

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/659576

MARK: STRENGTH IN DATA



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GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: ImClone Systems
Incorporated

CORRESPONDENT'S REFERENCE/DOCKET
NO:

42-091-999

CORRESPONDENT E-MAIL ADDRESS:

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE:

Applicant is requesting reconsideration of a final refusal issued/mailed March 11, 2008.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Specifically, applicant's declaration supporting its substitute specimen states "The mark as shown in the substitute specimen was in use in commerce prior to the expiration of the time allowed Applicant for filing a statement of use" (sic). This however is not a statement that "The substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use." The specimen itself, and not merely the mark "as shown on the specimen" must be in use in the time allowed. The declaration is therefore insufficient to support the substitute specimen. 37 C.F.R. §2.59(b)(2); TMEP §904.05.

Additionally, the substitute specimen appears to be the same specimen provided originally.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

/Fred Carl III/

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STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.