

From: Coleman, Cimmerian

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Subject: U.S. TRADEMARK APPLICATION NO. 86098613 - LIVIN' EASY - 73780/W225 - 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. 86098613

MARK: LIVIN' EASY



CORRESPONDENT ADDRESS:

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GENERAL TRADEMARK INFORMATION:

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

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APPLICANT: Early Morning LLC

CORRESPONDENT'S REFERENCE/DOCKET NO:

73780/W225

CORRESPONDENT E-MAIL ADDRESS:

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REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 2/3/2015

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. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement(s) and/or refusal(s) made final in the Office action dated June 22,

2014 are maintained and continue to be final: Applied-for mark is a varietal name and does not function as a trademark to indicate the source of applicant's goods. *See* TMEP §§715.03(a)(ii)(B), 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. Based on the evidence of record, the applicant's applied-for mark is being used as a cultivar name for roses and applicant's description of goods is broad enough to include all types of roses. Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Cimmerian Coleman/

U.S. Patent and Trademark Office

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