

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	87147865
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 111
<b>MARK SECTION</b>	
<b>MARK</b>	https://tmng-al.uspto.gov/resting2/api/img/87147865/large
<b>LITERAL ELEMENT</b>	VELOCITY
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font style, size or color.
<b>ARGUMENT(S)</b>	
<p>In response to the Final Office Action dated July 10, 2017 directed to Application Serial No. 87147865 for the mark VELOCITY (“Applicant’s Mark”), reconsideration is respectfully requested in view of the following.</p> <p><u>Procedural History</u></p> <p>On November 30, 2016, the Examining Attorney issued a Non-Final Office Action refusing registration of Applicant’s Mark under Section 2(d) of the Lanham Act for likelihood of confusion with the mark in U.S. Registration No. 2067612 (VELOCITY) (the “Cited Registration”). On May 30, 2017, Applicant submitted a response to the office action. On July 10, 2017, the Examining Attorney issued a Final Office Action regarding the refusal under Section 2(d) of the Lanham Act for likelihood of confusion with the Cited Registration.</p> <p><u>The Cited Registration Is No Longer Active</u></p> <p>During the pendency of the time period for Applicant’s response to the final office action, the Cited Registration has become cancelled, although the USPTO records do not yet indicate as such. The Cited Registration has a registration date of June 3, 1997. The Cited Registration was renewed under Sections 8 and 9 of the Lanham Act in 2007 for a further ten years. A second renewal was therefore due on June 3, 2017 under Sections 8 and 9 of the Lanham Act. The Registrant failed to renew the Cited Registration for the second renewal. No renewal papers were filed on or prior to the June 3, 2017 renewal deadline, nor during the six-month grace period thereafter. Accordingly, Applicant asserts that the Cited Registration is cancelled and requests that the USPTO update its record of the Cited Registration accordingly.</p> <p>The cancellation of the Cited Registration during the pendency of this prosecution results in the Examining Attorney’s refusal being moot insofar as the Section 2(d) refusal is concerned. Because the Section 2(d) refusal is the only remaining issue involved in the prosecution of Applicant’s Mark, the Examining Attorney should withdraw the Section 2(d) refusal, and Applicant’s Mark should be approved for publication.</p>	
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/JB/
<b>SIGNATORY'S NAME</b>	JASON BERTA
<b>SIGNATORY'S POSITION</b>	ATTORNEY OF RECORD, ILLINOIS BAR MEMBER
<b>SIGNATORY'S PHONE NUMBER</b>	773-961-1547
<b>DATE SIGNED</b>	01/10/2018
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Wed Jan 10 12:04:13 EST 2018

TEAS STAMP

USPTO/RFR-XXX.XXX.XXX.XX-  
20180110120413854584-8714  
7865-51066ab77e3f52553792  
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22be8ea2f23920f7ed9f-N/A-  
N/A-20180110120052869669

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PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 09/20/2020)

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. **87147865** VELOCITY(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87147865/large>) has been amended as follows:

#### ARGUMENT(S)

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

In response to the Final Office Action dated July 10, 2017 directed to Application Serial No. 87147865 for the mark VELOCITY (“Applicant’s Mark”), reconsideration is respectfully requested in view of the following.

##### Procedural History

On November 30, 2016, the Examining Attorney issued a Non-Final Office Action refusing registration of Applicant’s Mark under Section 2(d) of the Lanham Act for likelihood of confusion with the mark in U.S. Registration No. 2067612 (VELOCITY) (the “Cited Registration”). On May 30, 2017, Applicant submitted a response to the office action. On July 10, 2017, the Examining Attorney issued a Final Office Action regarding the refusal under Section 2(d) of the Lanham Act for likelihood of confusion with the Cited Registration.

##### The Cited Registration Is No Longer Active

During the pendency of the time period for Applicant’s response to the final office action, the Cited Registration has become cancelled, although the USPTO records do not yet indicate as such. The Cited Registration has a registration date of June 3, 1997. The Cited Registration was renewed under Sections 8 and 9 of the Lanham Act in 2007 for a further ten years. A second renewal was therefore due on June 3, 2017 under Sections 8 and 9 of the Lanham Act. The Registrant failed to renew the Cited Registration for the second renewal. No renewal papers were filed on or prior to the June 3, 2017 renewal deadline, nor during the six-month grace period thereafter. Accordingly, Applicant asserts that the Cited Registration is cancelled and requests that the USPTO update its record of the Cited Registration accordingly.

The cancellation of the Cited Registration during the pendency of this prosecution results in the Examining Attorney’s refusal being moot insofar as the Section 2(d) refusal is concerned. Because the Section 2(d) refusal is the only remaining issue involved in the prosecution of Applicant’s Mark, the Examining Attorney should withdraw the Section 2(d) refusal, and Applicant’s Mark should be approved for publication.

#### SIGNATURE(S)

##### Request for Reconsideration Signature

Signature: /JB/ Date: 01/10/2018

Signatory's Name: JASON BERTA

Signatory's Position: ATTORNEY OF RECORD, ILLINOIS BAR MEMBER

Signatory's Phone Number: 773-961-1547

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 owner's/holder'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 owner/holder in this matter: (1) the owner/holder 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 owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder'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 filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 87147865

Internet Transmission Date: Wed Jan 10 12:04:13 EST 2018

TEAS Stamp: USPTO/RFR-XXX.XXX.XXX.XX-201801101204138

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-N/A-N/A-20180110120052869669