

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78875465
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION (current)	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	THERMOFLEX900
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
MARK SECTION (proposed)	
MARK	<u>THERMOFLEX</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	THERMOFLEX
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>As best understood by Applicant, there are currently two issues being raised by the Trademark Office. The first issue alleged by the Trademark Office is that the drawing amendment of the mark from THERMOFLEX to THERMOFLEX900 represents a material alteration. The second issue alleged by the Trademark Office is that specimen submitted by Applicant does not conform to the applied-for mark. With respect to the first issue, without acquiescing in the propriety of the Trademark Office's position, Applicant is amending the drawing in this submission to revert to that shown originally, namely, THERMOFLEX. Therefore, it is believed that the first issue has been rendered moot. With respect to the second issue, Applicant respectfully disagrees with the Trademark Office that the specimen fails to conform to the mark THERMOFLEX. The Trademark Office is apparently taking the position that the specimen shows the mark as THERMOFLEX900, as opposed to THERMOFLEX. However, Applicant wishes to note that, in the specimen, the character or font size for "900" is clearly distinguishable from the character or font size for "THERMOFLEX," with the character or font size for "900" being intermediate in size between the uppercase and lowercase letters</p>	

of "THERMOFLEX." Applicant respectfully submits that, due in part to this difference in character or font size between "THERMOFLEX" and "900," as well as the fact that "THERMOFLEX" is made up of letters whereas "900" is made up of numbers, that "THERMOFLEX" creates a commercial impression that is separate and apart from "900." Consequently, Applicant respectfully submits that the specimen shows trademark use that is consistent with "THERMOFLEX." As a result, Applicant respectfully submits that the requirement for a specimen showing use of the mark has been met and that any refusal should be withdrawn.

SIGNATURE SECTION

RESPONSE SIGNATURE	/edward m. kriegsman/
SIGNATORY'S NAME	Edward M. Kriegsman
SIGNATORY'S POSITION	Attorney of record, Massachusetts bar member
DATE SIGNED	03/26/2009
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES

FILING INFORMATION SECTION

SUBMIT DATE	Thu Mar 26 17:08:57 EDT 2009
TEAS STAMP	USPTO/RFR-72.72.107.139-2 0090326170857104910-78875 465-4302d7e426f42e76b9f72 c6552f76641a1-N/A-N/A-200 90326164001135278

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action**To the Commissioner for Trademarks:**

Application serial no. **78875465** has been amended as follows:

MARK

Applicant proposes to amend the mark as follows:

Current: THERMOFLEX900 (standard characters)

Proposed (USPTO generated image): THERMOFLEX (Standard Characters, see mark)

The mark consists of standard characters, without claim to any particular font, style, size, or color.

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

As best understood by Applicant, there are currently two issues being raised by the Trademark Office. The first issue alleged by the Trademark Office is that the drawing amendment of the mark from THERMOFLEX to THERMOFLEX900 represents a material alteration. The second issue alleged by the Trademark Office is that specimen submitted by Applicant does not conform to the applied-for mark. With respect to the first issue, without acquiescing in the propriety of the Trademark Office's position, Applicant is amending the drawing in this submission to revert to that shown originally, namely, THERMOFLEX. Therefore, it is believed that the first issue has been rendered moot. With respect to the second issue, Applicant respectfully disagrees with the Trademark Office that the specimen fails to conform to the mark THERMOFLEX. The Trademark Office is apparently taking the position that the specimen shows the mark as THERMOFLEX900, as opposed to THERMOFLEX. However, Applicant wishes to note that, in the specimen, the character or font size for "900" is clearly distinguishable from the character or font size for "THERMOFLEX," with the character or font size for "900" being intermediate in size between the uppercase and lowercase letters of "THERMOFLEX." Applicant respectfully submits that, due in part to this difference in character or font size between "THERMOFLEX" and "900," as well as the fact that "THERMOFLEX" is made up of letters whereas "900" is made up of numbers, that "THERMOFLEX" creates a commercial impression that is separate and apart from "900." Consequently, Applicant respectfully submits that the specimen shows trademark use that is consistent with "THERMOFLEX." As a result, Applicant respectfully submits that the requirement for a specimen showing use of the mark has been met and that any refusal should be withdrawn.

SIGNATURE(S)**Request for Reconsideration Signature**

Signature: /edward m. kriegsman/ Date: 03/26/2009

Signatory's Name: Edward M. Kriegsman

Signatory's Position: Attorney of record, Massachusetts bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 78875465

Internet Transmission Date: Thu Mar 26 17:08:57 EDT 2009

TEAS Stamp: USPTO/RFR-72.72.107.139-2009032617085710

4910-78875465-4302d7e426f42e76b9f72c6552

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THERMOFLEX