

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

91173800

Applicant: Sterling Bank & Trust FSB
 Mark: STERLINGBANK.COM
 Serial No. 75/936,977
 Filed: March 6, 2000
 Publication Date: September 19, 2006

Law Office: 113
 Int'l Classes: 36
 Docket No. 65006-0028

Commissioner for Trademarks
 P.O. Box 1451
 Alexandria, Virginia 22313-1451

REQUEST FOR AMENDMENT PURSUANT TO TMEP § 1505.02(C)

Pursuant to TBMP §§ 212.01 and 212.03, and TMEP § 1505.02(c), Applicant requests that the Office amend the mark in the application from STERLINGBANK.COM to STERLING BANK.

The application was published for opposition on September 19, 2006. A request for extension of time to oppose this application was requested and granted by the Board, extending the opposition period to January 17, 2007. However, Applicant understands that no opposition has been filed.

As TMEP § 1209.03(m) notes, "[p]ortions of the uniform resource locator (URL) including the beginning, ("http://www.") and the top level Internet domain name (TLD) (e.g., ".com," ".org," ".edu,") function to indicate an address on the World Wide Web, and therefore generally serve no source-indicating function." TMEP § 1215.02(c) echoes this principle, stating:

In viewing a domain name mark (e.g., http://ABC.COM or http://WWW.ABC.COM), consumers look to the second level domain name for source identification, not to the top-level domain (TLD) or the terms "http://www." or "www." Therefore, it is usually acceptable to depict only the second level domain name on the drawing page, even if the specimens of use show a mark that includes the TLD or the terms "http://www." or "www."

In view of these principles, TMEP § 1215.08 provides that:

Generally, an applicant may add or delete a TLD to/from the drawing of a domain name mark (e.g., COOPER amended to COOPER.COM, or COOPER.COM amended to COOPER) without materially altering the mark. A mark that includes a TLD will be perceived by the public as a domain name, while a mark without a TLD will not. However, the public recognizes that a TLD is a universally used part of an Internet address. As a result, the essence of a domain name mark is created by the second level domain name, not the TLD. The commercial impression created by the second-level domain name usually remains the same whether the TLD is present or not.

Therefore, Applicant submits that an amendment of the mark from STERLINGBANK.COM to STERLING BANK is acceptable.

Assuming the Examining Attorney amends the mark STERLINGBANK.COM to STERLING BANK as requested herein, Applicant hereby disclaims the exclusive right to use the term "BANK" apart from the mark as shown.

Please direct any questions regarding this document to the undersigned attorneys for Applicant.

Respectfully submitted,

Date: October 13, 2006

By:

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I hereby certify, pursuant to 37 C.F.R. §§ 1.8 and 1.6(d), that this correspondence is being transmitted via facsimile to Law Office 113, to 571-273-9113, on October 13, 2006, by Michelle L. Visser
Michelle L. Visser

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To: Stacy B. Wahlberg, Law Office 113 **From:** Michelle Visser (248-594-0644 direct dial)
Fax: 571-273-9113 **Pages:** 2 + Coversheet
Phone: 571-272-9441 **Date:** October 13, 2006
Re: Application Serial No. 75/936,977 for STERLINGBANK.COM by Sterling Bank & Trust FSB

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Ms. Wahlberg,

We understand that the proper procedure (despite what the Trademark Board Manual of Procedure states) for requests to amend applications that have been published for opposition and for which request(s) for extension of time to oppose have been filed, but no opposition has been filed, is to submit the request for amendment to the appropriate law office, to the examining attorney's attention.

Please find attached a request to amend the mark in the above-referenced application. If you have any questions, please do not hesitate to contact us. Thank you for your assistance in this matter.

Michelle L. Visser

Michelle Visser

I hereby certify, pursuant to 37 C.F.R. §§ 1.8 and 1.6(d), that this correspondence is being transmitted via facsimile to Law Office 113, to 571-273-9113, on October 13, 2006, by Michelle L. Visser
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