

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77851233
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ARGUMENT(S)	
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK EXAMINING DIVISION	
Mark: GREENOPS)	Trademark Examining Attorney:
TRACKING STATION)	
Class: 009)	Anne Farrell
Applicant: Waste)	Law Office: 105
Management, Inc.)	
Serial No.: 77/851,233)	Attorney Docket No.: .
Filed: October 18, 2009)	
	069245.022500

RESPONSE TO FINAL OFFICE ACTION DATED August 25, 2010

Commissioner for Trademarks
 P. O. Box 1451
 Alexandria, Virginia 22313-1451

Dear Madame:

In response to the Final Office Action dated August 25, 2010, Applicant files this Response. Reconsideration of the application is respectfully requested. Respectfully, Applicant informs the Trademark Examining Attorney that it has timely filed an appeal to the Trademark Trial and Appeal Board.

Applicant thanks the Trademark Examining Attorney for finding acceptable the amended identification

and classification of goods.

Remarks Regarding Disclaimer Requirement:

In its prior response, Applicant has entered a disclaimer of the term "STATION" from within its trademark application for GREENOPS TRACKING STATION. The instant application, however, remains refused because the term TRACKING STATION is required to be disclaimed. In particular, the Office Action provides:

"The Internet evidence previously attached to the initial Office Action shows that the goods are used to "track" or for "tracking" recycling by consumers. The evidence states that you can scan your recyclable item and you receive a receipt indicating the number of items recycled. The station is "tracking" or "following the progress" of the number of items recycled...

Applicant argues that there are multiple meanings of the term "TRACKING" and that the multiple meanings means that consumers could imagine a number of types of goods or services offered under the mark. **However, the determination of whether a mark is merely descriptive is considered in relation to the identified goods and/or services, not in the abstract.**"

Office Action, pp 1-2 (emphasis added). In the present case, the term TRACKING, and the term TRACKING STATION (as a whole), within Applicant's applied-for mark, GREENOPS TRACKING STATION, does not *immediately* tell the consumer about the goods or services. Instead, in view of the multiple, and varying, definitions of the term "TRACKING" (the definitions are presented in the prior response to Office Action) the consumer--when considering the term TRACKING, or the term TRACKING STATION (as a whole), within Applicant's applied-for mark, GREENOPS TRACKING STATION, **in relation to the identified goods**--could imagine a number of types of goods or services that might be offered under the mark. For example, TRACKING, in relation to the identified goods, might suggest: 1) **a machine** that permits a consumer to follow the progress of recycling specific materials, e.g., the consumer could watch as his/her bottle was received **by a machine**, cleaned **by a machine**, melted down **by a machine**, and transformed anew **by a machine**; 2) tracks, as for railroad trains, where recyclable materials are received **by a machine** for hauling; or 3) **a machine** for a method of coordinating large-scale recycling efforts, e.g., **a machine** for monitoring and/or instructing an industrial recycling facility.

It is only with imagination, and through the marketing efforts of Applicant, that the consumer will come

to identify the term TRACKING within Applicant's applied-for mark, GREENOPS TRACKING STATION, as a source identifier of "[r]everse vending machines that automate the return of empty bottles, cans, and containers." **For example, Applicant submits that the evidence presented by the Trademark Examining Attorney is information/marketing material about Applicant's own Greenops and Greenopolis activities/communities.**

CONCLUSION

For the above-presented reasons, Applicant respectfully asserts that registration on the Principal Register is proper. Thus, Applicant requests that the Trademark Examining Attorney withdraw her refusal to register the mark on the basis of indefinite identification of goods, and as requiring a disclaimer, and further the instant trademark application towards publication.

Respectfully submitted,

Date: 2/23/11

/s/

Ben D. Tobor
 Jason P. Sander
 Attorneys of Record, Texas bar members

SIGNATURE SECTION

RESPONSE SIGNATURE	/Jason P. Sander/
SIGNATORY'S NAME	Jason P. Sander
SIGNATORY'S POSITION	Attorney of record, Texas bar member
DATE SIGNED	02/23/2011
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO

FILING INFORMATION SECTION

SUBMIT DATE	Wed Feb 23 19:10:16 EST 2011
TEAS STAMP	USPTO/RFR-69.174.87.20-20 110223191016620773-778512 33-480be29e142ba4537ffc9 98d4a7fe0ebb7-N/A-N/A-201 10223182849798480

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

Application serial no. **77851233** has been amended as follows:

ARGUMENT(S)

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

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING DIVISION**

Mark:	GREENOPS)	Trademark Examining Attorney:
	TRACKING STATION)	
)	Anne Farrell
Class:	009)	
)	
	Applicant: Waste)	Law Office: 105
	Management, Inc.)	
)	
Serial No.:	77/851,233)	Attorney Docket No.:
)	
Filed:	October 18, 2009)	069245.022500

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Respectfully submitted,

Date: 2/23/11

/s/
Ben D. Tobor
Jason P. Sander
Attorneys of Record, Texas bar members

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Jason P. Sander/ Date: 02/23/2011

Signatory's Name: Jason P. Sander

Signatory's Position: Attorney of record, Texas bar member

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: 77851233

Internet Transmission Date: Wed Feb 23 19:10:16 EST 2011

TEAS Stamp: USPTO/RFR-69.174.87.20-20110223191016620

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