

From: Hudson, Tamara

Sent: 7/10/2015 1:58:59 PM

To: TTAB E Filing

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Subject: U.S. TRADEMARK APPLICATION NO. 79146303 - DEATH OF MANKIND - N/A - Request for
Reconsideration Denied - Return to TTAB

Attachment Information:

Count: 15

Files: search.jpg, 77316362P001OF002.JPG, 77316362P002OF002.JPG, 85670095P001OF003.JPG,
85670095P002OF003.JPG, 85670095P003OF003.JPG, 85676242P001OF002.JPG,
85676242P002OF002.JPG, 85981497P001OF003.JPG, 85981497P002OF003.JPG,
85981497P003OF003.JPG, 86236684P001OF003.JPG, 86236684P002OF003.JPG,
86236684P003OF003.JPG, 79146303.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 79146303

MARK: DEATH OF MANKIND



CORRESPONDENT ADDRESS:

Tamara A Head

DINEFF TRADEMARK LAW LIMITED

160 N WACKER DRIVE

CHICAGO, IL 60606

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: Frozenbyte, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE:

INTERNATIONAL REGISTRATION NO. 1142007

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following refusal made final in the Office action dated December 17, 2015 is maintained

and continues to be final: Section 2(d) based on a likelihood of confusion in International Classes 028 and 041 with U.S. Registration Nos. 3848186 and 4304828. *See* TMEP §§715.03(a)(ii)(B), 715.04(a). The identification requirement made final in the Office action is satisfied. *See* TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved the outstanding issue, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Further, the trademark examining attorney has attached to this action the X-search summary for the term "MANKIND" in International Classes 028 and 041, showing that the term is not weak or diluted in those classes, appearing only fifteen times on the register. Additionally, the examining attorney has attached the only registrations for goods and/or services related to applicant's and registrants', which demonstrates that the term is particularly strong for such goods and/or services. The attached evidence shows that the term "MANKIND" appears only five times on the register for related goods and/or services, two of which are owned by the same registrant and where "MANKIND" has been disclaimed. Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) overcome any outstanding final refusal, and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Tamara Hudson/

Examining Attorney

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Statistics for application #79146303

| # | Total Marks | Dead Marks | Live Viewed Docs | Live Viewed Images | Printed | Status/ Search Duration | Search |
|----|----------------|---------------|------------------------|--------------------------|---------|-------------------------------|--------------------------------|
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| 02 | 72 | N/A | 0 | 0 | 0 | 0:01 | MANKIND[bi,ti] not dead[ld] |
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| 04 | 15 | 0 | 15 | 14 | 0 | 0:01 | 3 and registrant[on] |

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Current time 7/10/2015 1:46:40 PM
Total search duration 0 minutes 4 seconds
Session still in progress

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