

From: Coleman, Nicholas

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Subject: U.S. TRADEMARK APPLICATION NO. 77740644 - PEACE OF HEART  
CHOIR - 344600.00196 - Request for Reconsideration Denied - Return to TTAB -  
Message 1 of 3

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Attachment Information:

Count: 3

Files: wiki-1.jpg, wiki-2.jpg, 77740644.doc

# UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 77740644

**MARK:** PEACE OF HEART CHOIR



**CORRESPONDENT ADDRESS:**  
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NEW YORK, NY 10019

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** The Peace of Heart Choir, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO:**  
344600.00196

**CORRESPONDENT E-MAIL ADDRESS:**  
ptodocket@dl.com

## REQUEST FOR RECONSIDERATION DENIED

**ISSUE/MAILING DATE:** 10/8/2010

Applicant is requesting reconsideration of a final refusal issued/mailed March 15, 2010.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

While applicant has attempted to limit the scope of the application to overcome the refusal to register based on a likelihood of confusion with the mark in U.S. Registration No. 1946399, the scope of the registration remains unchanged. Applicant argues that its music goods and services are not religious in nature, but rather secular, with cultural themes that promote tolerance and unity. However, the registration is not only issued for video tapes featuring religious subject matter. The registration includes goods with a family subject matter. The promotion of tolerance of other cultures, unity, and promotion of understanding clearly fall within the very broad specification of subject matter appropriate for a family.

Regarding the differences in the marks, the dominant literal portion of the marks remains the same phrase "Peace of Heart." The additional wording, as previously noted, does not distinguish the respective goods and services, as it merely describes the format of the content, i.e. information and content provided through a forum and choir. While the

proposed mark does contain a design element, the design--consisting of a heart-shaped dove, an olive branch, and wreath, all signs of peace (*See* attached)--merely reinforces the commercial impression imparted by the shared phrase. As such, consumers are likely to call for the goods and services of the respective parties by the same name, "PEACE OF HEART", and the goods are presumed to be similar in nature and marketed to the same end consumer.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. §2.64(b); TMEP §715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

/Nicholas A Coleman/  
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**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.