

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85230905
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	030
DESCRIPTION	Cakes; Cup cakes
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/31/2011
FIRST USE IN COMMERCE DATE	At least as early as 01/31/2011
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	030
DESCRIPTION	Cakes; Cup cakes
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/31/2011
FIRST USE IN COMMERCE DATE	At least as early as 01/31/2011
STATEMENT TYPE	"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1 (b) Intent-to-Use].
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\852\309\85230905\xml1\ RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT 16\852\309\85230905

	<u>\xml1\ RFR0003.JPG</u>
	<u>\\TICRS\EXPORT16\IMAGEOUT 16\852\309\85230905</u> <u>\xml1\ RFR0004.JPG</u>
	<u>\\TICRS\EXPORT16\IMAGEOUT 16\852\309\85230905</u> <u>\xml1\ RFR0005.JPG</u>
SPECIMEN DESCRIPTION	photo 1 - Mark used on cheesecake packaging photo 2 - Mark used on pamphlet listing cheesecakes available for purchase photo 3 - Mark used on business card photo 4 - Mark used on tshirts
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use Cheesecakes apart from the mark as shown.
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Joseph W. Shea III/
SIGNATORY'S NAME	Joseph W. Shea III
SIGNATORY'S POSITION	Attorney of record, OH bar member
SIGNATORY'S PHONE NUMBER	(513) 621-8333
DATE SIGNED	06/27/2012
RESPONSE SIGNATURE	/Joseph W. Shea III/
SIGNATORY'S NAME	Joseph W. Shea III
SIGNATORY'S POSITION	Attorney of record, OH bar member
SIGNATORY'S PHONE NUMBER	(513) 621-8333
DATE SIGNED	06/27/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Jun 27 10:40:41 EDT 2012
TEAS STAMP	USPTO/RFR-74.83.16.196-20 120627104041632134-852309 05-490f41acbd23099c12d1f3 4c09450c3f5f-N/A-N/A-2012 0627101916004613

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OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **85230905** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 030 for Cakes; Cup cakes

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/31/2011 and first used in commerce at least as early as 01/31/2011, and is now in use in such commerce.

Proposed: Class 030 for Cakes; Cup cakes

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/31/2011 and first used in commerce at least as early as 01/31/2011, and is now in use in such commerce.

Applicant hereby submits a new specimen for Class 030. The specimen(s) submitted consists of photo 1 - Mark used on cheesecake packaging photo 2 - Mark used on pamphlet listing cheesecakes available for purchase photo 3 - Mark used on business card photo 4 - Mark used on tshirts.

"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use].

Specimen File1

Specimen File2

Specimen File3

Specimen File4

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use Cheesecakes apart from the mark as shown.

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, 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. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the

Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 2.44. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Joseph W. Shea III/ Date: 06/27/2012
Signatory's Name: Joseph W. Shea III
Signatory's Position: Attorney of record, OH bar member
Signatory's Phone Number: (513) 621-8333

Request for Reconsideration Signature

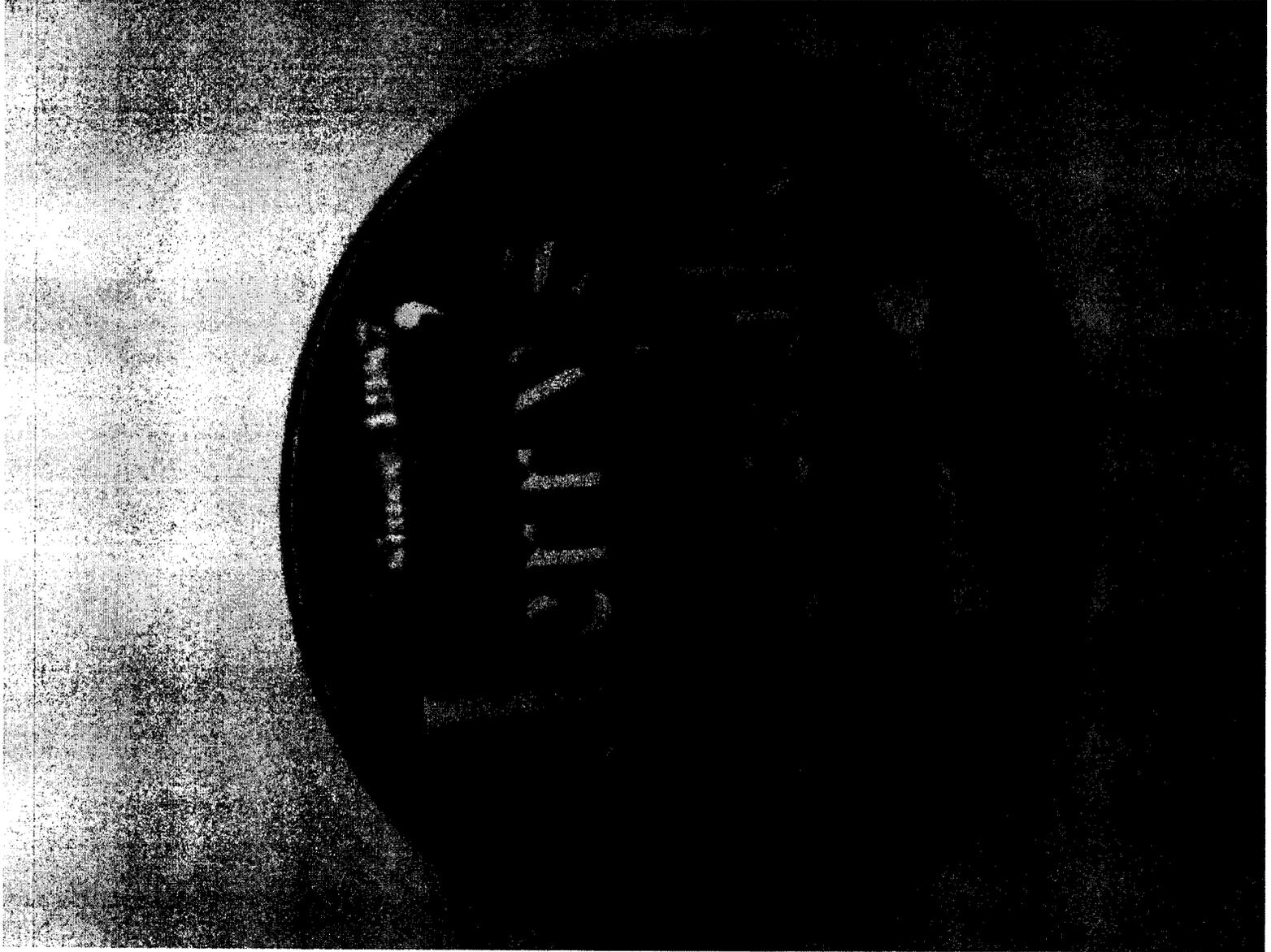
Signature: /Joseph W. Shea III/ Date: 06/27/2012
Signatory's Name: Joseph W. Shea III
Signatory's Position: Attorney of record, OH bar member

Signatory's Phone Number: (513) 621-8333

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 filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85230905
Internet Transmission Date: Wed Jun 27 10:40:41 EDT 2012
TEAS Stamp: USPTO/RFR-74.83.16.196-20120627104041632
134-85230905-490f41acbd23099c12d1f34c094
50c3f5f-N/A-N/A-20120627101916004613





Boyle R. Shea

Doyle R. Shea



Jerry's

Cheesecakes

ESTABLISHED
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