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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78710805
Applicant	Spirits of New Merced, LLC
Applied for Mark	YOSEMITE BEER
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Submission	Explanation regarding late filing.
Attachments	declaration.pdf (2 pages)(22811 bytes)
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Date	04/23/2007

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United States Patent & Trademark Office
Trademark Trial & Appeal Board
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RE: YOSEMITE BEER – Serial No., 78710805

To Whom It May Concern:

Please accept this declaration as a formal explanation for our late filing of the appeal brief in the above-referenced matter. The Applicant filed its appeal after the final decision of the Trademark Examining Attorney was issued on December 15, 2006. The Applicant then had Sixty (60) days to file its appeal brief from that date. On February 8, 2007, Applicant submitted a request for an extension of time for a Sixty (60) day period, with the assumption that, if granted, the sixty day extension period would be added onto the initial sixty-day period. The Applicant assumed that, if granted, the brief would be due cumulatively one-hundred and twenty (120) days from December 15, 2006, making the brief filing deadline April 13, 2007.

The Applicant's request was in fact granted, but the second sixty-day period was started on February 8, 2007, the date of the request for extension. The final filing deadline was issued as April 9, 2007, without consideration to the amount of time left to file the brief from the first sixty-day period. This meant that the Appellant only had one-hundred and sixteen (116) days from December 15, 2006, and not 120 days.

The Applicant's appeal brief was submitted on April 10, 2007, presuming that its brief was actually filed early and keeping in mind the supposed April 13 deadline. As a result, the Applicant's brief was filed apparently late.

Applicant apologizes for any inconvenience this may have caused, but due to various other business matters and priorities that were forthcoming, was not cognizant of the fact that the brief was due four days earlier than initially calculated according to the original appeal brief deadline, as extended. Applicant was assuming that the practices for calculating the length of an extension would be similar to those used in other jurisdictions, which would grant an extension using the cumulative total amount of days to file. Thus, Applicant respectfully requests that the full one-hundred and twenty day (120) day period be adhered to instead of the earlier deadline, and that the brief be accepted as timely filed for these purposes.

Please feel free to contact me if you have any questions or concerns, and thank you for your attention in this regard.

Respectfully Submitted,

/Kenneth A. Vogel/

Kenneth A. Vogel

Attorney-of-Record for the Applicant