

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86355896
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86355896/large
LITERAL ELEMENT	INFINITY BY CHEROKEE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>Registration has been finally refused under Section 2(d) of the Trademark Act in view of the mark in U.S. Registration No. 3,970,145. The cited mark comprises the word INFINITY registered in a distinctive typeface with a stylized letter "F" represented by an open infinity symbol. Applicant's mark is INFINITY BY CHEROKEE in standard characters. In its previously filed response, Applicant pointed out that INFINITY is a widely used mark in the field of hospital and medical supplies and equipment as evidenced by at least U.S. Registration Nos. 4161985; 4444100; 3803283; 2985275; 3646088; 3555778; 3738682; and 2778948. Such widespread use dilutes the distinctiveness of the term and thereby renders the term INFINITY relatively weak and entitled to only a narrow scope of protection in the field of hospital and medical supplies and equipment. Moreover, Applicant pointed out that the respective goods at issue here are goods for medical use where standards of care demand particular scrutiny when purchasing products. Such circumstances suggesting care in purchasing tend to minimize any likelihood of confusion.</p> <p>In the final refusal, the Trademark Examining Attorney has not addressed these arguments and, instead, simply reiterates her contention that the marks are similar and are used for related goods. Applicant concedes both of these points, but the inquiry does not stop there. The dilution of the term INFINITY, coupled with the manifest differences in the marks at issue, further coupled with the sophistication of the potential purchasers, all point to the conclusion that there is <u>not</u> a likelihood of confusion in this case.</p>	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/George W Hoover/
SIGNATORY'S NAME	George W Hoover
SIGNATORY'S POSITION	Attorney of record, California bar member
SIGNATORY'S PHONE NUMBER	310-207-3800
DATE SIGNED	10/18/2015

AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Sun Oct 18 16:11:36 EDT 2015
TEAS STAMP	USPTO/RFR-108.40.192.145- 20151018161136310360-8635 5896-54079dac51484fc1aff9 629b9f1a4ca2bfa6a56d985ba 630f338d057a26bf8fc2c-N/A -N/A-20151018160840116291

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

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

Application serial no. **86355896** INFINITY BY CHEROKEE(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86355896/large>) has been amended as follows:

ARGUMENT(S)

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

Registration has been finally refused under Section 2(d) of the Trademark Act in view of the mark in U.S. Registration No. 3,970,145. The cited mark comprises the word INFINITY registered in a distinctive typeface with a stylized letter "F" represented by an open infinity symbol. Applicant's mark is INFINITY BY CHEROKEE in standard characters. In its previously filed response, Applicant pointed out that INFINITY is a widely used mark in the field of hospital and medical supplies and equipment as evidenced by at least U.S. Registration Nos. 4161985; 4444100; 3803283; 2985275; 3646088; 3555778; 3738682; and 2778948. Such widespread use dilutes the distinctiveness of the term and thereby renders the term INFINTY relatively weak and entitled to only a narrow scope of protection in the field of hospital and medical supplies and equipment. Moreover, Applicant pointed out that the respective goods at issue here are goods for medical use where standards of care demand particular scrutiny when purchasing products. Such circumstances suggesting care in purchasing tend to minimize any likelihood of confusion.

In the final refusal, the Trademark Examining Attorney has not addressed these arguments and, instead, simply reiterates her contention that the marks are similar and are used for related goods. Applicant concedes both of these points, but the inquiry does not stop there. The dilution of the term INFINITY, coupled with the manifest differences in the marks at issue, further coupled with the sophistication of the potential purchasers, all point to the conclusion that there is not a likelihood of confusion in this case.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /George W Hoover/ Date: 10/18/2015

Signatory's Name: George W Hoover

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

Signatory's Phone Number: 310-207-3800

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 owner's/holder'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 owner/holder in this matter: (1) the owner/holder 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 owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder'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.

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Internet Transmission Date: Sun Oct 18 16:11:36 EDT 2015

TEAS Stamp: USPTO/RFR-108.40.192.145-201510181611363

10360-86355896-54079dac51484fc1aff9629b9

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