

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
<b>SERIAL NUMBER</b>	77378860
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 105
<b>MARK SECTION (no change)</b>	
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>MISCELLANEOUS STATEMENT</b>	<p>This is a request for reconsideration, preliminary to filing an Appeal to the TTAB. The Examiner has rejected a claim for a chemical tire dressing. The Examiner has rejected the claim for a chemical tire dressing because a fabric protective shield, to protect rims on aluminum or magnesium alloy wheels from corrosive chemical compounds, uses the mark □ WHEEL SHIELD □. We submitted advertisements showing the fabric product, that was used for WHEEL SHIELD. First, the product is fabric, and our clients product is a silicone tire dressing. The products compared, are totally different. The fabric shield is to protect magnesium and aluminum rims from being eaten and pitted by detergent solution. Our clients product goes on the TIRE. It is a chemical sprayed on the tire. The chemical has nothing to do with the wheel. The Examiner has rejected the mark TIRE SHIELD under Section 2(d) - Likelihood of Confusion. Applicant respectfully disagrees with the Examiner. The buyers of TIRE SHIELD are sophisticated buyers, buying chemicals for commercial car washes, truck washes, boat washes, and airplane washes. The Examiner has requested additional product information about the goods. An MSDS sheet was submitted for TIRE SHIELD. Examiner has asked the following questions: 1. What is the function of applicant's goods? RESPONSE: TIRE SHIELD is a specific chemical formulation, made by the in-house chemist at Cleaning Systems, Inc., which comprises a particular silicone tire dressing. The silicone tire dressing is sprayed on to a tire, to blacken the tire, to a more approximate color of the tire when it was new, and has not been in service. To point out the extreme difference between the silicone chemical coating, sold by applicant, and the fabric shield</p>

sold under the mark □WHEEL SHIELD□, an advertisement for "WHEEL SHIELD" was submitted. "WHEEL SHIELD" is a package of three water resistant fabric sheets. The fabric sheets protect the aluminum or magnesium alloy rims from being rapidly corroded by caustic chemicals. Magnesium and aluminum are very susceptible to corrosion and pitting, that may go as far as to make the rims not useable with a tubeless tire. WHEEL SHIELD is a fabric covering. The two products in the market cannot be confused. One is a fabric, the other is a silicone coating to re-blacken oxidized tire surfaces. The fabric keeps chemicals from eating through rims. The words are different. Are applicant's goods used on tire rims? RESPONSE: Applicant's spray is not used on the tire rims. Applicant's spray, as stated, is to return a tire to its approximate new-tire appearance, without injuring the tire. TIRE SHIELD is for tires only. Does Applicant's goods prevent or protect against corrosion? RESPONSE: No. It colors the tire. The silicone does prevent some etching of the tire surface. The coating is primarily cosmetic, with some preventative properties that limit the further oxidation of the rubber in the tires. Does Applicant sell corrosion inhabitant protective coating related products? RESPONSE: Cleaning Systems, Inc., produces at least one corrosion inhibiting product. That is "RUST BAN". "RUST BAN" is a product that reduces or prevents rusting on the undercarriage of motor vehicles. The product is applied to the undercarriage, as part of the washing / rinsing cycle in a commercial vehicle wash.

**SIGNATURE SECTION**

DECLARATION SIGNATURE

/joseph m. recka/

SIGNATORY'S NAME

Joseph M. Recka

SIGNATORY'S POSITION

Attorney of record, PTO 27,832

DATE SIGNED

05/14/2009

RESPONSE SIGNATURE

/joseph m. recka/

SIGNATORY'S NAME

Joseph M. Recka

SIGNATORY'S POSITION

Attorney of Record, PTO 27,832

DATE SIGNED

05/14/2009

AUTHORIZED SIGNATORY

YES

CONCURRENT APPEAL NOTICE FILED

YES

**FILING INFORMATION SECTION**

SUBMIT DATE	Thu May 14 11:14:06 EDT 2009
TEAS STAMP	USPTO/RFR-99.139.204.69-2 0090514111406269817-77378 860-430f5e7638837ac2899a5 0a257b6c84da0-N/A-N/A-200 90514105628309413

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#### To the Commissioner for Trademarks:

Application serial no. **77378860** has been amended as follows:

#### ADDITIONAL STATEMENTS

This is a request for reconsideration, preliminary to filing an Appeal to the TTAB. The Examiner has rejected a claim for a chemical tire dressing. The Examiner has rejected the claim for a chemical tire dressing because a fabric protective shield, to protect rims on aluminum or magnesium alloy wheels from corrosive chemical compounds, uses the mark  WHEEL SHIELD . We submitted advertisements showing the fabric product, that was used for WHEEL SHIELD. First, the product is fabric, and our clients product is a silicone tire dressing. The products compared, are totally different. The fabric shield is to protect magnesium and aluminum rims from being eaten and pitted by detergent solution. Our clients product goes on the TIRE. It is a chemical sprayed on the tire. The chemical has nothing to do with the wheel. The Examiner has rejected the mark TIRE SHIELD under Section 2(d) - Likelihood of Confusion. Applicant respectfully disagrees with the Examiner. The buyers of TIRE SHIELD are sophisticated buyers, buying chemicals for commercial car washes, truck washes, boat washes, and airplane washes. The Examiner has requested additional product information about the goods. An MSDS sheet was submitted for TIRE SHIELD. Examiner has asked the following questions: 1. What is the function of applicant's goods? RESPONSE: TIRE SHIELD is a specific chemical formulation, made by the in-house chemist at Cleaning Systems, Inc., which comprises a particular silicone tire dressing. The silicone tire dressing is sprayed on to a tire, to blacken the tire, to a more approximate color of the tire when it was new, and has not been in service. To point out the extreme difference between the silicone chemical coating, sold by applicant, and the fabric shield sold under the mark  WHEEL SHIELD , an advertisement for "WHEEL SHIELD" was submitted. "WHEEL SHIELD" is a package of three water resistant fabric sheets. The fabric sheets protect the aluminum or magnesium alloy rims from being rapidly corroded by caustic chemicals. Magnesium and aluminum are very susceptible to corrosion and pitting, that may go as far as to make the rims not useable with a tubeless tire. WHEEL SHIELD is a fabric covering. The two products in the market cannot be confused. One is a fabric, the other is a silicone coating to re-blacken oxidized tire surfaces. The fabric keeps chemicals from eating through rims. The words are different. Are applicant's goods used on tire rims? RESPONSE: Applicant's spray is not used on the tire rims. Applicant's spray, as stated, is to return a tire to its approximate new-tire appearance, without injuring the tire. TIRE SHIELD is for tires only. Does Applicant's goods prevent or protect against corrosion? RESPONSE: No. It colors the tire. The silicone

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**SIGNATURE(S)****Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had 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. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 244. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /joseph m. recka/ Date: 05/14/2009

Signatory's Name: Joseph M. Recka

Signatory's Position: Attorney of record, PTO 27,832

**Request for Reconsideration Signature**

Signature: /joseph m. recka/ Date: 05/14/2009

Signatory's Name: Joseph M. Recka

Signatory's Position: Attorney of Record, PTO 27,832

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: 77378860

Internet Transmission Date: Thu May 14 11:14:06 EDT 2009

TEAS Stamp: USPTO/RFR-99.139.204.69-2009051411140626

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