

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85319690
LAW OFFICE ASSIGNED	LAW OFFICE 112
MARK SECTION (no change)	
ARGUMENT(S)	

**REQUEST FOR RECONSIDERATION AND  
REQUEST TO SUSPEND PENDING OUTCOME OF PETITION TO CANCEL**

This is in response to the Final Office Action dated February 11, 2012.

**REMARKS**

The Examiner has refused registration under Section 2(d) in light of U.S. Registration No. 3,922,100 for LTE (the "Registration"). The refusal is based on Classes 9 and 38 of the Registration.

On August 7, 2012, Applicant filed Cancellation Proceeding No. 92056002 with the Trademark Trial and Appeal Board seeking to cancel Classes 9 and 38 of the Registration.

Filing a petition to cancel is a proper response to the §2(d) refusal. *See* TMEP § 716.02(a):

"If the examining attorney refuses registration under §2(d) of the Trademark Act in view of the mark in a prior registration, the applicant may file a petition to cancel the registration under 15 U.S.C. §1064 and, within a proper response period, inform the examining attorney that the petition to cancel has been filed. This will constitute a proper response to the §2(d) refusal, and may be done by telephone, if there are no other outstanding issues that require a written response. The examining attorney will then suspend further action until the termination of the cancellation proceeding, if the application is otherwise in condition for approval or final refusal. The applicant should provide the number of the cancellation proceeding, if available; however, if the applicant does not provide the cancellation number, the examining attorney may ascertain it from USPTO records."

When a petition to cancel is filed after issuance of a final 2(d) refusal, the application should be



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

Application serial no. **85319690** has been amended as follows:

**ARGUMENT(S)**

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

**REQUEST FOR RECONSIDERATION AND**  
**REQUEST TO SUSPEND PENDING OUTCOME OF PETITION TO CANCEL**

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**REMARKS**

The Examiner has refused registration under Section 2(d) in light of U.S. Registration No. 3,922,100 for LTE (the "Registration"). The refusal is based on Classes 9 and 38 of the Registration.

On August 7, 2012, Applicant filed Cancellation Proceeding No. 92056002 with the Trademark Trial and Appeal Board seeking to cancel Classes 9 and 38 of the Registration.

Filing a petition to cancel is a proper response to the §2(d) refusal. *See* TMEP § 716.02(a):

"If the examining attorney refuses registration under §2(d) of the Trademark Act in view of the mark in a prior registration, the applicant may file a petition to cancel the registration under 15 U.S.C. §1064 and, within a proper response period, inform the examining attorney that the petition to cancel has been filed. This will constitute a proper response to the §2(d) refusal, and may be done by telephone, if there are no other outstanding issues that require a written response. The examining attorney will then suspend further action until the termination of the cancellation proceeding, if the application is otherwise in condition for approval or final refusal. The applicant should provide the number of the cancellation proceeding, if available; however, if the applicant does not provide the cancellation number, the examining attorney may ascertain it from USPTO records."

When a petition to cancel is filed after issuance of a final 2(d) refusal, the application should be suspended. *See* TMEP § 716.06:

"If the examining attorney determines that action on an application should be suspended after issuance of a final refusal, the examining attorney must issue a suspension notice. This may occur, for example, when the applicant files a petition to cancel a cited registration...."

