

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79044154
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	

Sir:

The applicant hereby respectfully requests the Examining Attorney to reconsider the final refusal to register the applied-for mark. The only issues that are to be resolved according to the Final Office Action of December 30, 2009 are the likelihood of confusion refusal with regard to the mark in U.S. Registration Nos. 2881490 and 2877377 as to classes 01, 07 and as to certain goods in class 11, and three objections to the identification of goods in Class 19. All other issues have been resolved previously. In particular, the Examining Attorney accepted the identification of goods in all of the classes of this application, except for Class 19.

In the following, the applicant wishes to address the identification of goods first and subsequently comment on the likelihood of confusion refusal issue and the about to be signed Consent Agreement with the owner, DBG Group Investments LLC (hereinafter: "DBG"), of the two trademark registrations cited against the applicant for likelihood of confusion reasons:

IDENTIFICATION OF GOODS

International Class 19

(a) Preformed ponds

In compliance with the Examining Attorney's proposal, the applicant wishes to amend the identification of those goods which are made of plastic to read: "preformed plastic ponds".

(b) Fountain basins made of plastic or stone ...

The Examining Attorney required the applicant to further define these goods in class 019. The undersigned wishes to make reference to the telephone conversations with the Examining Attorney, on June 09 and June 10, 2010, in which the Examining Attorney indicated that he would accept the following amended identification of those goods:

"preformed water basins of plastic or stone for fountain installation, in the nature of non-metal in-ground or above-ground basins for holding and catching circulating water for

decorative fountains for use in gardening and landscaping”.

The Examining Attorney is respectfully requested to accept this amended wording.

(c) Fitted plastic covers for basins ...

The Examining Attorney required the applicant to further define these goods in class 019. The undersigned wishes to make reference to the telephone conversation with the Examining Attorney, on June 09, 2010, in which the Examining Attorney indicated that he would accept the following amended identification of those goods:

“fitted plastic basin covers in the nature of coverings for optically hiding water reservoirs and filters of ponds and fountains”.

The Examining Attorney is respectfully requested to accept this amended wording.

International Class 01

The applicant wishes to limit applicant’s identification of goods in Class 01 by adding the wording “or of water for human use” at the end of the identification of goods in this class. The identification of goods in Class 01 shall, therefore, read in its entirety as set forth in the Class 01 goods identification field of this Request to Reconsider Form.

The Examining Attorney is respectfully requested to accept the limiting identification.

International Class 07

In order to comply with applicant’s obligation in accordance with applicant’s Consent Agreement with DBG, the applicant wishes to limit applicant’s identification of goods in Class 07 by adding the wording “or of water for human use” at the end of the wording: “all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption”.

The identification of goods in Class 07 shall, therefore, read in its entirety as set forth in the Class 07 goods identification field of this Request to Reconsider Form.

The Examining Attorney is respectfully requested to accept the limiting identification.

International Class 11

(a) In order to comply with applicant’s obligation in accordance with applicant’s Consent Agreement with DBG, the applicant wishes to limit applicant’s identification of goods in Class 11 by adding the wording “or of water for human use” at the very end of the goods identification in this class, following the wording: “all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption”.

The Examining Attorney is respectfully requested to accept the limiting identification.

(b) Further, in order to comply with applicant’s obligation in accordance with applicant’s Consent Agreement with DBG, the applicant wishes to limit applicant’s identification of goods in Class 11 by adding the wording “for use outdoors” immediately following the wordings: “water filtering apparatus” and “water purification and filtering apparatus”, respectively. As applicant’s “aquarium filters” are not filters for use outdoors and as DBG also consents to applicant’s registration and use of the mark of this application in association with aquarium filters, the applicant moved the goods

“aquarium filters” as currently listed within the identification of “water purification and filtering apparatus, namely, ...” to the beginning of that particular identification of goods.

The Examining Attorney is respectfully requested to accept the limiting identification.

The applicant hereby amends the identification of good as set out in the respective goods identification fields of this Request to Reconsider Form. The identification as amended does not include any goods that are not within the scope of the goods set forth in the original identification.

The Examining Attorney is respectfully requested to withdraw the finality of the Final Office Action and to approve applicant’s mark for publication, also with respect to the goods in international classes 01, 07, 11, and 19.

Likelihood of Confusion Refusal

The applicant and DBG have negotiated a Consent Agreement, which, at this point in time solely requires DBG’s and the applicant’s signatures. The Consent Agreement will show that there is no likelihood of confusion between applicant’s mark and DBG’s marks in Reg. Nos. 2881490 and 2877377. The undersigned expects the Agreement to be signed by both parties within the next few weeks or even days.

The undersigned wishes to make reference to the telephone conversation with the Examining Attorney on June 10, 2010. The applicant would very much appreciate if the Examining Attorney could grant the applicant, as the Examining Attorney indicated in the telephone conversation, another 30 days to submit the fully executed Consent Agreement.

The Consent Agreement details reasons why, in the judgment of the real parties in interest, no likelihood of confusion exists and provides arrangements should future conditions or developments create a likelihood of confusion. In particular, the Consent Agreement also describes the unrelated nature of the respective goods of the parties to the Agreement, as well as the dissimilar channels of trade, includes certain limiting language to be incorporated in applicant’s amended identification of goods, etc., and contains other provisions relevant to conclude that no likelihood of confusion exists.

With regard to the likelihood of confusion refusal, the applicant also wishes to incorporate by reference applicant’s arguments made in applicant’s responses to earlier Office Actions in this application matter. In addition, the applicant believes that customer confusion is not likely because the applicant already owns U.S. trademark registrations of the standard character wordmark “OASE” and a word-and-design mark “OASE”, Reg. Nos. 2,508,287 and 2,508,288, both marks associated with goods and/or services either identical or related to applicant’s goods that are the subject of the likelihood of confusion refusal. The goods/services of those registrations are:

“water pumps for use in swimming pools, aquariums, landscaping, and ornamental bodies of water, and replacement parts therefor, in Class 07; indoor and outdoor fountains; water garden systems comprised of fountains, filters, pumps and piping, in Class 11; and custom manufacture of water pumps for use in swimming pools, aquariums, landscaping and ornamental bodies of water and parts therefor, in Class 40”;

the services class was cancelled for Reg. No. 2,508,288.

The date of first use in commerce of those two marks was the year 1984. The applicant has been using the term "OASE" in commerce as a trademark in association with the goods of those registrations continuously since 1984. Therefore, it appears fair to state that because of applicant's more than 25 year-long use of the term OASE on goods identical or related to the goods of applicant's present application, applicant's addition of "OASE" to the wording "LIVING WATER" is more likely to distinguish applicant's mark from DBG's mark than to add to any likelihood of confusion as to the source of applicant's goods.

Should the Examining Attorney not view these additional arguments to overcome the likelihood of confusion refusal in the Final Office Action, the applicant respectfully requests the Examining Attorney to grant the applicant another 30 days to submit the fully executed Consent Agreement. The applicant has attempted to be fully responsive to the Final Office Action. However, should the Examining Attorney have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to resolve any outstanding issues and expedite placement of the application into condition for publication.

GOODS AND/OR SERVICES SECTION (001)(current)

INTERNATIONAL CLASS 001

DESCRIPTION

Water treatment chemicals for garden fountains, ponds, artificial lakes, aquariums, swimming pools and spas, all goods not for use in the production, distribution or delivery of drinking water for human consumption

GOODS AND/OR SERVICES SECTION (001)(proposed)

INTERNATIONAL CLASS 001

DESCRIPTION

Water treatment chemicals for garden fountains, ponds, artificial lakes, aquariums, swimming pools and spas, all goods not for use in the production, distribution or delivery of drinking water for human consumption or of water for human use;

GOODS AND/OR SERVICES SECTION (006)(no change)

GOODS AND/OR SERVICES SECTION (007)(current)

INTERNATIONAL CLASS 007

DESCRIPTION

Pumps, namely, electric pumps; sump pumps for liquids, sludge, suspended matter or floating materials on water surfaces; water pumps for fountains, swimming pools, aquariums, water treatment installations and sprinkling devices; underwater pumps for swimming pools, universal pumps, namely, all purpose

water pumps for the aforesaid uses; industrial pumps, namely, water pumps for lake treatment systems; structural parts for the aforesaid pumps; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption; high-pressure cleaning apparatus, namely, high pressure washers for fountains, artificial lakes, ponds, swimming pools, aquariums, water treatment systems, and other bodies of water

GOODS AND/OR SERVICES SECTION (007)(proposed)

INTERNATIONAL CLASS 007

DESCRIPTION

Pumps, namely, electric pumps; sump pumps for liquids, sludge, suspended matter or floating materials on water surfaces; water pumps for fountains, swimming pools, aquariums, water treatment installations and sprinkling devices; underwater pumps for swimming pools, universal pumps, namely, all purpose water pumps for the aforesaid uses; industrial pumps, namely, water pumps for lake treatment systems; structural parts for the aforesaid pumps; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption or of water for human use; high-pressure cleaning apparatus, namely, high pressure washers for fountains, artificial lakes, ponds, swimming pools, aquariums, water treatment systems, and other bodies of water

GOODS AND/OR SERVICES SECTION (009)(no change)

GOODS AND/OR SERVICES SECTION (011)(current)

INTERNATIONAL CLASS 011

DESCRIPTION

Lighting apparatus and installations, namely, electric light fixtures; lighting apparatus, namely, UV lamps not for medical purposes, sterilization lamps, water treatment installations, namely, chemical sterilization units, water filtering apparatus, namely, water filters; water purification and filtering apparatus, namely pond filters, aquarium filters, fountain filters and structural parts for the aforesaid goods, namely filter devices, namely, automated debris screens and filter foams and lighting equipment therefor, namely, UV-lamps as structural parts of pond filters; plumbing fittings for sanitary water filtering installations, namely water pipes being parts of sanitary facilities and tub or basin overflows for swimming pools and fountains; decorative water fountains and water fountains for public spaces, gardens, balconies and interiors; water fountains, irrigation nozzles; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption

GOODS AND/OR SERVICES SECTION (011)(proposed)

INTERNATIONAL CLASS 011

DESCRIPTION

Lighting apparatus and installations, namely, electric light fixtures; lighting apparatus, namely, UV lamps not for medical purposes, sterilization lamps, water treatment installations, namely, chemical sterilization units, water filtering apparatus for use outdoors, namely, water filters; aquarium filters, water purification and filtering apparatus for use outdoors, namely pond filters, fountain filters and structural parts for the aforesaid goods, namely filter devices, namely, automated debris screens and filter foams and lighting equipment therefor, namely, UV-lamps as structural parts of pond filters;

plumbing fittings for sanitary water filtering installations, namely water pipes being parts of sanitary facilities and tub or basin overflows for swimming pools and fountains; decorative water fountains and water fountains for public spaces, gardens, balconies and interiors; water fountains, irrigation nozzles; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption or of water for human use;

GOODS AND/OR SERVICES SECTION (017)(no change)

GOODS AND/OR SERVICES SECTION (019)(current)

INTERNATIONAL CLASS 019

DESCRIPTION

Preformed ponds; fountain basins made of plastic or stone, namely, water reservoirs in the nature of nonmetal in-ground or above-ground basins for holding and catching circulating water for decorative fountains for use in gardening and landscaping; fitted plastic covers for basins, namely, coverings for optically hiding water reservoirs and filters of ponds and fountains

GOODS AND/OR SERVICES SECTION (019)(proposed)

INTERNATIONAL CLASS 019

DESCRIPTION

Preformed plastic ponds; preformed water basins of plastic or stone for fountain installation, in the nature of nonmetal in-ground or above-ground basins for holding and catching circulating water for decorative fountains for use in gardening and landscaping; fitted plastic basin covers in the nature of coverings for optically hiding water reservoirs and filters of ponds and fountains;

GOODS AND/OR SERVICES SECTION (020)(no change)

GOODS AND/OR SERVICES SECTION (021)(no change)

GOODS AND/OR SERVICES SECTION (031)(no change)

GOODS AND/OR SERVICES SECTION (037)(no change)

GOODS AND/OR SERVICES SECTION (042)(no change)

GOODS AND/OR SERVICES SECTION (044)(no change)

SIGNATURE SECTION

RESPONSE SIGNATURE	/Beate Boudro/
SIGNATORY'S NAME	Beate Boudro
SIGNATORY'S POSITION	Attorney of record, New Mexico State Bar member
DATE SIGNED	06/30/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES

FILING INFORMATION SECTION

SUBMIT DATE

Wed Jun 30 13:31:11 EDT 2010

TEAS STAMP

USPTO/RFR-64.42.134.37-20
100630133111498030-790441
54-460a7ea422b51a79d3fba
f40f9436119-N/A-N/A-20100
630130530828788

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

Application serial no. **79044154** has been amended as follows:

ARGUMENT(S)

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

Sir:

The applicant hereby respectfully requests the Examining Attorney to reconsider the final refusal to register the applied-for mark. The only issues that are to be resolved according to the Final Office Action of December 30, 2009 are the likelihood of confusion refusal with regard to the mark in U.S. Registration Nos. 2881490 and 2877377 as to classes 01, 07 and as to certain goods in class 11, and three objections to the identification of goods in Class 19. All other issues have been resolved previously. In particular, the Examining Attorney accepted the identification of goods in all of the classes of this application, except for Class 19.

In the following, the applicant wishes to address the identification of goods first and subsequently comment on the likelihood of confusion refusal issue and the about to be signed Consent Agreement with the owner, DBG Group Investments LLC (hereinafter: "DBG"), of the two trademark registrations cited against the applicant for likelihood of confusion reasons:

IDENTIFICATION OF GOODS

International Class 19

(a) Preformed ponds

In compliance with the Examining Attorney's proposal, the applicant wishes to amend the identification of those goods which are made of plastic to read: "preformed plastic ponds".

(b) Fountain basins made of plastic or stone ...

The Examining Attorney required the applicant to further define these goods in class 019. The undersigned wishes to make reference to the telephone conversations with the Examining Attorney, on June 09 and June 10, 2010, in which the Examining Attorney indicated that he would accept the following amended identification of those goods:

“preformed water basins of plastic or stone for fountain installation, in the nature of non-metal in-ground or above-ground basins for holding and catching circulating water for decorative fountains for use in gardening and landscaping”.

The Examining Attorney is respectfully requested to accept this amended wording.

(c) Fitted plastic covers for basins ...

The Examining Attorney required the applicant to further define these goods in class 019. The undersigned wishes to make reference to the telephone conversation with the Examining Attorney, on June 09, 2010, in which the Examining Attorney indicated that he would accept the following amended identification of those goods:

“fitted plastic basin covers in the nature of coverings for optically hiding water reservoirs and filters of ponds and fountains”.

The Examining Attorney is respectfully requested to accept this amended wording.

International Class 01

The applicant wishes to limit applicant’s identification of goods in Class 01 by adding the wording “or of water for human use” at the end of the identification of goods in this class. The identification of goods in Class 01 shall, therefore, read in its entirety as set forth in the Class 01 goods identification field of this Request to Reconsider Form.

The Examining Attorney is respectfully requested to accept the limiting identification.

International Class 07

In order to comply with applicant’s obligation in accordance with applicant’s Consent Agreement with DBG, the applicant wishes to limit applicant’s identification of goods in Class 07 by adding the wording “or of water for human use” at the end of the wording: “all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption”.

The identification of goods in Class 07 shall, therefore, read in its entirety as set forth in the Class 07 goods identification field of this Request to Reconsider Form.

The Examining Attorney is respectfully requested to accept the limiting identification.

International Class 11

(a) In order to comply with applicant’s obligation in accordance with applicant’s Consent Agreement with DBG, the applicant wishes to limit applicant’s identification of goods in Class 11 by adding the wording “or of water for human use” at the very end of the goods identification in this class, following the wording: “all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption”.

The Examining Attorney is respectfully requested to accept the limiting identification.

(b) Further, in order to comply with applicant's obligation in accordance with applicant's Consent Agreement with DBG, the applicant wishes to limit applicant's identification of goods in Class 11 by adding the wording "for use outdoors" immediately following the wordings: "water filtering apparatus" and "water purification and filtering apparatus", respectively. As applicant's "aquarium filters" are not filters for use outdoors and as DBG also consents to applicant's registration and use of the mark of this application in association with aquarium filters, the applicant moved the goods "aquarium filters" as currently listed within the identification of "water purification and filtering apparatus, namely, ..." to the beginning of that particular identification of goods.

The Examining Attorney is respectfully requested to accept the limiting identification.

The applicant hereby amends the identification of good as set out in the respective goods identification fields of this Request to Reconsider Form. The identification as amended does not include any goods that are not within the scope of the goods set forth in the original identification.

The Examining Attorney is respectfully requested to withdraw the finality of the Final Office Action and to approve applicant's mark for publication, also with respect to the goods in international classes 01, 07, 11, and 19.

Likelihood of Confusion Refusal

The applicant and DBG have negotiated a Consent Agreement, which, at this point in time solely requires DBG's and the applicant's signatures. The Consent Agreement will show that there is no likelihood of confusion between applicant's mark and DBG's marks in Reg. Nos. 2881490 and 2877377. The undersigned expects the Agreement to be signed by both parties within the next few weeks or even days.

The undersigned wishes to make reference to the telephone conversation with the Examining Attorney on June 10, 2010. The applicant would very much appreciate if the Examining Attorney could grant the applicant, as the Examining Attorney indicated in the telephone conversation, another 30 days to submit the fully executed Consent Agreement.

The Consent Agreement details reasons why, in the judgment of the real parties in interest, no likelihood of confusion exists and provides arrangements should future conditions or developments create a likelihood of confusion. In particular, the Consent Agreement also describes the unrelated nature of the respective goods of the parties to the Agreement, as well as the dissimilar channels of trade, includes certain limiting language to be incorporated in applicant's amended identification of goods, etc., and contains other provisions relevant to conclude that no likelihood of confusion exists.

With regard to the likelihood of confusion refusal, the applicant also wishes to incorporate by reference applicant's arguments made in applicant's responses to earlier Office Actions in this application matter. In addition, the applicant believes that customer confusion is not likely because the applicant already owns U.S. trademark registrations of the standard character wordmark "OASE" and a word-and-design mark "OASE", Reg. Nos. 2,508,287 and 2,508,288, both marks associated with goods and/or services either

identical or related to applicant's goods that are the subject of the likelihood of confusion refusal. The goods/services of those registrations are:

“water pumps for use in swimming pools, aquariums, landscaping, and ornamental bodies of water, and replacement parts therefor, in Class 07; indoor and outdoor fountains; water garden systems comprised of fountains, filters, pumps and piping, in Class 11; and custom manufacture of water pumps for use in swimming pools, aquariums, landscaping and ornamental bodies of water and parts therefor, in Class 40”; the services class was cancelled for Reg. No. 2,508,288.

The date of first use in commerce of those two marks was the year 1984. The applicant has been using the term “OASE” in commerce as a trademark in association with the goods of those registrations continuously since 1984. Therefore, it appears fair to state that because of applicant's more than 25 year-long use of the term OASE on goods identical or related to the goods of applicant's present application, applicant's addition of “OASE” to the wording “LIVING WATER” is more likely to distinguish applicant's mark from DBG's mark than to add to any likelihood of confusion as to the source of applicant's goods.

Should the Examining Attorney not view these additional arguments to overcome the likelihood of confusion refusal in the Final Office Action, the applicant respectfully requests the Examining Attorney to grant the applicant another 30 days to submit the fully executed Consent Agreement.

The applicant has attempted to be fully responsive to the Final Office Action. However, should the Examining Attorney have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to resolve any outstanding issues and expedite placement of the application into condition for publication.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 001 for Water treatment chemicals for garden fountains, ponds, artificial lakes, aquariums, swimming pools and spas, all goods not for use in the production, distribution or delivery of drinking water for human consumption

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 001 for Water treatment chemicals for garden fountains, ponds, artificial lakes, aquariums, swimming pools and spas, all goods not for use in the production, distribution or delivery of drinking water for human consumption or of water for human use;

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 007 for Pumps, namely, electric pumps; sump pumps for liquids, sludge, suspended matter or floating materials on water surfaces; water pumps for fountains, swimming pools, aquariums, water treatment installations and sprinkling devices; underwater pumps for swimming pools, universal pumps, namely, all purpose water pumps for the aforesaid uses; industrial pumps, namely, water pumps for lake treatment systems; structural parts for the aforesaid pumps; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption; high-pressure cleaning apparatus, namely, high pressure washers for fountains, artificial lakes, ponds, swimming pools, aquariums, water treatment systems, and other bodies of water

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 007 for Pumps, namely, electric pumps; sump pumps for liquids, sludge, suspended matter or floating materials on water surfaces; water pumps for fountains, swimming pools, aquariums, water treatment installations and sprinkling devices; underwater pumps for swimming pools, universal pumps, namely, all purpose water pumps for the aforesaid uses; industrial pumps, namely, water pumps for lake treatment systems; structural parts for the aforesaid pumps; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption or of water for human use; high-pressure cleaning apparatus, namely, high pressure washers for fountains, artificial lakes, ponds, swimming pools, aquariums, water treatment systems, and other bodies of water

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 011 for Lighting apparatus and installations, namely, electric light fixtures; lighting apparatus, namely, UV lamps not for medical purposes, sterilization lamps, water treatment installations, namely, chemical sterilization units, water filtering apparatus, namely, water filters; water purification and filtering apparatus, namely pond filters, aquarium filters, fountain filters and structural parts for the aforesaid goods, namely filter devices, namely, automated debris screens and filter foams and lighting equipment therefor, namely, UV-lamps as structural parts of pond filters; plumbing fittings for sanitary water filtering installations, namely water pipes being parts of sanitary facilities and tub or basin overflows for swimming pools and fountains; decorative water fountains and water fountains for public spaces, gardens, balconies and interiors; water fountains, irrigation nozzles; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 011 for Lighting apparatus and installations, namely, electric light fixtures; lighting apparatus, namely, UV lamps not for medical purposes, sterilization lamps, water treatment installations, namely, chemical sterilization units, water filtering apparatus for use outdoors, namely, water filters; aquarium filters, water purification and filtering apparatus for use outdoors, namely pond filters, fountain filters and structural parts for the aforesaid goods, namely filter devices, namely, automated debris screens and filter foams and lighting equipment therefor, namely, UV-lamps as structural parts of pond filters; plumbing fittings for sanitary water filtering installations, namely water pipes being parts of sanitary

facilities and tub or basin overflows for swimming pools and fountains; decorative water fountains and water fountains for public spaces, gardens, balconies and interiors; water fountains, irrigation nozzles; all the aforesaid goods not for use in the production, distribution or delivery of drinking water for human consumption or of water for human use;

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 019 for Preformed ponds; fountain basins made of plastic or stone, namely, water reservoirs in the nature of nonmetal in-ground or above-ground basins for holding and catching circulating water for decorative fountains for use in gardening and landscaping; fitted plastic covers for basins, namely, coverings for optically hiding water reservoirs and filters of ponds and fountains

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 019 for Preformed plastic ponds; preformed water basins of plastic or stone for fountain installation, in the nature of nonmetal in-ground or above-ground basins for holding and catching circulating water for decorative fountains for use in gardening and landscaping; fitted plastic basin covers in the nature of coverings for optically hiding water reservoirs and filters of ponds and fountains;

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Beate Boudro/ Date: 06/30/2010

Signatory's Name: Beate Boudro

Signatory's Position: Attorney of record, New Mexico State 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 filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79044154

Internet Transmission Date: Wed Jun 30 13:31:11 EDT 2010

TEAS Stamp: USPTO/RFR-64.42.134.37-20100630133111498
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436119-N/A-N/A-20100630130530828788