

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

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Mailed: November 4, 2011

In re OLD WORLD INDUSTRIES,
LLC

Serial No. 85078614

Filed: 7/6/2010

RONALD A DICERBO
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Denise M. DelGizzi,
Technical Program Manager:

This serves to modify the Board's September 9, 2011 order.

Applicant's appeal filed September 8, 2011, and request for reconsideration filed September 9, 2011, are noted.

Because the request for reconsideration was filed more than six months after the issuance of the final refusal, the Board treats the filing as a request for remand. For good cause shown, the request is granted. However, the request for reconsideration requires consideration by the Trademark Examining Attorney. Accordingly, action on the appeal is suspended and the application is remanded to the Examining Attorney for consideration of the request for reconsideration.

One basis of the final refusal was the unacceptability of the identification of goods, and the request contains a proposed amendment to the identification. If the amendment is accepted and the mark is found registrable on the basis of this paper, the appeal will be moot and proceedings on the appeal will terminate in due course. If the amendment is accepted but the refusal to register is maintained, the Examining Attorney should issue an Office Action so indicating, and notify the Board. The appeal will then be resumed and applicant allowed time in which to file its appeal brief. If the Examining Attorney determines that the amendment to the identification is not acceptable, the Examining Attorney should indicate in the Office Action the reasons why the proposed amendment is unacceptable, and notify the Board for resumption of proceedings in the appeal.¹

However, if the Examining Attorney believes that the problems with the proposed identification can be resolved, the Examining Attorney is encouraged to contact applicant, either by telephone or written Office Action, in an attempt to do so.

¹ If the Examining Attorney believes that the proposed amendment is unacceptable because it exceeds the scope of the original identification, or the identification as it has subsequently been amended, then the Examining Attorney may not issue a final refusal unless applicant was previously advised that amendments broadening the identification are prohibited under Trademark Rule 2.71(a).