

ESTTA Tracking number: **ESTTA682314**

Filing date: **07/08/2015**

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

Proceeding	86416660
Applicant	VIAS Partners, LLC.
Applied for Mark	COLLAGEN VEIL
Correspondence Address	MATTHEW H SWYERS THE TRADEMARK COMPANY 344 MAPLE AVE WEST, PMB 151 VIENNA, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com
Submission	Applicants Request for Remand and Amendment
Attachments	Motion to Remand 2.pdf(86190 bytes)
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Signature	/Matthew H. Swyers/
Date	07/08/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

VIAS Partners LLC	:	
	:	
	:	
Serial No.: 86416660	:	Examining Attorney: James Griffin
	:	
Filed: October 7, 2014	:	
	:	Law Office: 103
Mark: COLLAGEN VEIL	:	
	:	
	:	
	:	

MOTION TO REMAND APPLICATION

COMES NOW the Applicant VIAS Partners, LLC (hereinafter “Applicant”), by and through counsel The Trademark Company, and pursuant to TBMP § 1209.04 respectfully moves the Trademark Trial and Appeal Board (hereinafter “Board”) for an order remanding the instant Application to the examination level so that the Examining Attorney may consider the Applicant’s filing of an Amendment to Allege Use in conjunction with a request to move the instant application to the Supplemental register which may render the instant appeal moot.

Previously, the Examining Attorney cited four instances of use of the phrase proposed mark by entities other than the Applicant as evidence that it is a common phrase within the cosmetics industry thus supporting the instant refusal. Applicant believed that those cited uses were, in fact, potential infringing uses of the mark and attempts by others to benefit from the marketing campaign the Applicant has undertaken in support of the product. To this end, the Applicant requested that the Board remand the application to the Examining Attorney so that it could submit evidence of its enforcement efforts.

However, following due diligence in the matter Applicant has determined that the better course of action in this matter is to file an acceptable Amendment to Allege Use with the Office and to amend the application to seek registration on the Supplemental Register.

To this end, this morning Applicant (1) filed an Amendment to Allege Use to establish use of the instant trademark in commerce as well as (2) filed a voluntary amendment to seek registration on the Supplemental Register. In this regard, Applicant hopes that the Section 2(e)(1) refusal will now be rendered moot as registration is sought on the Supplemental Register. Thus, the instant appeal should now be moot.

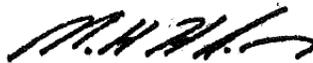
Applicant is not making this second motion to delay the proceedings but in good faith so that the Office may consider the amendment to the application brought to light in this matter which should render the instant appeal moot.

Accordingly, pursuant to TBMP § 1209.04 it is respectfully requested that the Board grant the instant motion and remand the matter to the Examining Attorney.

WHEREFORE it is respectfully submitted that good cause exists and/or the TBMP provides that the instant request be granted and the application be remanded to the Examining Attorney for further consideration of the Application with the amendments thereto.

Respectfully submitted this 8th day of July, 2015

The Trademark Company, PLLC



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