

From: Engel, Michael

Sent: 3/18/2019 2:22:40 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 87571628 - NOBLE - N/A - Request for Reconsideration Denied - Return to TTAB

Attachment Information:

Count: 1

Files: 87571628.doc

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

U.S. APPLICATION SERIAL NO. 87571628

MARK: NOBLE



CORRESPONDENT ADDRESS:

KEVIN KEENER

KEENER AND ASSOCIATES PC

161 NORTH CLARK STREET SUITE 1600

CHICAGO, IL 60601

GENERAL TRADEMARK INFORMATION:

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

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Noble Sports, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

trademark@keenerlegal.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 3/18/2019

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 refusal made final in the Office action dated August 20, 2018 is maintained and continues to be final: the refusal under Trademark Act Section 2(d) with respect to a likelihood of confusion with the mark in U.S. Registration No. **5271114**. See TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement made final in the Office action is satisfied: the amended identification of goods is acceptable. See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issues, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue 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.

Applicant argues that confusion is unlikely because the term NOBLE is weak, but this assertion is not borne out by the evidence of record. None of the third-party marks submitted into evidence by applicant are used on bicycles. In fact, the evidence shows that no other party uses the term NOBLE (or NOBEL) as all or part of a mark on bicycles or parts thereof. This lack of third-party usage, coupled with the absence of descriptive significance with respect to bicycles, makes the mark a strong one in the field of bicycles.

The fact remains that applicant's mark is comprised solely of the dominant term in registrant's mark, and will be used on the same goods (bicycles), and other goods closely related to bicycles. In these circumstances, registration cannot be granted because of a likelihood of confusion with the mark in Reg. No. 5271114.

If 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).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Michael Engel/

Trademark Examining Attorney

Law Office 107

Michael.Engel@uspto.gov

(571) 272-9338