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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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October 15, 2024

In re Eggleston IV, York

Ex Parte Appeal No. 90115802

Appeal received: **February 16, 2022**

Brief due: **N/A**

By the Trademark Trial and Appeal Board:

This appeal was suspended pending any decision by the Supreme Court that finally resolved the issue in *In re Elster*, Case No. 20-2205.¹ A review of the record of that case reveals that the Supreme Court issued a final judgment on June 13, 2024 and its mandate on September 16, 2024.

In view of the foregoing and the filing of the request for reconsideration on July 15, 2024, the appeal is once again suspended and the application is remanded to the Examining Attorney to consider the request for reconsideration.

If registrability is found on the basis of the request for reconsideration, the appeal will be moot. In the event the refusal of registration is maintained, and assuming that the request for reconsideration does not raise a new issue, the application will

¹ On July 15, 2024, the Supreme Court of the United States reversed the United States Court of Appeals for the Federal Circuit's affirmation of the Board's decision. The mandate issued on September 16, 2024 was recalled. See TTABVue records under Ex Parte Appeal No. 87749230.

be returned to the Board, proceedings in the appeal will be resumed, and Appellant will be allowed time in which to file an appeal brief. If the request for reconsideration raises a new issue, the Examining Attorney may not issue a final refusal until the Appellant has been given an opportunity to respond. Upon issuance of a final refusal, proceedings in the appeal will be resumed, and Appellant will be allowed time in which to file an appeal brief.

Appeal Briefs

Upon resumption of the appeal, Appellant will be allowed time to file an appeal brief, with the required fee. Failure to file the brief may result in dismissal of the appeal. Trademark Rules 2.142(b)(1) and 2.6(a)(18).

The Trademark Rules of Practice provide that the Examining Attorney shall file a written brief answering Appellant's brief and shall send a copy of the brief to Appellant within sixty days after Appellant's brief is sent to the Examining Attorney. Appellant may file a reply brief within twenty days from the mailing date of the Examining Attorney's brief. If an oral hearing is desired, Appellant must file a separate request accompanied by the required fee not later than ten days after the due date for Appellant's reply brief. Trademark Rules 2.142, 2.6(a)(18) and 2.6(a)(24).

Briefs must meet each of the requirements prescribed in Trademark Rule 2.126, which states that submissions must be made to the Board via ESTTA. *See* Trademark Rule 2.142(b)(2). ESTTA forms for electronic filings are available at <https://estta.uspto.gov>. Board proceeding files can be viewed using TTABVUE at <https://ttabvue.uspto.gov>.