

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	85348615
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 103
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>The mark DR was rejected under Trademark Act §2(d), 15 U.S.C. §1052(d), because the Examiner held the mark, when used on or in connection with the identified services, so resembles the mark in United States Registration No. 2733016 as to be likely to cause confusion, to cause mistake, or to deceive. Applicant's services are "developing social media marketing strategies for others and consulting services relating thereto."</p> <p>The registered mark DR (stylized) is for use with "advertising services, namely preparation of advertisements and business promotion materials for others for use in print advertising, internet advertising, trade show advertising and other electronic advertising" and "graphic design services, namely preparation of graphics for others for use in business promotion and communication materials." The Examiner states that the services would be encountered by the same consumers under circumstances such that offering the services under confusingly similar marks would lead to the mistaken belief that they come from, or are in some way associated with, the same source. To support this, the Examiner attached documents that showed use of both Applicant's services and Registrant's services by the same entity. Applicant disagrees with this assertion. Just because one company may provide services that both the Applicant and the Registrant offer does not mean that consumers would be led to believe that Applicant's services are sponsored or affiliated by the Registrant. Companies often sell goods and services that are unrelated, and the fact that a few companies do offer both types of services does not mean there is a likelihood of confusion. The services provided by the Registrant and the Applicant are also different, and therefore there is no likelihood of confusion as to the source of sponsorship of the services. Applicant develops strategies for customers relating to the use of social media to increase exposure. The unique nature of social media websites allows information to be easily retransmitted and forwarded to the public, which can increase attention and exposure to consumers. Applicant works closely with their customers in developing these strategies, including developing strategies to increase the number of followers and "re-tweets" on Twitter and "likes" on FaceBook, for example. In sum, Applicant's services allow consumers to use social medial to reach more people through the unique nature of social media and therefore increase their exposure.</p> <p>This very different from Registrant's advertising and graphic design services. Advertising and graphic design services generally involve creating an image or a slogan that is used to sell a party's products or services.</p> <p>These services are very different from each other, and there would be no likelihood of confusion as to the source of these services.</p>	

<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/karin h. butchko/
<b>SIGNATORY'S NAME</b>	Karin H. Butchko
<b>SIGNATORY'S POSITION</b>	Attorney of record, Michigan bar member
<b>SIGNATORY'S PHONE NUMBER</b>	248-988-8688
<b>DATE SIGNED</b>	10/16/2012
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	NO
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Tue Oct 16 18:25:28 EDT 2012
<b>TEAS STAMP</b>	USPTO/RFR-68.42.189.14-20 121016182528537615-853486 15-4902aba914dbe91657cce7 881b6746ef2-N/A-N/A-20121 016182138478311

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

Application serial no. **85348615** has been amended as follows:

### **ARGUMENT(S)**

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

The mark DR was rejected under Trademark Act §2(d), 15 U.S.C. §1052(d), because the Examiner held the mark, when used on or in connection with the identified services, so resembles the mark in United States Registration No. 2733016 as to be likely to cause confusion, to cause mistake, or to deceive. Applicant's services are "developing social media marketing strategies for others and consulting services relating thereto."

The registered mark DR (stylized) is for use with "advertising services, namely preparation of advertisements and business promotion materials for others for use in print advertising, internet advertising, trade show advertising and other electronic advertising" and "graphic design services, namely preparation of graphics for others for use in business promotion and communication materials." The Examiner states that the services would be encountered by the same consumers under circumstances such that offering the services under confusingly similar marks would lead to the mistaken belief that they come from, or are in some way associated with, the same source.

To support this, the Examiner attached documents that showed use of both Applicant's services and Registrant's services by the same entity. Applicant disagrees with this assertion. Just because one company may provide services that both the Applicant and the Registrant offer does not mean that consumers would be led to believe that Applicant's services are sponsored or affiliated by the Registrant. Companies often sell goods and services that are unrelated, and the fact that a few companies do offer both types of services does not mean there is a likelihood of confusion.

The services provided by the Registrant and the Applicant are also different, and therefore there is no likelihood of confusion as to the source of sponsorship of the services. Applicant develops strategies for customers relating to the use of social media to increase exposure. The unique nature of social media websites allows information to be easily retransmitted and forwarded to the public, which can increase attention and exposure to consumers. Applicant works closely with their customers in developing these strategies, including developing strategies to increase the number of followers and "re-tweets" on Twitter and "likes" on FaceBook, for example. In sum, Applicant's services allow consumers to use social media to reach more people through the unique nature of social media and therefore increase their exposure. This is very different from Registrant's advertising and graphic design services. Advertising and graphic design services generally involve creating an image or a slogan that is used to sell a party's products or services.

These services are very different from each other, and there would be no likelihood of confusion as to the source of these services.

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /karin h. butchko/ Date: 10/16/2012

Signatory's Name: Karin H. Butchko

Signatory's Position: Attorney of record, Michigan bar member

Signatory's Phone Number: 248-988-8688

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: 85348615

Internet Transmission Date: Tue Oct 16 18:25:28 EDT 2012

TEAS Stamp: USPTO/RFR-68.42.189.14-20121016182528537

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