

From: Bhupathi, Tara

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Subject: U.S. Trademark Application Serial No. 87863543 - W THE WOLFF COMPANY SINCE 1949 - 077433-105 - 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. 87863543

Mark: W THE WOLFF COMPANY SINCE 1949

Correspondence Address:

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Applicant: WOLFF PRINCIPAL HOLDINGS, LP

Reference/Docket No. 077433-105

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REQUEST FOR RECONSIDERATION
AFTER FINAL ACTION
DENIED

Issue date: **September 07, 2019**

Applicant's request for reconsideration is denied. *See* 37 C.F.R. §2.63(b)(3). The trademark examining attorney has carefully reviewed applicant's request and determined the request did not: (1) raise a new issue, (2) resolve the outstanding issue, (3) provide any new or compelling evidence

with regard to the outstanding issue, or (4) present analysis and arguments that were persuasive or shed new light on the outstanding issue. TMEP §§715.03(a)(ii)(B), 715.04(a).

Accordingly, the following requirement refusals made final in the Office action dated February 16, 2019 are **maintained and continued**:

- Specimen Unacceptable – Class 35

See TMEP §§715.03(a)(ii)(B), 715.04(a).

In addition, the following refusal made final in that Office action are **withdrawn**:

- Section 2(d) Refusal – Likelihood of Confusion

See TMEP §§715.03(a)(ii)(B), 715.04(a).

Specimen Unacceptable – Class 35

In response, applicant argues that the initial and substitute specimen show the mark used for marketing and advertising of commercial real estate. Further, applicant argues that the specimen was accepted in a co-pending application for the same services.

First, the initial and substitute specimen fail to show the applied-for mark used for the referenced services in Class 35 because the mark in the drawing only appears on the top of a page advertising multifamily-focused real estate private equity, developments and acquisitions. The “Investments” page which advertises and markets commercial real estate and the page regarding 4730 California do not show the applied-for mark as shown in the drawing. As such, the specimen fail to show the applied-for mark used in commerce for the referenced services. Although the page bearing the mark includes a link to INVESTMENTS, it is not clear from that page that the link leads to advertising and marketing commercial real estate.

Second, the mark in the co-pending application is shown on the pages advertising and marketing commercial real estate. As such, the specimen was acceptable in the co-pending application and not acceptable in the present application.

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

If applicant has not filed an appeal and time remains in the six-month response period, applicant has the remainder of that time to (1) [file another request for reconsideration](#) that complies with and/or overcomes 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). Filing 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(c).

/Tara L. Bhupathi/

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