

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79133036
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant requests reconsideration of the final refusal against the services in class 44. In Applicant's response to the initial office action, Applicant proposed deleting from the description of services in class 44 "beauty salons; hairdressing salons" because these services also typically sell similar products as the owner of Registration 4431047 in its registration for services in class 35. Applicant believes the remaining services in class 44 do not offer a likelihood of confusion when related to the services in Registration 4431047. The Final Action issued on October 29, 2014 is silent on this point.</p> <p>Applicant also requests reconsideration of the final refusal in classes 003 and 008. The Examining Attorney has determined that there would be a likelihood of confusion, namely, that consumers, upon seeing nail products branded "Nail HQ" would believe such products came from the same source as Registrant's retail store services. Applicant believes confusion is unlikely. First, it is highly unlikely that CVS would ever sell Applicant's Nail HQ-branded products in its CVS stores. Second, CVS even if branded its own products Nail HQ, which it has not, would never sell such products outside its own retail stores. Finally, CVS's registration in class 35 does not protect services which sell its own branded products. To maintain the refusal would expand the protection of CVS registration beyond what is contemplated by the Trademark Act.</p>	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/jon k. perala/
SIGNATORY'S NAME	Jon K. Perala
SIGNATORY'S POSITION	Attorney of Record, Illinois bar member
SIGNATORY'S PHONE NUMBER	312-242-1812
DATE SIGNED	04/29/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Apr 29 23:55:29 EDT 2015

TEAS STAMP

USPTO/RFR-76.217.14.95-20
150429235529589666-791330
36-530387aca38f498525acb9
981cad5885abc7a77fa9551ec
78208afa24b66b64991-N/A-N
/A-20150429233157194436

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. **79133036** has been amended as follows:

ARGUMENT(S)

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

Applicant requests reconsideration of the final refusal against the services in class 44. In Applicant's response to the initial office action, Applicant proposed deleting from the description of services in class 44 "beauty salons; hairdressing salons" because these services also typically sell similar products as the owner of Registration 4431047 in its registration for services in class 35. Applicant believes the remaining services in class 44 do not offer a likelihood of confusion when related to the services in Registration 4431047. The Final Action issued on October 29, 2014 is silent on this point.

Applicant also requests reconsideration of the final refusal in classes 003 and 008. The Examining Attorney has determined that there would be a likelihood of confusion, namely, that consumers, upon seeing nail products branded "Nail HQ" would believe such products came from the same source as Registrant's retail store services. Applicant believes confusion is unlikely. First, it is highly unlikely that CVS would ever sell Applicant's Nail HQ-branded products in its CVS stores. Second, CVS even if branded its own products Nail HQ, which it has not, would never sell such products outside its own retail stores. Finally, CVS's registration in class 35 does not protect services which sell its own branded products. To maintain the refusal would expand the protection of CVS registration beyond what is contemplated by the Trademark Act.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /jon k. perala/ Date: 04/29/2015

Signatory's Name: Jon K. Perala

Signatory's Position: Attorney of Record, Illinois bar member

Signatory's Phone Number: 312-242-1812

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.

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TEAS Stamp: USPTO/RFR-76.217.14.95-20150429235529589

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