

ESTTA Tracking number: **ESTTA1236791**

Filing date: **09/20/2022**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Ex Parte Appeal - Serial No.	90319740
Appellant	Pike Brands LLC
Applied for mark	TILTING MARBLES
Correspondence address	STANLEY D. FERENGE III FERENGE & ASSOCIATES LLC 409 BROAD STREET PITTSBURGH, PA 15143 UNITED STATES Primary email: uspto@ferencelaw.com 412-741-8400
Submission	Request for remand/amendment
Attachments	20220920_Request_Remand_or_Extend_Time_Appeal_Brief.pdf(129746 bytes)
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Signature	/John W. Goldschmidt, Jr./
Date	09/20/2022

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of:	:
Pike Brands LLC	: Appeal Filed: May 23, 2022
	:
Serial No: 90/319,740	: Examining Attorney:
	: Alexandra Suarez Liebl
Filed: November 14, 2020	:
	: Law Office: 120
Mark: TILTING MARBLES	:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

**REQUEST FOR REMAND OR
EXTENSION OF TIME FOR FILING APPEAL BRIEF**

Pursuant to Section 1209.04 of the Trademark Trial and Appeal Board Manual of Procedure (hereinafter the “TBMP”) and for the reasons set forth herein Applicant, by and through its counsel, hereby requests that the above-captioned Application, now on appeal to the Trademark Trial and Appeal Board (hereinafter the “Board”), be remanded to the jurisdiction of the Examining Attorney.

TBMP § 1209.04 states that a

. . . request for remand [requested by Applicant] must include a showing of good cause In determining whether good cause has been shown, the Board will consider both the reason given and the point in the appeal at which the request for remand is made.

TBMP § 1209.04 further states that:

[i]f the request for remand is granted, the Board will suspend proceedings with respect to the appeal, and remand the application to the examining attorney for consideration of the request for remand.

Good cause in support of this Request is present in view of the current procedural posture of the prosecution and appeal of this Application. In this regard, Applicant has not yet filed its Appeal Brief. In addition, Applicant has attempted to reach the Examining Attorney assigned to this case in order to arrange for a personal or telephonic interview to more fully understand the Examining Attorney's descriptiveness rejection and evidence provided in support of the Examining Attorney's rejection. Unfortunately, Applicant has been unsuccessful in reaching the Examining Attorney prior to and since the filing of the Notice of Appeal and Applicant understands that the Examining Attorney is out of the office on extended leave until at least October 2022.

Applicant believes that such an interview with the Examining Attorney will not only assist Applicant in better understanding the Examining Attorney's position on descriptiveness, but will also enable Applicant to better formulate and present its arguments on appeal as well as in determining the type of relevant evidence of distinctiveness and/or lack of descriptiveness which may be appropriate for submission at this stage of the prosecution or appeal. Applicant further believes that an interview with the Examining Attorney will result in significant efficiencies in time and expense to both the United States Patent and Trademark Office and the Applicant.

In view of the foregoing, Applicant believes that there is good cause for the Board to suspend the instant appeal and remand the Application back to the jurisdiction of the Examining Attorney for further action.

Alternatively, and in the event that the Board denies Applicant's Request for Remand, Applicant respectfully requests a sixty (60) day extension through and including November 19, 2022, in which to file its Appeal Brief with the Board.¹

This Request is made in the interests of justice, not for the purposes of undue delay, and granting Applicant's Request for Remand or, alternatively, extension of time to file Applicant's

¹ TBMP § 1209.04 ("If the request [for Remand] is denied, the Board will allow the applicant time in which to file its appeal brief.")

Appeal Brief, should result in economies of time and expense to the Trademark Trial and Appeal Board as well as to the Applicant.

WHEREFORE, for the foregoing reasons, Applicant respectfully requests that the Board remand the instant Application to the jurisdiction of the Examining Attorney, or alternatively grant Applicant an additional sixty (60) days in in which to file its Appeal Brief.

Respectfully submitted,

/John W. Goldschmidt, Jr./

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Date: September 20, 2022

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