

From: Dubois, Michelle

Sent: 5/22/2013 12:34:13 PM

To: TTAB E filing

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85222757 - BLACK COLA ENERGY DRINK - N/A - Request for
Reconsideration Denied - Return to TTAB

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

U.S. APPLICATION SERIAL NO. 85222757

MARK: BLACK COLA ENERGY DRINK



CORRESPONDENT ADDRESS:

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GENERAL TRADEMARK INFORMATION:

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

APPLICANT: CHERIF ESSAOUI

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

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REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 5/22/2013

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. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated 10/4/12 are maintained and continue to be final. See TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. See 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. See TMEP §715.04(a).

Applicant has requested suspension of its application because maintenance documents are due for the cited registration(s), U.S. Registration No(s). 3320591 and 3326953. However, suspension is appropriate only when the application is in condition for final action and the cited registration is in the six-month grace period for filing registration maintenance documents or that grace period has passed but the USPTO automated records have not yet been updated to indicate that such documents have been filed and accepted. TMEP §716.02(e).

To avoid inadvertent cancellation or expiration of a registration due to a delay in processing maintenance documents, the USPTO's policy is to wait until 30 days after expiration of the grace period before updating its automated records to show that a registration has been cancelled or expired. *Id.*

In this case, registration maintenance documents for the cited registration(s) are not due until April 23, 2014 for COCA-COLA BLAK and April 30, 2014 for BLAK. Therefore, the request to suspend the

application is denied, and the case will be forwarded to the Trademark Trial and Appeal Board for resumption of the appeal.

/Michelle E. Dubois/

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