

From: Rademacher, Mark

Sent: 12/11/2017 3:45:47 PM

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Subject: U.S. TRADEMARK APPLICATION NO. 86689423 - 08957.4556 - Request for Reconsideration Denied - Return to TTAB

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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 86689423

MARK:



CORRESPONDENT ADDRESS:

JULIA ANNE MATHESON

Finnegan Henderson Farabow Garrett & Dun

901 New York Ave NW

Washington, DC 20001-4432

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

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APPLICANT: Starbucks Corporation

CORRESPONDENT'S REFERENCE/DOCKET NO:

08957.4556

CORRESPONDENT E-MAIL ADDRESS:

docketing@finnegan.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 12/11/2017

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement(s) and/or refusal(s) made final in the Office action dated May 10, 2017 are maintained and continue to be final: **SECTIONS 1 AND 45 FINAL REFUSAL – MARK DIFFERS IN DRAWING AND SPECIMEN.** See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The mark in the drawing is not a substantially exact representation of the mark as used on or in connection with the goods and services as required by rule 2.51(a). Applicant has not shown use of the mark in the drawing in commerce.

The drawing of the mark is not merely a minor alteration of those used in commerce and depicted in the specimens. In contrast to the cases cited by applicant, the differences between the drawing and the use depicted in the specimens are not merely the addition or subtraction of minor features, but instead lie in the nature of significant features of the mark. The mark in the drawing is stark and abstract having a pictographic or symbolic impression; the cup featuring the painted shape conveys a playful and imperfect impression of art; finally the lined cup conveys a realistic perspective representation of a coffee cup.

For these reasons, the cases cited by applicant do not compel acceptance of the mark in the drawing as representative of those in the specimens. A determination of whether a mark depicted in a drawing is a substantially exact representation of a mark shown in a specimen is based on the unique circumstances of each case. *In re University of Miami*, 123 USPQ2d 1075, 1077 (TTAB 2017).

Since applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

/Mark Rademacher/

Attorney-advisor

United States Patent and Trademark Office

mark.rademacher@uspto.gov (informal only)

(571) 272-9723