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Subject: U.S. TRADEMARK APPLICATION NO. 85984162 - CLEARBAGS - T12003.A.DIV - REMAND  
REQUEST TO TTAB

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# UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**U.S. APPLICATION SERIAL NO.** 85984162

**MARK:** CLEARBAGS



**CORRESPONDENT ADDRESS:**

GRANT R CLAYTON

CLAYTON HOWARTH & CANNON PC

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SANDY UT 84091-1909

**APPLICANT:** Clear Image, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

T12003.A.DIV

**CORRESPONDENT E-MAIL ADDRESS:**

## OPPOSE REQUEST FOR REMAND

The examining attorney opposes applicant's Request for Remand filed on August 2, 2018 for lack of good cause. This is applicant's third Request for Remand to the examining attorney and fourth Request to Divide the application.

On June 2, 2016, applicant filed a Request to Divide in an attempt to overcome the refusals under Sections 2(e)(1), and Section 23(c) of the Trademark Act. Applicant's division of the application failed to resolve the issues and a Final Office Action was issued on June 22, 2016.

On February 6, 2017, applicant filed this appeal and the application was remanded to the examining attorney. In its Request for Reconsideration applicant amended its goods in an attempt to overcome

the refusal. However, applicant's amendments failed to resolve the issues and the examining attorney issued a denial of applicant's Request for Reconsideration on March 3, 2017.

On April 25, 2017, applicant filed a Request for Remand in order to file a Request to Divide and further amend its identification of goods. Applicant's amendments failed to resolve the issues and the examining attorney issued a denial of applicant's Request for Reconsideration on January 12, 2018.

On April 16, 2018, applicant again filed a Request for Remand in order to file an additional Request to Divide and further amend its identification of goods. Applicant's division and amendments again failed to resolve the issues and the examining attorney issued a denial of applicant's Request for Reconsideration on June 22, 2018.

On August 2, 2018 applicant again filed a Request for Remand, stating that it intends to further amend its identification of goods and file yet another Request to Divide. However, upon review of applicant's proposed amendments, it is clear that the identification of goods will still include the same goods that were previously subject to the refusal, and thus the amendments will still fail to resolve the issues. In addition, applicant has provided no explanation in its request as to why the further amendments could not have been made earlier, or why the previous three divisions of the application failed to resolve the issues. Applicant's Request for Remand is not supported by good cause, as is required by the rules of the Board.

TBMP Section 1205.01 provides that an applicant's request for remand must be supported by good cause, which "will generally be found, for example, when the amendment is an attempt to comply with a requirement, such as an amendment to the identification of goods or services in response to a requirement for an acceptable identification, when the amendment will obviate a ground for refusal." TBMP §1205.01; see also TBMP §1209.04.

Applicant's Request for Remand does not resolve the issues in this case. Specifically, in Exhibit A applicant proposes to improperly re-insert the following goods back into the application: *"Reclosable bags with or without hang holes with a colored opaque block; decorative food bags with an opaque printed pattern" [Class 16] and "All-purpose carrying bags, all fabricated from an opaque printed patterned polymer and all for travel, and not as packaging, namely gusset bags, side gusset bags, flat bottom gusset bags, clear print gusset bags" [Class 18].* These goods were previously deleted by applicant by amendment. Applicant then proposes to divide out the improperly re-inserted goods and retain all the goods currently under refusal in the instant application. If this practice is allowed the appeal could be delayed indefinitely.

It is clear that the applicant's request is not supported by good cause since the proposed amended identification of goods and further proposal to divide the application will still fail to resolve the issues. Accordingly, the examining attorney respectfully requests that applicant's Request for Remand be denied and jurisdiction of this case be returned to the Board.

Respectfully submitted,

/John M. Wilke/

Examining Attorney

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