

This Opinion is Not a  
Precedent of the TTAB

Mailed: January 6, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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*Hard Candy Cases, LLC*

*v.*

*Hard Candy, LLC*

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Opposition No. 91195328  
to Application Serial No. 77700557

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on Request for Reconsideration

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Stuart J. West of West & Associates, PC for Hard Candy Cases, LLC.

Gabriel Groisman of Coffey Burlington for Hard Candy, LLC.

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Before Bucher, Ritchie and Adlin, Administrative Trademark Judges.

Opinion by Adlin, Administrative Trademark Judge:

On November 13, 2014, the Board issued a final decision (the “Final Decision”) dismissing Hard Candy Cases, LLC’s (“Opposer”) opposition to registration of Hard Candy, LLC’s (“Applicant”) application to register the mark HARD CANDY for, *inter alia*, leather goods. The only ground for opposition was that “at the time of filing its intent-to-use application ... Applicant did not have a bona fide intent-to-

use [its] mark in connection with at least some of the goods identified” therein. Notice of Opposition ¶ 9. On December 15, 2014, Opposer filed a request for reconsideration of the Final Decision.

“[T]he premise underlying a request for ... reconsideration ... is that, based on the evidence of record and the prevailing authorities, the Board erred in reaching the decision it issued. The request may not be used to introduce additional evidence, nor should it be devoted simply to a reargument of the points presented in the requesting party’s brief on the case.” TBMP § 543 (2014).

Here, Opposer’s motion merely reargues the points presented in its brief on the case, as follows:

<u>Argument in Brief On the Case</u>	<u>Reargument in Motion for Reconsideration</u>
<p>Section 4.2.1.2 entitled “Applicant’s produced documents are insufficient to support Applicant’s claim of bona fide intent ...” Opposer’s Brief on the Case at 24-29.</p> <p>Section 4.2.1.3 entitled “Applicant’s absence of adequate documentation is sufficient proof of Applicant’s lack of bona fide intent at the time of filing and grounds for denying registration.” Opposer’s Brief on the Case at 29-32.</p>	<p>Opposer “does not believe the documentary evidence supports a bona fide intent to use.” Opposer’s Motion at 1-2</p>
<p>Section 4.2.2 entitled “Applicant has demonstrated a pattern and practice of filing trademark applications that never proceed to registration, further supporting a finding of lack of bona fide intent in the present case and calling for rejection of Applicant’s mark.” Opposer’s Brief on the Case at 32-35.</p>	<p>“Applicant’s filing of numerous applications without actual use demonstrates abuse on behalf of Applicant” and “Applicant has a pattern and practice of filing trademark applications that Applicant would often allow to abandon after the 3 years of extensions of time to file statements of use would run out,” which establishes Applicant’s lack of bona fide intent to use. Opposer’s Motion at 2-3.</p>

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Substantively readdressing Opposer's first reargument, as explained in the Final Decision, there is not an "absence" of documentation. Final Decision at 11-14. One document predates Applicant's filing date, and several which postdate the filing date mention leather goods specifically and are "sufficiently contemporaneous to the application filing date" under *Lane Ltd. v. Jackson International Trading Co.*, 33 USPQ2d 1351, 1356 (TTAB 1994). Final Decision at 16-19. Substantively readdressing Opposer's second reargument, as explained in the Final Decision, we have determined that the evidence of Applicant's *bona fide* intent to use is not outweighed by Applicant's abandonment of uninvolved applications for other products. Final Decision at 19-20.

In short, Opposer's rearguments are unpersuasive for the reasons originally stated in the Final Decision, and accordingly Opposer's motion for reconsideration is denied.<sup>1</sup>

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<sup>1</sup> Applicant's stipulated motion to extend its time to file a response to Opposer's request for reconsideration is moot.