

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85526652
LAW OFFICE ASSIGNED	LAW OFFICE 101
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The applicant asserts again that the mark as a whole is not merely descriptive of her services because the term EXTRAORDINARY in this context describes the cities to which the services pertain, rather than the applicant's services. Thus, a degree of "mental gymnastics" is required in order to connect the mark to the services rendered thereunder by the Applicant, and the refusal must be withdrawn.</p> <p>In the alternative, the Applicant submits that its mark has acquired distinctiveness by virtue of its use in commerce for more than 16 months. While this is shorter than the five years' use generally used as a benchmark by the PTO, the Applicant submits that its mark is at worst on the line between descriptiveness and suggestiveness. Thus, the attached declaration should be sufficient to support its claim under Section 2(f) in this instance.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\855\266\85526652.xml4\ RFR0002.JPG
DESCRIPTION OF EVIDENCE FILE	a declaration
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Scott J. Major/
SIGNATORY'S NAME	Scott J. Major
SIGNATORY'S POSITION	Attorney of record, VA bar member
SIGNATORY'S PHONE NUMBER	703-465-5356
DATE SIGNED	06/03/2013
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	

SUBMIT DATE	Mon Jun 03 11:57:16 EDT 2013
TEAS STAMP	USPTO/RFR-173.166.177.97- 20130603115716880207-8552 6652-5003913595cbef6294af 1e42aead382c5b118d53129c7 58fe0d2c01dd5faeb234-N/A- N/A-20130603114611975239

PTO Form 1930 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 05/31/2014)

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

Application serial no. **85526652** has been amended as follows:

ARGUMENT(S)

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

The applicant asserts again that the mark as a whole is not merely descriptive of her services because the term EXTRAORDINARY in this context describes the cities to which the services pertain, rather than the applicant's services. Thus, a degree of "mental gymnastics" is required in order to connect the mark to the services rendered thereunder by the Applicant, and the refusal must be withdrawn.

In the alternative, the Applicant submits that its mark has acquired distinctiveness by virtue of its use in commerce for more than 16 months. While this is shorter than the five years' use generally used as a benchmark by the PTO, the Applicant submits that its mark is at worst on the line between descriptiveness and suggestiveness. Thus, the attached declaration should be sufficient to support its claim under Section 2(f) in this instance.

EVIDENCE

Evidence in the nature of a declaration has been attached.

[Evidence-1](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Scott J. Major/ Date: 06/03/2013

Signatory's Name: Scott J. Major

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

Signatory's Phone Number: 703-465-5356

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: 85526652

Internet Transmission Date: Mon Jun 03 11:57:16 EDT 2013

TEAS Stamp: USPTO/RFR-173.166.177.97-201306031157168

80207-85526652-5003913595cbef6294af1e42a

eed382c5b118d53129c758fe0d2c01dd5faeb234

-N/A-N/A-20130603114611975239

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

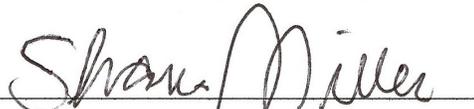
In re Application -

Mark: EXTRAORDINARY CITIES
Serial No.: 85526652
Filed: January 26, 2012
Applicant: Sharon Hennigan Miller
Class: 41
Law Office: 101

DECLARATION

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. 1001, and that such willful false statements and the like may jeopardize the validity of the application or any resulting registration, declares that the referenced mark has acquired distinctiveness based on the substantially exclusive and continuous use of the mark in commerce for the pertinent services by the applicant since at least as early as January 17, 2012; that she is properly authorized to execute this application on behalf of the applicant; and that all statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

Date: June 3, 2013


Sharon Hennigan Miller