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

Proceeding	91177036
Party	Defendant Mjuahid Ahmad
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Date	01/31/2008
Attachments	91177036 Motion to Amend Application Filing Basis.pdf (5 pages)(82782 bytes)

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

Application Serial No. 78/866,376
Published in the Official Gazette on

NATIONSTAR MORTGAGE LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91177036
)	
MUJAHID AHMAD,)	
)	
Applicant.)	
)	

MOTION TO AMEND APPLICATION FILING BASIS

Applicant hereby moves pursuant to 37 C.F.R. § 2.35(b)(3) and Trademark Trial and Appeal Board Manual of Procedure § 514 to amend the filing basis of its Application Serial Number 78/866,376 for the mark NATIONSTAR to substitute a § 1(b) basis.

I. Verified Statement

Applicant is submitting herewith a verified statement that the applicant has had a bona fide intention to use the mark in commerce on or in connection with the services in the application since the application filing date pursuant to 15 U.S.C. § 1051(b)(3)(B).

II. Amendment to a § 1(b) Basis Is Appropriate

A. An Amendment to Substitute a Basis Is Permissible

In the interest of judicial efficiency, Applicant wishes to amend the basis of the application from § 1(a) to § 1(b). By granting this motion, questions of fact in this proceeding will be significantly limited. Under Trademark Rule 2.35, Applicant may amend his application to substitute section § 1(b) so long as he has a continuing valid basis for registration. *See Sinclair Oil Corp. v. Sumatra Kendrick*, 85 USPQ2d 1032, 1033 (2007); *Leeds Technologies Ltd. v. Topaz Comm'ns*, 65 USPQ2d 1303, 1307 (TTAB 2002); TMEP § 806.03. When an applicant substitutes one basis for another, the Office will presume that there was a continuing valid basis, unless there is contradictory evidence in the record, and the applicant will retain the original filing date. *Id.* Here, Applicant had at least a bona fide intention to use the mark in commerce as of the application filing date and has submitted a verified statement attesting to the fact. Thus, Applicant has met all the requirements for a Section 1(b) filing basis and there is no evidence in the record to the contrary.

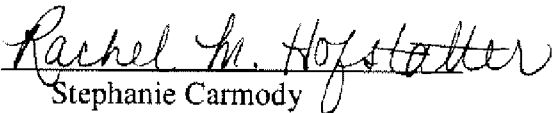
B. Applicant's Amendment Is Not a Material Alteration of the Application

Applicant's amendment is not substantive in nature and would not be the kind that would require a new search or republication of the NATIONSTAR mark. Accordingly, the amendment is not a material alteration of the application. *See* TMEP § 807.1 ("The general test of whether an alteration is material is whether the mark would have to be republished after the alteration in order to fairly present the mark for purposes of opposition"); *In re Hacot-Colombier*, 105 F.3d 616, 620, 41 USPQ2d 1523, 1526 (Fed. Cir. 1997) (quoting *Visa Int'l Service Ass'n v. Life-Code Sys., Inc.*), 220 USPQ 740,743-44 (TTAB 1983).

III. Conclusion

Wherefore, Applicant respectfully requests that the Board grant its motion to amend its Application Serial No. 78/866,376 to substitute a § 1(b) filing basis.

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Attorneys for Applicant, Mujahid Ahmad

Dated: January 31, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION TO AMEND APPLICATION FILING BASIS was mailed on this 31st day of January, 2008, by first-class mail, postage prepaid, on:

Bryce J. Maynard
BUCHANAN INGERSOLL & ROONEY, PC
1737 King Street
Alexandria, VA 22314-2727

Rachel M. Hofstatter

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**DECLARATION UNDER 37 C.F.R. § 2.34(a)(2) IN SUPPORT OF
MOTION TO AMEND APPLICATION FILING BASIS**

I, Mujahid Ahmad, hereby declare:

1. I am the owner of Application Serial No. 78/886,376 for the mark NATIONSTAR filed in the United States Patent and Trademark Office on April 20, 2006.

2. I have had a bona fide intention to use the NATIONSTAR mark in commerce in connection with the services in the application since the filing date.

I declare under penalty of perjury that the above facts are true to the best of my knowledge. Executed TAN 24, 2008.



MUJAHID AHMAD