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	78980518
LAW OFFICE ASSIGNED	LAW OFFICE 117
MARK SECTION (no change)	
ARGUMENT(S)	

The Office Action has been received and carefully noted. Applicant responds as follows:

The examiner has refused registration on the grounds the mark is merely descriptive.

With respect to the mark, it is the examiner's position that this mark is descriptive as applied to the identified goods because there is alleged evidence the mark is a varietal or a type of a tomato.

However, there is no actual evidence the mark CAMPARI is a varietal term. The evidence provided by the examiner does not support a varietal argument. The excerpts of evidence are not reliable articles which have probative value. In these type of publications, trademarks are often misused or the use is by Applicant or its related parties. Further, this evidence is entitled to little weight because there is no evidence that ordinary consumers have been exposed to such use. Nothing provided is sufficient to confirm the use as a descriptive, much less a generic term. Overall, the suggestive mark CAMPARI is not merely descriptive when applied to applicant's goods. No information about any quality or characteristic of the goods is conveyed with a degree of particularity.

The bottom line is that if the mark CAMPARI is not in fact a varietal, then the examiner's argument falls. There is no reliable evidence to show the mark is varietal.

SIGNATURE SECTION	
RESPONSE SIGNATURE	/Kurt Koenig/
SIGNATORY'S NAME	Kurt Koenig
SIGNATORY'S POSITION	Attorney of record, California Bar Member
DATE SIGNED	03/02/2009
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	

SUBMIT DATE	Mon Mar 02 23:44:21 EST 2009
TEAS STAMP	USPTO/RFR-208.46.177.131-20090302234421701873-7898 0518-4408f2705ada2ebb3c24 6d259c7f7b1-N/A-N/A-20090 302234039576297

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

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **78980518** has been amended as follows:

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

The Office Action has been received and carefully noted. Applicant responds as follows:

The examiner has refused registration on the grounds the mark is merely descriptive.

With respect to the mark, it is the examiner's position that this mark is descriptive as applied to the identified goods because there is alleged evidence the mark is a varietal or a type of a tomato.

However, there is no actual evidence the mark CAMPARI is a varietal term. The evidence provided by the examiner does not support a varietal argument. The excerpts of evidence are not reliable articles which have probative value. In these type of publications, trademarks are often misused or the use is by Applicant or its related parties. Further, this evidence is entitled to little weight because there is no evidence that ordinary consumers have been exposed to such use. Nothing provided is sufficient to confirm the use as a descriptive, much less a generic term. Overall, the suggestive mark CAMPARI is not merely descriptive when applied to applicant's goods. No information about any quality or characteristic of the goods is conveyed with a degree of particularity.

The bottom line is that if the mark CAMPARI is not in fact a varietal, then the examiner's argument falls. There is no reliable evidence to show the mark is varietal.

SIGNATURE(S)
Request for Reconsideration Signature
Signature: /Kurt Koenig/ Date: 03/02/2009
Signatory's Name: Kurt Koenig
Signatory's Position: Attorney of record, California 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.

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TEAS Stamp: USPTO/RFR-208.46.177.131-200903022344217
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