

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85181472
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION (no change)	
ARGUMENT(S)	
<p>In response to the September 29, 2011 Final Office Action, Applicant is amending the Class 25 identification of goods as proposed by the Examining Attorney.</p> <p>With respect to the Section 2(d) refusal based on prior registration No. 2974627 (the "Cited Registration"), Applicant submits that the registrant for the Cited Registration took no action to file the necessary Section 8 Declaration which was due by July 19, 2011. In addition, the six-month grace period for registrant to file the necessary Section 8 Declaration has also now expired and the registrant failed to file the Section 8 Declaration. Accordingly, Applicant submits that the Cited registration should therefore be cancelled, and the Section 2(d) refusal should be removed.</p> <p>Further, as per Applicant's communication with the Examining Attorney on March 27, 2012, the Examining Attorney advised that it does appear that the grace period for registration No. 2974627 has expired and that the registration will be cancelled in the United States Patent and Trademark Office's records on April 24, 2012. Applicant therefore respectfully requests that its application be suspended pending the final disposition of cited registration No. 2974627 by the United States Patent and Trademark Office.</p> <p>If questions remain, Applicant's counsel, Kristine L. Butler, is available for discussion and can be contacted by email at kbutler@vklaw.com or by telephone at 609-924-0196.</p>	
GOODS AND/OR SERVICES SECTION (014)(no change)	
GOODS AND/OR SERVICES SECTION (025)(current)	
INTERNATIONAL CLASS	025
DESCRIPTION	
<p>Clothing and footwear, namely footwear of all kinds; jackets, coats, shirts, blouses, T-shirts, socks, shorts, scarves; sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, rainwear, vests, swimwear, beach ponchos; headwear of all kinds; caps</p>	

FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (025)(proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	
Clothing and footwear, namely footwear of all kinds; jackets, coats, shirts, blouses, T-shirts, socks, shorts, scarves; sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, rainwear, vests, swimwear, beach ponchos ; <u>sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, namely, long underwear, rainwear, vests, swimwear, beach ponchos</u> ; headwear of all kinds; caps	
FINAL DESCRIPTION	
Clothing and footwear, namely footwear of all kinds; jackets, coats, shirts, blouses, T-shirts, socks, shorts, scarves; sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, namely, long underwear, rainwear, vests, swimwear, beach ponchos; headwear of all kinds; caps	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Kristine L. Butler/
SIGNATORY'S NAME	Kristine L. Butler
SIGNATORY'S POSITION	Attorney of Record, NJ Bar Member
SIGNATORY'S PHONE NUMBER	215-568-6400
DATE SIGNED	03/28/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Mar 28 12:02:52 EDT 2012
TEAS STAMP	USPTO/RFR-38.98.247.98-20 120328120252134463-851814 72-490d2bc4c259263f33f77d 4257cbb858842-N/A-N/A-201 20328114719401462

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

Application serial no. **85181472** has been amended as follows:

ARGUMENT(S)

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

In response to the September 29, 2011 Final Office Action, Applicant is amending the Class 25 identification of goods as proposed by the Examining Attorney.

With respect to the Section 2(d) refusal based on prior registration No. 2974627 (the "Cited Registration"), Applicant submits that the registrant for the Cited Registration took no action to file the necessary Section 8 Declaration which was due by July 19, 2011. In addition, the six-month grace period for registrant to file the necessary Section 8 Declaration has also now expired and the registrant failed to file the Section 8 Declaration. Accordingly, Applicant submits that the Cited registration should therefore be cancelled, and the Section 2(d) refusal should be removed.

Further, as per Applicant's communication with the Examining Attorney on March 27, 2012, the Examining Attorney advised that it does appear that the grace period for registration No. 2974627 has expired and that the registration will be cancelled in the United States Patent and Trademark Office's records on April 24, 2012. Applicant therefore respectfully requests that its application be suspended pending the final disposition of cited registration No. 2974627 by the United States Patent and Trademark Office.

If questions remain, Applicant's counsel, Kristine L. Butler, is available for discussion and can be contacted by email at kbutler@vklaw.com or by telephone at 609-924-0196.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 025 for Clothing and footwear, namely footwear of all kinds; jackets, coats, shirts, blouses, T-shirts, socks, shorts, scarves; sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, rainwear, vests, swimwear, beach ponchos; headwear of all kinds; caps

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy

of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: Clothing and footwear, namely footwear of all kinds; jackets, coats, shirts, blouses, T-shirts, socks, shorts, scarves; ~~sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, rainwear, vests, swimwear, beach ponchos;~~ sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, namely, long underwear, rainwear, vests, swimwear, beach ponchos; headwear of all kinds; caps

Class 025 for Clothing and footwear, namely footwear of all kinds; jackets, coats, shirts, blouses, T-shirts, socks, shorts, scarves; sportswear, namely, shorts, underwear, nightwear, gloves, bathrobes, aprons, pants, hosiery, winterwear, namely, long underwear, rainwear, vests, swimwear, beach ponchos; headwear of all kinds; caps

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Kristine L. Butler/ Date: 03/28/2012

Signatory's Name: Kristine L. Butler

Signatory's Position: Attorney of Record, NJ Bar Member

Signatory's Phone Number: 215-568-6400

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: 85181472

Internet Transmission Date: Wed Mar 28 12:02:52 EDT 2012

TEAS Stamp: USPTO/RFR-38.98.247.98-20120328120252134
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