

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77842692
LAW OFFICE ASSIGNED	LAW OFFICE 107
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	033
DESCRIPTION	Wine
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/30/2006
FIRST USE IN COMMERCE DATE	At least as early as 08/30/2006
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	033
DESCRIPTION	Wine
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/23/2006
FIRST USE IN COMMERCE DATE	At least as early as 10/23/2006
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	Please see attached statement
MISCELLANEOUS FILE NAME(S)	
ORIGINAL PDF FILE	mis-24192131-164400757_ . Request for Reconsideration 8-9-11.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\778\426\77842692\xml8\RFR0002.JPG

SIGNATURE SECTION	
DECLARATION SIGNATURE	/Mark J. Nielsen/
SIGNATORY'S NAME	Mark J. Nielsen
SIGNATORY'S POSITION	Attorney of Record, WSBA #14476
DATE SIGNED	08/09/2011
RESPONSE SIGNATURE	/Mark J. Nielsen/
SIGNATORY'S NAME	Mark J. Nielsen
SIGNATORY'S POSITION	Attorney of Record, WSBA #14476
DATE SIGNED	08/09/2011
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Aug 09 16:52:40 EDT 2011
TEAS STAMP	USPTO/RFR-24.19.2.131-201 10809165240711806-7784269 2-480bce7e458fc111ae21ac1 d64f5159411-N/A-N/A-20110 809164400757144

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **77842692** 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 033 for Wine

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 08/30/2006 and first used in commerce at least as early as 08/30/2006, and is now in use in such commerce.

Proposed: Class 033 for Wine

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 10/23/2006 and first used in commerce at least as early as 10/23/2006, and is now in use in such commerce.

ADDITIONAL STATEMENTS

Please see attached statement

Original PDF file:

[mis-24192131-164400757 . Request for Reconsideration 8-9-11.pdf](#)

Converted PDF file(s) (1 page)

[Miscellaneous File1](#)

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. 2.44. 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: /Mark J. Nielsen/ Date: 08/09/2011

Signatory's Name: Mark J. Nielsen

Signatory's Position: Attorney of Record, WSBA #14476

Request for Reconsideration Signature

Signature: /Mark J. Nielsen/ Date: 08/09/2011

Signatory's Name: Mark J. Nielsen

Signatory's Position: Attorney of Record, WSBA #14476

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: 77842692

Internet Transmission Date: Tue Aug 09 16:52:40 EDT 2011

TEAS Stamp: USPTO/RFR-24.19.2.131-201108091652407118

06-77842692-480bce7e458fc111ae21ac1d64f5

159411-N/A-N/A-20110809164400757144

In Re Application of:)
)
Gilbert Cellars, LLC)
)
Serial No.: **77/842,692**) **REQUEST FOR**
) **RECONSIDERATION**
)
Mark: **GILBERT CELLARS (stylized)**)
)
Int. Class: **33**)
_____)

Applicant Gilbert Cellars, LLC hereby requests reconsideration of the Examining Attorney's final refusal, dated February 14, 2011. Applicant believes that the mark has acquired distinctiveness and is entitled to registration under Section 2(f). Applicant respectfully requests that the final refusal be withdrawn.