

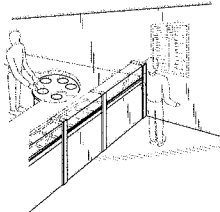
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77332131
Applicant	Cafe Rio, Inc.
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Submission	Applicant's Request to Extend
Attachments	Motion_for_Extension.pdf (3 pages)(136174 bytes)
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Signature	/Grant R. Clayton/
Date	06/13/2011

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

APPLICANT: CAFE RIO, INC.)
MARK: )
SERIAL NO.: 77/332,131)
FILED: November 16, 2007)
EXAMINING)
ATTORNEY: E. Martin)

**MOTION FOR EXTENSION OF
TIME TO FILE APPLICANT'S
APPEAL BRIEF**

MOTION FOR EXTENSION OF TIME TO FILE APPLICANT'S APPEAL BRIEF

I. INTRODUCTION.

Applicant filed a request for remand on December 1, 2010 based on new evidence of acquired distinctiveness. On April 8, 2011, the Trademark Examining Attorney in the above-identified trademark application made a decision relating to the sufficiency of the Section 2(f) evidence presented by Applicant. The Trademark Examining Attorney, despite the presentation of many new declarations and customer survey evidence, denied Applicant's request for reconsideration because the evidence of acquired distinctiveness was considered to be insufficient. The Trademark Examining Attorney appears to have given Applicant's consumer survey evidence little weight, such that Applicant must now present new consumer survey evidence or otherwise provide expert testimony rehabilitating the survey evidence. Applicant's appeal brief is presently due on June 11,

2011. Applicant is respectfully requesting a sixty-day extension of time to file its appeal brief pursuant to TBMP §1203.02(a) and (d) and believes that good cause exists for granting the requested extension as detailed more fully below.

II. GOOD CAUSE REQUIREMENT.

TBMP § 1203.02(d) states:

An extension of time for filing an appeal brief in an ex parte appeal to the Board may be granted by the Board upon written request showing good cause for the requested extension. The determination of good cause will be based upon all relevant circumstances, including the length of time of any previously granted extensions.

In the present case, while other previous extensions have been granted by the Board to permit Applicant to obtain additional evidence of acquired distinctiveness, this is the first extension of time that Applicant has requested to file its appeal brief since the April 8, 2011 denial by the Trademark Examining Attorney of Applicant's request for reconsideration.

III. GOOD CAUSE EXISTS BECAUSE APPLICANT IS IN THE PROCESS OF OBTAINING ADDITIONAL EVIDENCE TO SUBMIT TO THE TRADEMARK OFFICE.

Applicant respectfully submits that good cause exists in the current application for the reason that follows. The relevant circumstances currently present in this application are based on the refusal made by the Trademark Office that under Sections 1, 2, 3 and 45 of the Trademark Act, suggesting that the mark presented for registration is not inherently distinctive and, hence, fails to function as a mark.

The Trademark Examining Attorney in the above-identified trademark application appears to have given Applicant's consumer survey evidence little or no weight, such that Applicant must now present new consumer survey evidence or otherwise provide expert testimony rehabilitating the survey evidence. Thus, Applicant is in the process of obtaining additional evidence to present to the Trademark Office to rebut and potentially overcome the refusal to register the mark. The result of

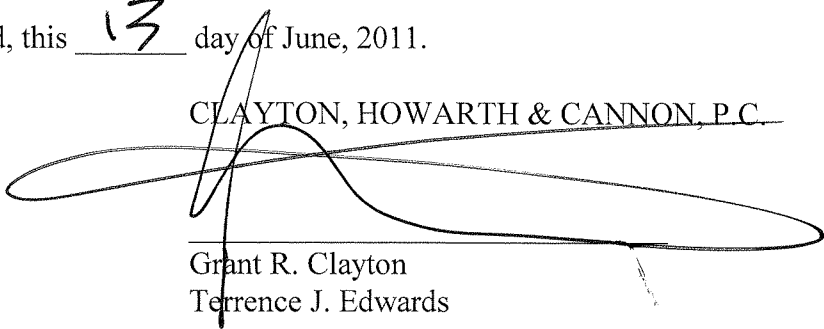
Applicant's efforts may result in the presentation of additional evidence, which may dispose of the current *ex parte* appeal.

IV. CONCLUSION.

In view of the foregoing, Applicant respectfully requests that the Board grant Applicant sixty (60) days to obtain additional evidence for presentation to the Trademark Office.

Respectfully submitted, this 13 day of June, 2011.

~~CLAYTON, HOWARTH & CANNON, P.C.~~

A large, handwritten signature in black ink, appearing to be a combination of the names Grant R. Clayton and Terrence J. Edwards, written over a horizontal line.

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