

**United States Patent and Trademark Office  
Trademark Trial and Appeal Board**  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: December 29, 2011

In re Magic Wand Creations,  
LLC

Serial No. 85000617

Filed: 3/29/2010

VINCENT M AMBERLY  
AMBERLY LAW  
307 E MARKET STREET  
SUITE 202  
LEESBURG VA 20176

**Lalita R. Greer, Paralegal Specialist:**

On December 16, 2011, the Board remanded this application to the examining attorney to consider the amendment to the Supplemental Register filed by applicant on December 8, 2011. However, it has come to the Board's attention that applicant did not, and still has not, filed an Amendment to Allege Use of the mark in that application. Because use in commerce is a requirement for an application on the Supplemental Register, it would be futile for the examining attorney to consider the amendment to the Supplemental Register at this time.

Accordingly, the Board's December 16, 2011 order is hereby vacated. Applicant's request for remand is denied. Applicant is allowed thirty days in which to file its appeal brief. Should applicant obtain a signed Amendment to Allege Use, applicant may file it with a renewed request for remand.