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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86389546
Applicant	Karlson & O'Mara Distilleries LLC
Applied for Mark	BLOSSOM
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Submission	Applicant's Motion to Suspend
Attachments	Suspension Motion BLOSSOM 86389546.pdf(13802 bytes)
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re: Application Serial No.: 86/389546
For the Mark: BLOSSOM
Filed: September 9, 2014
Appeal Instituted: January 8, 2016
Proceedings Resumed: January 28, 2016

In re
Karlson & O'Mara Distilleries LLC,
Applicant.

Appeal of Serial No. 86/389,546

Attorney Docket Ref: 081739.000017

APPELLANT'S (APPLICANT'S) REQUEST FOR SUSPENSION

**with Notice of the sole registration cited as a reference against registration
as past date of first opportunity for the filing of the necessary declaration of
continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058**

I. STATEMENT OF THE ISSUES

Whether suspension of this Appeal is appropriate under TBMP § 1213 (or a suspension of the examination with jurisdiction remaining in the examining attorney is appropriate) in light of the fact that the cited Registration supporting the final refusal under Trademark Act § 2(d), 15 U.S.C. § 1052(d), U.S. Registration No. 3,838,394, which reached the fifth anniversary of its registration on August 24, 2015 (as it had been issued as a Registration on August 24, 2010), has no maintenance filings in the US Patent and Trademark Office and is past the first opportunity date, and to be very shortly past due of all deadlines, for the filing of its declaration of continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058.

II. RECITATION OF FACTS AND PRESENTATION OF BASIS

Applicant's trademark application pursuant to 15 U.S.C. § 1051, et seq, seeking to register in standard characters the mark "BLOSSOM" (the "Mark") has been made the subject of the present Office Action of July 10, 2015 following on the prior Office Action December 22, 2014. By this Office Action, Applicant's application remains the subject of a refusal by the examining attorney on the basis that the Mark was likely to be confused with the mark "BLOSSOM", the subject of U.S. Registration No. 3,838,394 for "Restaurant and bar services". Specifically, the examining attorney indicated that the factors of the similarity of the marks and the similarity of the services resulted in a determination that this mark already registered was likely to be confusingly similar to the Applicant's Mark. Applicant requested Suspension as the cited Registration was past the first opportunity date, and to be very shortly past due of all deadlines, for the filing of its required declaration of continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058 but the examining attorney declined this Suspension request.

Applicant again requests such Suspension as this one Registration (presently just surviving) is past the first opportunity date, and to be very shortly past due of all deadlines, for the filing of its respective declaration of continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058.

U.S. Registration No. 3,838,394 was issued on August 24, 2010. No maintenance filings for U.S. Registration No. 3,838,394, which reached the fifth anniversary of its registration on August 24, 2015 and will shortly reach the sixth anniversary of its registration on August 24, 2016, have been provided to the US Patent and Trademark Office. Suspension of this application is likely appropriate until this Registration is made the subject of the necessary declarations of

use to maintain its existence on the Principal Register or the Registration is abandoned for the failure to file such necessary declarations. While the Appeal of this Application has become pending (as a result of the examining attorney's refusal of the suspension request (as reiterated from prior response to office action within the present request for reconsideration)), the TTAB should, in avoiding greater expense to its time and greater expense to the Applicant, suspend the appeal under TBMP § 1213 in light of the fact that the cited Registration allegedly supporting the final refusal under Trademark Act § 2(d), 15 U.S.C. § 1052(d), has already reached the fifth anniversary of its registration, has no maintenance filings in the US Patent and Trademark Office and is very shortly to be fully past due of the full period, and the grace period, for the filing of its declaration of continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058.

Applicant requests such Suspension as this cited Registration is to be very shortly past due for the filing of its respective declaration of continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058.

CONCLUSION

It is evident from the record that the cited Registration is to be very shortly past due for the filing of its respective declaration of continued use (or excusable non-use) under Trademark Act § 8, 15 U.S.C. § 1058, and therefore further prosecution or Appeal should be suspended.

For the foregoing reasons Appellant, Karlson & O'Mara Distilleries LLC, requests that suspension of this Appeal be entered by the Trademark Trial and Appeal Board since no maintenance filings for U.S. Registration No. 3,838,394, which reached the fifth anniversary of its registration on August 24, 2015 and will shortly reach the sixth anniversary of its registration on August 24, 2016, have been provided to the US Patent and Trademark Office and as this cited

