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Filing date: **07/07/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85440081
Applicant	Navajo Manufacturing Company
Applied for Mark	U.S. BIKER
Correspondence Address	SIMOR L MOSKOWITZ WESTERMAN HATTORI DANIELS & ADRIAN LLP 1250 CONNECTICUT AVENUE NW, SUITE 700 WASHINGTON, DC 20036 UNITED STATES trademark@whda.com, smoskowitz@whda.com
Submission	Applicants Request for Remand and Amendment
Attachments	US Biker 134 Request for Reconsideration.pdf(65409 bytes) U.S. BIKER signed Dec.pdf(163452 bytes)
Filer's Name	Simor L. Moskowitz
Filer's e-mail	trademarkmail@WHDA.com,smoskowitz@whda.com
Signature	/Simor L. Moskowitz/
Date	07/07/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the application of:)
)
Navajo Manufacturing Company)
)
Serial No.: 85/440081)
)
Filed: October 5, 2011)
)
Mark: U.S. BIKER & DESIGN)

**REQUEST FOR RECONSIDERATION
AND SUSPENSION**

Applicant, through its undersigned counsel, hereby requests that the appeal in the above-captioned application be suspended and the application remanded to the Examining Attorney for consideration of this Request For Reconsideration.

Applicant hereby requests reconsideration of the Examining Attorney's required disclaimer of "U.S. BIKER" (as opposed to "BIKER" *per se*), unwillingness to accept the previous claim of acquired distinctiveness under Section 2(f), and continued refusal to register the subject mark pursuant to Section 2(e)(1).

Applicant supplements its previous submissions to again note that it has used the mark U.S. BIKER, in one form or another, as a trademark since in or about January 2012, in connection with sunglasses; and that since that time, Applicant has sold in excess of 100,000 pairs of sunglasses having a per unit retail price of \$9.99 - \$12.99; or in excess of \$1,200,000 retail value. As a result of such use, U.S. BIKER has acquired distinctiveness in connection with Applicant's sunglasses, and functions as a trademark to indicate Applicant as the source of origin for its U.S. BIKER goods. In support of the foregoing, Applicant submits the Declaration of Gordon Levy, the CEO of Applicant, with attached Declarations of two of Applicant's customers, attesting to their consideration of Applicant's U.S. BIKER mark as "distinctive and well-recognized as a source indicator of sunglasses coming from and associated with Navajo [Applicant]".

Based upon this supplemental evidence, Applicant requests that the Examining Attorney favorably reconsider his position and accept the application pursuant to Section 2(f) on the basis of acquired distinctiveness of U.S. BIKER.¹

In view of the foregoing, Applicant respectfully requests that this Motion be granted, and that the time for Applicant to file its brief in this appeal be extended as requested.

Respectfully submitted,

NAVAJO MANUFACTURING COMPANY

By: /Simor L. Moskowitz/

Simor L. Moskowitz

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Dated: July 7, 2014

Atty Docket No.: 13914828TM

¹ Applicant notes that it would be prepared to accept a registration of the mark with a disclaimer of only “biker”, as initially included in the application as filed.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)	
Navajo Manufacturing Company)	Trademark Examining Attorney:
Serial No.: 85/440,057)	James Rauen
Filed: October 11, 2012)	Law Office 109
Mark: U.S. BIKER)	

DECLARATION UNDER SECTION 2(f)

I, Gordon Levy, declare as follows:

(1) I am CEO of the Applicant corporation and authorized to make this declaration in support of registration of the above mark.

(2) Applicant has used the mark U.S. BIKER, in one form or another, as a trademark since on or about January 17, 2017, in connection with sunglasses. Since that time, Applicant has sold in excess of 100,000 pairs of sunglasses having a retail price of \$9.99 – \$12.99; or in excess of \$1,200,000 retail value. As a result of such use, I believe that the trademark U.S. BIKER has acquired distinctiveness in connection with Applicant's sunglasses, and functions as a trademark to indicate Applicant as the source of origin for its U.S. BIKER sunglasses.

(3) As a result of Applicant's substantial use of the U.S. BIKER mark, Applicant's customers and the trade have come to know and recognize the mark and associate it with Applicant as reflected by the attached Declarations from TNT Sales Co., and from Central States Novelty LLC (the latter previously submitted February 14, 2013).

(4) All other facts and allegations contained in the application as filed are true to the best of my knowledge; all statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

NAVAJO MANUFACTURING COMPANY


By: 
Gordon Levy, CEO

Dated: July 7, 2014
Atty Dkt.: 13914828TMUS0

To Whom It May Concern

Our company is a customer of Navajo Manufacturing Company, and has purchased significant quantities of its line of U.S. BIKER sunglasses, which we in turn sell in retail stores. I understand that Navajo is seeking to obtain a federal registration of its U.S. BIKER trademark and, in support of that effort, state that: I am well familiar with the market for sunglasses in the United States both in terms of products available and sunglass brands and, based upon my experience, I believe that Navajo's U.S. BIKER brand is distinctive and well-recognized as a source indicator of sunglasses coming from and associated with Navajo.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.



Scott Robins
Buyer - TNT Sales Co.

Date: February 22, 2013

Central States Novelty LLC

"Your Full Service Novelty & Gift Distributor"

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785-635-9340 (Company Cell)

To Whom It May Concern

Our company is a customer of Navajo Manufacturing Company, and has purchased significant quantities of its line of **U.S. BIKER** sunglasses, which we in turn sell in retail stores. I understand that Navajo is seeking to obtain a federal registration of its **U.S. BIKER** trademark and, in support of that effort, state that: I am well familiar with the market for sunglasses in the United States both in terms of products available and sunglass brands and, based upon my experience, I believe that Navajo's **U.S. BIKER** brand is distinctive and well-recognized as a source indicator of sunglasses coming from and associated with Navajo.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

 (owner)

(Name:)

(Title:)