

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77697062
LAW OFFICE ASSIGNED	LAW OFFICE 114
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	042
DESCRIPTION	
Advisory and consultancy services, specifically providng a means of color coordinating engineered cementitious composites, namely, color analysis for purposes of the design of cladding, siding, trim, panels and boards for building and construction	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/00/2007
FIRST USE IN COMMERCE DATE	At least as early as 01/00/2007
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	042
DESCRIPTION	
Advisory and consultancy services, specifically providng a means of color coordinating engineered cementitious composites, namely, color analysis for purposes of the design of cladding, siding, trim, panels and boards for building and construction	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/00/2007
FIRST USE IN COMMERCE DATE	At least as early as 01/00/2007
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Lisa R. Hemphill/
SIGNATORY'S NAME	Lisa R. Hemphill

SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	06/14/2010
RESPONSE SIGNATURE	/Lisa R. Hemphill/
SIGNATORY'S NAME	Lisa R. Hemphill
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	06/14/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES

FILING INFORMATION SECTION

SUBMIT DATE	Mon Jun 14 21:56:26 EDT 2010
TEAS STAMP	USPTO/RFR-66.28.98.10-201 00614215626360812-7769706 2-46095ae7ace739debb4f885 2f9cadd01c-N/A-N/A-201006 14214652058473

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **77697062** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 042 for Advisory and consultancy services, specifically providing a means of color coordinating engineered cementitious composites, namely, color analysis for purposes of the design of cladding, siding, trim, panels and boards for building and construction

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 01/00/2007 and first used in commerce at least as early as 01/00/2007, and is now in use in such commerce.

Proposed: Class 042 for Advisory and consultancy services, specifically providing a means of color coordinating engineered cementitious composites, namely, color analysis for purposes of the design of cladding, siding, trim, panels and boards for building and construction

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)).

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 01/00/2007 and first used in commerce at least as early as 01/00/2007, 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 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 and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 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. Section 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. Section 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: /Lisa R. Hemphill/ Date: 06/14/2010

Signatory's Name: Lisa R. Hemphill

Signatory's Position: Attorney of Record

Request for Reconsideration Signature

Signature: /Lisa R. Hemphill/ Date: 06/14/2010

Signatory's Name: Lisa R. Hemphill

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

Serial Number: 77697062

Internet Transmission Date: Mon Jun 14 21:56:26 EDT 2010

TEAS Stamp: USPTO/RFR-66.28.98.10-201006142156263608

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