

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79121145
LAW OFFICE ASSIGNED	LAW OFFICE 119
MARK SECTION (no change)	
ARGUMENT(S)	
REMARKS	
<p>The remarks submitted herewith are in response to the final Office Action dated April 11, 2014. The Examining Attorney's comments have been carefully considered. A Notice of Appeal with the requisite fee is also concurrently submitted.</p>	
<p>This application is refused on the basis of a likelihood of confusion with earlier registrations owned by entities related to the Applicant, each of which are wholly owned by a corporate parent. In view of the below remarks and attached declaration by Dr. Werner Seiche, Applicant respectfully requests withdrawal of the refusal to register the mark.</p>	
<p><u>Unity of Control</u></p>	
<p>Registration is refused under Section 2(d) of the Trademark Act for likelihood of confusion with a number of marks owned by SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc. In the final Office Action, the Examining Attorney asserts that additional evidence is required to show that a single entity exerts control over marks owned by Applicant SIG Combibloc Systems GmbH, as well as, SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc.</p>	
<p>In response, Applicant submits the attached Declaration executed by Dr. Werner Seiche, Head of Technology Intelligence & IP Management for SIG Combibloc Systems GbH. Dr. Seiche attests that SIG Combibloc Systems GmbH is related to SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc. Particularly, all three entities are wholly owned by Beverage Packaging Holdings I S.A. of Luxembourg. Further, Dr. Seiche attests that Beverage Packaging Holdings I S.A. exercises control over trademarks owned by its subsidiaries to ensure that consumers are aware that goods covered by the respective marks emanate from a single source. Therefore, as described previously, these three entities are sister corporations subject to the common control of Beverage Packaging Holdings I S.A. The three entities, along with Beverage Packaging Holdings I S.A., cooperate in use of their respective trademarks.</p>	
<p>Accordingly and in view of the attached Declaration, Applicant, by way of its undersigned attorney, declares an appropriate corporate relationship exists between the three entities to qualify as unity of control for the purposes of mootng the likelihood of confusion refusal.</p>	

CONCLUSION

In view of the foregoing, Applicant submits that this application is in condition for approval and respectfully requests passage of the mark to publication.

Respectfully submitted,

THE WEBB LAW FIRM, P.C.

/NJF/

Neil J. Friedrich, Reg. No. 67,280
Attorney of record, PA bar member

EVIDENCE SECTION

EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE	evi_38107150106-20141010135541385897_.Executed_Declaration.PDF
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\791\211\79121145\xml17\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\211\79121145\xml17\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\211\79121145\xml17\RFR0004.JPG
DESCRIPTION OF EVIDENCE FILE	executed Declaration of Dr. Werner Seiche

SIGNATURE SECTION

RESPONSE SIGNATURE	/njf/
SIGNATORY'S NAME	Neil J. Friedrich, Reg. No. 67,280
SIGNATORY'S POSITION	Attorney of record, PA bar member
SIGNATORY'S PHONE NUMBER	412-471-8815
DATE SIGNED	10/10/2014
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO

FILING INFORMATION SECTION

SUBMIT DATE	Fri Oct 10 14:35:08 EDT 2014
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TEAS STAMP

USPTO/RFR-38.107.150.106-
20141010143508421493-7912
1145-5009a5a4eb8977a15e99
f2588f67a6d8ceb284523eb29
ece2b5739a7ae454f2d9-N/A-
N/A-20141010143333768028

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

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

Application serial no. **79121145** has been amended as follows:

ARGUMENT(S)

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

REMARKS

The remarks submitted herewith are in response to the final Office Action dated April 11, 2014. The Examining Attorney's comments have been carefully considered. A Notice of Appeal with the requisite fee is also concurrently submitted.

This application is refused on the basis of a likelihood of confusion with earlier registrations owned by entities related to the Applicant, each of which are wholly owned by a corporate parent. In view of the below remarks and attached declaration by Dr. Werner Seiche, Applicant respectfully requests withdrawal of the refusal to register the mark.

Unity of Control

Registration is refused under Section 2(d) of the Trademark Act for likelihood of confusion with a number of marks owned by SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc. In the final Office Action, the Examining Attorney asserts that additional evidence is required to show that a single entity exerts control over marks owned by Applicant SIG Combibloc Systems GmbH, as well as, SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc.

In response, Applicant submits the attached Declaration executed by Dr. Werner Seiche, Head of Technology Intelligence & IP Management for SIG Combibloc Systems GbH. Dr. Seiche attests that SIG Combibloc Systems GmbH is related to SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc. Particularly, all three entities are wholly owned by Beverage Packaging Holdings I S.A. of Luxembourg. Further, Dr. Seiche attests that Beverage Packaging Holdings I S.A. exercises control over trademarks owned by its subsidiaries to ensure that consumers are aware that goods covered by the respective marks emanate from a single source. Therefore, as described previously, these three entities are sister corporations subject to the common control of Beverage Packaging Holdings I S.A. The three entities, along with Beverage Packaging Holdings I S.A., cooperate in use of their respective trademarks.

Accordingly and in view of the attached Declaration, Applicant, by way of its undersigned attorney, declares an appropriate corporate relationship exists between the three entities to qualify as unity of control for the purposes of mooted the likelihood of confusion refusal.

CONCLUSION

In view of the foregoing, Applicant submits that this application is in condition for approval and respectfully requests passage of the mark to publication.

Respectfully submitted,

THE WEBB LAW FIRM, P.C.

/NJF/

Neil J. Friedrich, Reg. No. 67,280
Attorney of record, PA bar member

EVIDENCE

Evidence in the nature of executed Declaration of Dr. Werner Seiche has been attached.

Original PDF file:

[evi_38107150106-20141010135541385897_. Executed Declaration.PDF](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /njf/ Date: 10/10/2014

Signatory's Name: Neil J. Friedrich, Reg. No. 67,280

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

Signatory's Phone Number: 412-471-8815

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 not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79121145

Internet Transmission Date: Fri Oct 10 14:35:08 EDT 2014

TEAS Stamp: USPTO/RFR-38.107.150.106-201410101435084

21493-79121145-5009a5a4eb8977a15e99f2588

f67a6d8ceb284523eb29ece2b5739a7ae454f2d9

-N/A-N/A-20141010143333768028

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

International Class Nos. 16 and 20 :
In re Trademark Application of : combiSwift
SIG Combibloc Systems GmbH
Serial No. 79/121,145 :
Filed August 13, 2012 :
Trademark Attorney: John M.C. Kelly :
Law Office 119 :

DECLARATION PURSUANT TO 37 C.F.R. § 2.20

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

Madam:

I, **Dr. Werner Seiche**, pursuant to 37 C.F.R. § 2.20 do hereby declare under the penalty of perjury as follows:

1. I am over the age of eighteen (18), I am competent to make this Declaration, and the facts set forth in this Declaration are based on my personal knowledge.

2. I am the **Head of Technology Intelligence & IP Management** of SIG Combibloc Systems GmbH (hereinafter "Applicant SIG Combibloc Systems"), the Applicant for United States Trademark Application Serial No. 79/121,145 (hereinafter "the 145 application").

3. I have been employed by Applicant SIG Combibloc Systems since **1.12.1991**. I am personally familiar with the trademark usage and product branding practices of Applicant SIG Combibloc Systems and have been involved in decisions concerning such usage and practices since at least **1.10.2011**. I am aware of or have been informed by others of relevant usage and practices prior to that date.

4. I have reviewed and am familiar with the '145 application. I have also reviewed the Office Action issued October 23, 2013 and final Office Action issued April 11, 2014 and am familiar with the allegedly confusing marks identified therein. Particularly, I am aware of marks owned by SIG Combibloc GmbH & Co. KG and SIG Combibloc, Inc.

5. Applicant SIG Combibloc Systems is a corporate entity formed under German law and headquartered in Linnich, Germany.

6. Applicant SIG Combibloc Systems owns a number of other United States trademark registrations including, among others, U.S. Trademark Registration No. 4,531,197 for COMBIDOME; U.S. Trademark Registration No. 4,058,181 for COMBISHAPE; and U.S. Registration No. 4,307,305 for ECOBALANCEPACK, each of which is in International Class Nos. 16 and 20.

7. In the Office Action dated October 23, 2013 and final Office Action dated April 11, 2014, the '145 application was refused registration due to an alleged likelihood of confusion with marks owned by SIG Combibloc GmbH & Co. KG and SIG Combibloc, Inc.

8. SIG Combibloc GmbH & Co. KG, which is also headquartered in Linnich, Germany, is a sister corporation of Applicant SIG Combibloc Systems. Both entities are owned by SIG Combibloc Holding GmbH.

9. SIG Combibloc Holding GmbH is wholly owned by Beverage Packaging Holdings I S.A. of Luxembourg.

10. SIG Combibloc, Inc., which is a corporation formed under Delaware law and located in Columbus, Ohio, is a wholly owned subsidiary of SIG Holding USA, LLC.

11. SIG Holding USA, LLC is also wholly owned by Beverage Packaging Holdings I S.A. of Luxembourg.

12. Beverage Packaging Holdings I S.A. exercises control over trademarks owned by its subsidiaries, including United States trademark registrations owned by Applicant SIG Combibloc Systems, SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc. For example, Beverage Packaging Holdings I S.A. ensures that the respective marks are used in a manner that indicates to consumers that goods covered by the marks originate from a single source. The marks are also used in a manner intended to reduce or eliminate the possibility of consumer confusion between the respective marks.

13. If consumer confusion is identified, Beverage Packaging Holdings I S.A., along with Applicant SIG Combibloc Systems, SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc., will work together to resolve such instances of consumer confusion and to prevent any future instances of consumer confusion.

14. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration issuing thereon.

SIG Combibloc Systems GmbH.

By: _____

Title: DR. - Ing.

Date: 2014-10-10