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	77445498
LAW OFFICE ASSIGNED	LAW OFFICE 114
MARK SECTION (no change)	
ARGUMENT(S)	
Applicant requests reconsideration of its mark. Though the mark is listed as BI PLANET BINGO and Design the mark is really PLANET BINGO and Design and the B1 is part of the design part of the mark and the likely consumer would not consider B1 as part of the mark. Since it is a letter and a number it is listed in the mark but it is not part of the main mark for a company that also owns the registration for the mark PLANET POWER. B1 is one of the squares on the B section of some bingo cards and is not an innovative mark and Applicant put it in the design to let people know it is an electronic bingo game software and hardware but the likely consumer would not refer to their mark as B1 PLANET BINGO but instead they would refer to it as PLANET BINGO and design. The mark cited by the Examiner does not use the non-descriptive word PLANET which is the main word used by Applicant to distinquish itself from all competitors. If the Examiner would look at the mark as PLANET BINGO and Design versus B1 GAMES and design, which is how the likely consumer would view the marks then their is absolutely no likelihood of confusion. If the Examiner wishes to put B1 in the mark then it could be PLANET BINGO B1 and design and you would still not have any likelihood of confusion. It is not likely that a consumer looking at the mark would use B1 first and neither would the Applicant. Furthermore the designs of the two marks are not in any way shape or form identical and considering the names are not identical Applicant believes there is no likelihood of confusion and requests reconsideration of the rejection by the Examiner.	
GOODS AND/OR SERVICES SECTION (009)(no change)	
GOODS AND/OR SERVICES SECTION (035)(current)	
INTERNATIONAL CLASS	035
DESCRIPTION	
Advertising and marketing; Advertising, marketing and promotion services; Marketing consultation in the field of bingo, casino and legal gambling, hall designs, giveaways, session planning, floor plan design player rewards, casino and bingo games and promotions and b2b sales, legal gambling promotions and legal online gaming and gambling promotions and marketing; Marketing consulting; Providing advertising, marketing and promotional services, namely, development of advertising campaigns for bingo gaming, legal gambling, online bingo, gaming and legal gambling, player rewards clubs, player points, daubers, bingo charms, and gambling and gaming charms; Real estate	

marketing services in the field of commercial gaming and commercial legal gambling real estate development	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 11/30/2005
FIRST USE IN COMMERCE DATE	At least as early as 11/30/2005
GOODS AND/OR SERVICES SECTION (035)(proposed)	
INTERNATIONAL CLASS	035
DESCRIPTION	
Advertising and marketing; Advertising, marketing and promotion services; Marketing consultation in the field of bingo, casino and legal gambling, hall designs, giveaways, session planning, floor plan design player rewards, casino and bingo games and promotions and b2b sales, legal gambling promotions and legal online gaming and gambling promotions and marketing; Marketing consulting; Providing advertising, marketing and promotional services, namely, development of advertising campaigns for bingo gaming, legal gambling, online bingo, gaming and legal gambling, player rewards clubs, player points, daubers, bingo charms, and gambling and gaming charms; Real estate marketing services in the field of commercial office buildings	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 11/30/2005
FIRST USE IN COMMERCE DATE	At least as early as 11/30/2005
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Farley I. Weiss/
SIGNATORY'S NAME	Farley I. Weiss
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	12/12/2008
RESPONSE SIGNATURE	/Farley I. Weiss/
SIGNATORY'S NAME	Farley I. Weiss
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	12/12/2008
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Dec 12 14:52:33 EST 2008
	USPTO/RFR-70.102.162.218-20081212145233889414-7744

TEAS STAMP	5498-430bea1a02ee1f8dbf21 a9cb312ac832d-N/A-N/A-200 81212144010445121

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

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To the Commissioner for Trademarks:

Application serial no. **77445498** has been amended as follows:

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

Applicant requests reconsideration of its mark. Though the mark is listed as BI PLANET BINGO and Design the mark is really PLANET BINGO and Design and the B1 is part of the design part of the mark and the likely consumer would not consider B1 as part of the mark. Since it is a letter and a number it is listed in the mark but it is not part of the main mark for a company that also owns the registration for the mark PLANET POWER. B1 is one of the squares on the B section of some bingo cards and is not an innovative mark and Applicant put it in the design to let people know it is an electronic bingo game software and hardware but the likely consumer would not refer to their mark as B1 PLANET BINGO but instead they would refer to it as PLANET BINGO and design. The mark cited by the Examiner does not use the non-descriptive word PLANET which is the main word used by Applicant to distinquish itself from all competitors. If the Examiner would look at the mark as PLANET BINGO and Design versus B1 GAMES and design, which is how the likely consumer would view the marks then their is absolutely no likelihood of confusion. If the Examiner wishes to put B1 in the mark then it could be PLANET BINGO B1 and design and you would still not have any likelihood of confusion. It is not likely that a consumer looking at the mark would use B1 first and neither would the Applicant. Furthermore the designs of the two marks are not in any way shape or form identical and considering the names are not identical Applicant believes there is no likelihood of confusion and requests reconsideration of the rejection by the Examiner.

CLASSIFICATION AND LISTING OF GOODS/SERVICES
Applicant proposes to amend the following class of goods/services in the application:
Current: Class 035 for Advertising and marketing; Advertising, marketing and promotion services; Marketing consultation in the field of bingo, casino and legal gambling, hall designs, giveaways, session planning, floor plan design player rewards, casino and bingo games and promotions and b2b sales, legal gambling promotions and legal online gaming and gambling promotions and marketing; Marketing consulting; Providing advertising, marketing and promotional services, namely, development of advertising campaigns for bingo gaming, legal gambling, online bingo, gaming and legal gambling, player rewards clubs, player points, daubers, bingo charms, and gambling and gaming charms; Real estate marketing services in the field of commercial gaming and commercial legal gambling real estate development
Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 11/30/2005 and first used in commerce at least as early as 11/30/2005, and is now in use in such commerce.

Proposed: Class 035 for Advertising and marketing; Advertising, marketing and promotion services; Marketing consultation in the field of bingo, casino and legal gambling, hall designs, giveaways, session planning, floor plan design player rewards, casino and bingo games and promotions and b2b sales, legal gambling promotions and legal online gaming and gambling promotions and marketing; Marketing consulting; Providing advertising, marketing and promotional services, namely, development of advertising campaigns for bingo gaming, legal gambling, online bingo, gaming and legal gambling, player rewards clubs, player points, daubers, bingo charms, and gambling and gaming charms; Real estate marketing services in the field of commercial office buildings
Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 11/30/2005 and first used in commerce at least as early as 11/30/2005, and is now in use in such commerce.
SIGNATURE(S)
Declaration Signature
If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant 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). 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). 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: /Farley I. Weiss/ Date: 12/12/2008
Signatory's Name: Farley I. Weiss
Signatory's Position: Attorney of record

Request for Reconsideration Signature
Signature: /Farley I. Weiss/ Date: 12/12/2008
Signatory's Name: Farley I. Weiss
Signatory's Position: Attorney of record

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 not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77445498
Internet Transmission Date: Fri Dec 12 14:52:33 EST 2008
TEAS Stamp: USPTO/RFR-70.102.162.218-200812121452338
89414-77445498-430bea1a02ee1f8dbf21a9cb3
12ac832d-N/A-N/A-20081212144010445121