

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77228814
LAW OFFICE ASSIGNED	LAW OFFICE 101
MARK SECTION (no change)	
ARGUMENT(S)	
<p><b><u>REQUEST FOR RECONSIDERATION</u></b></p> <p>Commissioner:</p> <p>This is submitted in Response to the Final Office Action dated February 20, 2008, which continued a merely descriptive refusal. Applicant has filed a Notice of Appeal with the Trademark Trial and Appeal Board.</p> <p><b>I. <u>Amended to the Supplemental Register</u></b> Applicant has filed to register THE HEARTBURN GAZETTE for the following:</p> <ul style="list-style-type: none"> <li>• Publications, namely, brochures and pamphlets regarding heartburn information and medication in Class 16;</li> <li>• Advertising and commercial information services via the Internet regarding heartburn and medication therefore in Class 35</li> </ul> <p>Applicant has deleted the services in Class 35 in their entirety and maintains the goods in Class 16 only. Applicant has filed an acceptable Amendment to Allege Use for Class 16 and its application is now eligible for allowance on the Supplemental Register. Accordingly, Applicant hereby amends its application to the Supplemental Register. 37 C.F.R. §2.76; 37 C.F.R. §2.47(d); TMEP §§815.02, 816.02 and 1102.03.</p> <p><b>II. <u>Correction to Identification of Goods</u></b> Applicant originally filed for "Publications, namely, brochures and <i>pamphlets</i> regarding heartburn information and medication" in Class 16. Applicant corrects the misspelling of "pamphlets" and amends its identification to the following:</p> <ul style="list-style-type: none"> <li>• Publications, namely, brochures and <i>pamphlets</i> regarding heartburn information and medication in Class 16.</li> </ul> <p><b>III. <u>Disclaimer of "Gazette" is Authorized if Necessary</u></b></p>	

If the Examining Attorney determines that Applicant must disclaim the term "Gazette" despite the amendment of its application to the Supplemental Register, Applicant agrees to the disclaimer in order to facilitate approval. Applicant hereby authorizes the Examining Attorney to enter the disclaimer in the record via an Examiner's Amendment, if necessary.

#### IV. Conclusion

In view of the foregoing, Applicant respectfully requests that the Office allow this mark to register on the Supplemental Register.

#### GOODS AND/OR SERVICES SECTION (016)(current)

INTERNATIONAL CLASS	016
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#### DESCRIPTION

Publications, namely, brochures and pamphlets regarding heartburn information and medication

FILING BASIS	Section 1(b)
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#### GOODS AND/OR SERVICES SECTION (016)(proposed)

INTERNATIONAL CLASS	016
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#### DESCRIPTION

Publications, namely, brochures and pamphlets regarding heartburn information and medication

FILING BASIS	Section 1(b)
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#### GOODS AND/OR SERVICES SECTION (035)(class deleted)

INTERNATIONAL CLASS	035
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#### DESCRIPTION

Advertising and commercial information services via the Internet regarding heartburn and medication therefore

FILING BASIS	Section 1(b)
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#### SIGNATURE SECTION

RESPONSE SIGNATURE	/Mary-Ellen M. Devlin/
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SIGNATORY'S NAME	Mary-Ellen M. Devlin
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SIGNATORY'S POSITION	Executive Group Counsel, Intellectual Property
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DATE SIGNED	08/20/2008
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AUTHORIZED SIGNATORY	YES
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CONCURRENT APPEAL NOTICE FILED	YES
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#### FILING INFORMATION SECTION

SUBMIT DATE	Wed Aug 20 16:54:46 EDT 2008
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TEAS STAMP

USPTO/RFR-67.94.127.50-20  
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80820161530738399

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. 77228814 has been amended as follows:

**ARGUMENT(S) In response to the substantive refusal(s), please note the following:**

### REQUEST FOR RECONSIDERATION

Commissioner:

This is submitted in Response to the Final Office Action dated February 20, 2008, which continued a merely descriptive refusal. Applicant has filed a Notice of Appeal with the Trademark Trial and Appeal Board.

#### **I. Amended to the Supplemental Register**

Applicant has filed to register THE HEARTBURN GAZETTE for the following:

- Publications, namely, brochures and pamphlets regarding heartburn information and medication in Class 16;
- Advertising and commercial information services via the Internet regarding heartburn and medication therefore in Class 35

Applicant has deleted the services in Class 35 in their entirety and maintains the goods in Class 16 only. Applicant has filed an acceptable Amendment to Allege Use for Class 16 and its application is now eligible for allowance on the Supplemental Register. Accordingly, Applicant hereby amends its application to the Supplemental Register. 37 C.F.R. §2.76; 37 C.F.R. §2.47(d); TMEP §§815.02, 816.02 and 1102.03.

#### **II. Correction to Identification of Goods**

Applicant originally filed for "Publications, namely, brochures and *pamphlets* regarding heartburn information and medication" in Class 16. Applicant corrects the misspelling of "pamphlets" and amends its identification to the following:

- Publications, namely, brochures and *pamphlets* regarding heartburn information and medication in Class 16.

**III. Disclaimer of "Gazette" is Authorized if Necessary**

If the Examining Attorney determines that Applicant must disclaim the term "Gazette" despite the amendment of its application to the Supplemental Register, Applicant agrees to the disclaimer in order to facilitate approval. Applicant hereby authorizes the Examining Attorney to enter the disclaimer in the record via an Examiner's Amendment, if necessary.

**IV. Conclusion**

In view of the foregoing, Applicant respectfully requests that the Office allow this mark to register on the Supplemental Register.

**CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant hereby deletes the following class of goods/services from the application.**

Class 035 for Advertising and commercial information services via the Internet regarding heartburn and medication therefore

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 016 for Publications, namely, brochures and pamphlets regarding heartburn information and medication

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Proposed:** Class 016 for Publications, namely, brochures and pamphlets regarding heartburn information and medication

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /Mary-Ellen M. Devlin/ Date: 08/20/2008

Signatory's Name: Mary-Ellen M. Devlin

Signatory's Position: Executive Group Counsel, Intellectual Property

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77228814

Internet Transmission Date: Wed Aug 20 16:54:46 EDT 2008

TEAS Stamp: USPTO/RFR-67.94.127.50-20080820165446394

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