

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85259691
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION (no change)	
ARGUMENT(S)	<p>In response to the Trademark Attorney's Final Office Action dated January 6, 2012, the following amendments and remarks are respectfully submitted in connection with the above-identified application.</p> <p><u>IN THE APPLICATION</u></p> <p>Please insert the following disclaimer: --No claim is made to the exclusive right to the word "THREAD" apart from the mark as shown.--</p> <p style="text-align: center;"><u>REMARKS</u></p> <p>Applicant thanks the Trademark Attorney for the very thorough consideration given the present application.</p> <p style="text-align: center;"><u>DESCRIPTIVENESS OF THE MARK</u></p> <p>The Trademark Attorney has issued a final refusal to register the mark based on the contention that the mark is merely descriptive of the goods. The Trademark Attorney is respectfully advised that some of the Applicant's goods contain a thread which is composed of cellulose acetate with coloring. A mentholation process will occur through the application of the menthol onto a foil material. The thread filter will serve more as a visual cue indicating a higher mentholation versus Applicant's current menthol product which is being offered. This information was provided to the Trademark Attorney in the Applicant's Amendment dated December 8, 2011. Because some of the Applicant's goods contain a thread as indicated above, Applicant hereby disclaims the word "thread" apart from the mark as shown. Entry of the disclaimer into the official record is respectfully requested.</p> <p>Applicant submits that the words "filter" and "technology" are not merely descriptive of the</p>

Applicant's goods. The Trademark Attorney attached one of the uncovered excerpts to indicate that "the filter thread option is a heated applicator designed to allow flavor loading of a textile yard (thread) for direct incorporation into the filter tow." However, this information regarding "filter thread option" does not describe the Applicant's goods under the mark "FILTER THREAD TECHNOLOGY." There is no such technology called "Filter Thread Technology." With regard to the term "technology," Applicant submits that this term has nothing to do with the thread which was added in the Applicant's goods or any feature of the Applicant's goods. More specifically, the Applicant does not refer to any technology which has been recognized in the industry. Therefore, there is doubt regarding the mark's descriptiveness. Any doubt regarding the mark's descriptiveness should be resolved on Applicant's behalf. *In re Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 828 F.2d 1567, 1571 4 USPQ2d 1141, 1144 (Fed. Cir. 1987); and *In Re Grand Forest Holdings*, 78 USPQ2d 1152, 1156 (TTAB 2006).

CONCLUSION

Since all the requirements of the Trademark Attorney have been complied with, it is believed that the present application should be in condition for publication. Therefore, an early Notice of Publication is respectfully requested.

Please charge any fees or credit any overpayment pursuant to 37 C.F.R. § 2.6 to Deposit Account No. 02-2448.

**ADDITIONAL STATEMENTS SECTION**

<b>DISCLAIMER</b>	No claim is made to the exclusive right to use 'thread' apart from the mark as shown.
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**SIGNATURE SECTION**

<b>RESPONSE SIGNATURE</b>	/James M. Slattery/
<b>SIGNATORY'S NAME</b>	James M. Slattery
<b>SIGNATORY'S POSITION</b>	Attorney of Record, VA Bar
<b>SIGNATORY'S PHONE NUMBER</b>	703-205-8000
<b>DATE SIGNED</b>	06/29/2012
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	NO

**FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Fri Jun 29 16:47:45 EDT 2012
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TEAS STAMP

USPTO/RFR-169.130.19.14-2  
0120629164745277452-85259  
691-490ad651af8a09b4cf9ca  
417e7a52c11c11-N/A-N/A-20  
120629154804522396

PTO Form 128 (Rev. 8-14-09)  
Filing by e-file (USPTO Form 128e)

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

Application serial no. **85259691** has been amended as follows:

**ARGUMENT(S)**

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

In response to the Trademark Attorney's Final Office Action dated January 6, 2012, the following amendments and remarks are respectfully submitted in connection with the above-identified application.

IN THE APPLICATION

Please insert the following disclaimer:

--No claim is made to the exclusive right to the word "THREAD" apart from the mark as shown.--

REMARKS

Applicant thanks the Trademark Attorney for the very thorough consideration given the present application.

DESCRIPTIVENESS OF THE MARK

The Trademark Attorney has issued a final refusal to register the mark based on the contention that the mark is merely descriptive of the goods. The Trademark Attorney is respectfully advised that some of the Applicant's goods contain a thread which is composed of cellulose acetate with coloring. A mentholation process will occur through the application of the menthol onto a foil material. The thread filter will serve more as a visual cue indicating a higher mentholation versus Applicant's current menthol product which is being offered. This information was provided to the Trademark Attorney in the Applicant's Amendment dated December 8, 2011. Because some of the Applicant's goods contain a

thread as indicated above, Applicant hereby disclaims the word "thread" apart from the mark as shown. Entry of the disclaimer into the official record is respectfully requested.

Applicant submits that the words "filter" and "technology" are not merely descriptive of the Applicant's goods. The Trademark Attorney attached one of the uncovered excerpts to indicate that "the filter thread option is a heated applicator designed to allow flavor loading of a textile yard (thread) for direct incorporation into the filter tow." However, this information regarding "filter thread option" does not describe the Applicant's goods under the mark "FILTER THREAD TECHNOLOGY." There is no such technology called "Filter Thread Technology." With regard to the term "technology," Applicant submits that this term has nothing to do with the thread which was added in the Applicant's goods or any feature of the Applicant's goods. More specifically, the Applicant does not refer to any technology which has been recognized in the industry. Therefore, there is doubt regarding the mark's descriptiveness. Any doubt regarding the mark's descriptiveness should be resolved on Applicant's behalf. *In re Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 828 F.2d 1567, 1571 4 USPQ2d 1141, 1144 (Fed. Cir. 1987); and *In Re Grand Forest Holdings*, 78 USPQ2d 1152, 1156 (TTAB 2006).

#### CONCLUSION

Since all the requirements of the Trademark Attorney have been complied with, it is believed that the present application should be in condition for publication. Therefore, an early Notice of Publication is respectfully requested.

Please charge any fees or credit any overpayment pursuant to 37 C.F.R. § 2.6 to Deposit Account No. 02-2448.

#### **ADDITIONAL STATEMENTS**

##### **Disclaimer**

No claim is made to the exclusive right to use 'thread' apart from the mark as shown.

##### **SIGNATURE(S)**

##### **Request for Reconsideration Signature**

Signature: /James M. Slattery/ Date: 06/29/2012

Signatory's Name: James M. Slattery

Signatory's Position: Attorney of Record, VA Bar

Signatory's Phone Number: 703-205-8000

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: 85259691

Internet Transmission Date: Fri Jun 29 16:47:45 EDT 2012

TEAS Stamp: USPTO/RFR-169.130.19.14-2012062916474527

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