

PTO Form 1960 (Rev 9/2007)

OMB No. xxx-xxxx (Exp. x/xxxx)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78849329
LAW OFFICE ASSIGNED	LAW OFFICE 114
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In addition to the previous argument Applicant has made in this matter, although Applicant realizes that each application turns on its own facts and that other registrations are not binding on the Examining Attorney, Applicant wants to draw the Examiner's attention to a recent registration for the mark ANTIBALAS (Reg. No. 3297722) which was first denied due to likely confusion with the registered mark BULLETPROOF (Reg. No. 1881185) based on the doctrine of foreign equivalents. Both marks identify musical recordings in Class 9 and the translation from the Spanish to English is exact. Further, the consumers of recorded music are not sophisticated. The Examiner reversed the denial after being presented with an argument similar to the one made in this matter (counsel for Applicant is also counsel for the registrant of ANTIBALAS). Given this result, it seems unjust to deny in this case where the mark is not a direct translation as it is in ANTIBALAS / BULLETPROOF. The marks simply are not confusing as their respective commercial impressions are totally different.</p>	
<b>SIGNATURE SECTION</b>	
RESPONSE SIGNATURE	/mark falkin/
SIGNATORY'S NAME	Mark Falkin
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	10/11/2007
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Thu Oct 11 16:03:18 EDT 2007
TEAS STAMP	USPTO/RFR-24.153.219.48-2 0071011160318311769-78849 329-400c09bda6ed628e39885 c752eb2353be0-N/A-N/A-200 71011155819560974

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OMB No. xxx-x-xxxx (Exp. x/xxxx)

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### To the Commissioner for Trademarks:

Application serial no. **78849329** has been amended as follows:

#### ARGUMENT(S)

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

In addition to the previous argument Applicant has made in this matter, although Applicant realizes that each application turns on its own facts and that other registrations are not binding on the Examining Attorney, Applicant wants to draw the Examiner's attention to a recent registration for the mark ANTIBALAS (Reg. No. 3297722) which was first denied due to likely confusion with the registered mark BULLETPROOF (Reg. No. 1881185) based on the doctrine of foreign equivalents. Both marks identify musical recordings in Class 9 and the translation from the Spanish to English is exact. Further, the consumers of recorded music are not sophisticated. The Examiner reversed the denial after being presented with an argument similar to the one made in this matter (counsel for Applicant is also counsel for the registrant of ANTIBALAS). Given this result, it seems unjust to deny in this case where the mark is not a direct translation as it is in ANTIBALAS / BULLETPROOF. The marks simply are not confusing as their respective commercial impressions are totally different.

#### SIGNATURE(S)

**Request for Reconsideration Signature**

Signature: /mark falkin/ Date: 10/11/2007

Signatory's Name: Mark Falkin

Signatory's Position: Attorney for Applicant

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: 78849329

Internet Transmission Date: Thu Oct 11 16:03:18 EDT 2007

TEAS Stamp: USPTO/RFR-24.153.219.48-2007101116031831  
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