Rules of Practice provide that the brief of the applicant must be filed within sixty days after the date of the appeal. Applicant must also indicate, not later than ten days after the due date for applicant's reply brief, if an oral hearing is desired.

**New Developments at the Trademark Trial and Appeal Board**

For faster handling of all papers, the TTAB strongly encourages electronic filing whenever possible. TTAB forms for electronic filings are available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABvue at <http://ttabvue.uspto.gov>.



INTELECTULAW  
LAW OFFICES OF P.B. TUFARIELLO, P.C.  
ATTORNEYS AT LAW

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SPECIALIZING IN PATENTS,  
TRADEMARKS,  
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MATTERS RELATED  
THERETO

October 27, 2008

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Our File No.: 7254-5

Attn: Ronald L. Fairbanks  
Trademark Attorney  
United States Patent and Trademark Office  
Tel.: (571) 272-9405  
Law Office 117

**TTAB**

Re: Applicant: Morris Sendor  
Mark: WHERE TO DINE  
Serial No.: 78/736,536  
Filed: October 19, 2005

Dear Sir:

Enclosed are the following items in connection with the above referenced application:

1. Cover Letter;
2. Applicant's NOTICE OF APPEAL;
3. USPTO Credit Card Payment Form in amount of \$100.00 in support of the Notice of Appeal; and
4. Self-addressed acknowledgment postcard.

Respectfully submitted,

PBT: ac  
Enclosures

*Panagiota Betty Tufariello*  
PANAGIOTA BETTY TUFARIELLO

CERTIFICATE OF MAILING

Express Mail No. EH 309181396 US

Date of Deposit: Monday, October 27, 2008

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as EXPRESS MAIL in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on Monday, October 27, 2008

Dated: 10/27/08

*Panagiota Betty Tufariello*  
Panagiota Betty Tufariello



10-27-2008

Application Serial No. 78/736,536  
Examiner: Ronald L. Fairbanks  
Trademark Attorney  
United States Patent and Trademark Office  
Law Office 117

Applicant's Reference No. 7254-5

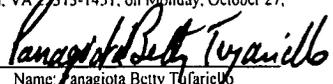
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: MORRIS SENDOR  
Mark: WHERE TO DINE  
Serial No.: 78/736,536  
Filed: October 19, 2005

10/30/2008 SWILSON1 00000006 78736536  
01 FC:6403 100.00 OP

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EH 309181396 US in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on Monday, October 27, 2008

DATED: 10/27/08

  
Name: Panagiota Betty Tufariello

Commissioner for Trademarks  
P.O. Box. 1451  
Alexandria, VA 22313-1451

Attn: Ronald L. Fairbanks  
Trademark Attorney  
United States Patent and Trademark Office  
Tel.: (571) 272-9405  
Law Office 117

**NOTICE OF APPEAL**

Applicant, by and through their attorneys of record INTELLECTULAW, THE LAW OFFICES OF P.B. TUFARIELLO, P.C., hereby appeals from the FINAL ACTION dated April 25, 2008, to the Trademark Trial and Appeal Board. A brief in support of this Appeal shall be submitted in due course.

Application Serial No. 78/736.536  
Examiner: Ronald L. Fairbanks  
Trademark Attorney  
United States Patent and Trademark Office  
Law Office 117

Applicant's Reference No. 7254-5

Applicant's fee of \$100.00 in support of this NOTICE OF APPEAL is enclosed.

Dated: 10/27/08

Respectfully Submitted,

  
PANAGIOTA BETTY TUFARIELLO, ESQ.  
INTELLECTULAW  
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