To:	cputt@thorindustries.com; phartman@thorindustries.com; mlogan@thorindustries.com
Subject:	Proceeding No. PDIR-2024-014794 in U.S. Trademark Registration No. undefined
Sent:	January 24, 2025 02:57:09 PM EST
Sent As:	tmng.notices@uspto.gov

Attachments

United States Patent and Trademark Office (USPTO)

Petition No. PDIR-2024-014794

U.S. Application Serial No. 97532135

Mark: DAZZLE

Owner Name: Thor Tech, Inc.

Owner Correspondence Email Address: cputt@thorindustries.com; phartman@thorindustries.com; mlogan@thorindustries.com

Petitioner Name: Thor Tech, Inc.

Petitioner Correspondence Email Address: cputt@thorindustries.com; phartman@thorindustries.com; mlogan@thorindustries.com

PETITION TO DIRECTOR DENIED

Issue date: January 24, 2025

The USPTO received a petition to the Director filed on behalf of Thor Tech, Inc. (petitioner) on November 11, 2024. Petitioner requests that the USPTO accept a late-filed appeal brief. The petition is denied because it does not involve petitionable subject matter.

On March 7, 2024, the assigned trademark examining attorney issued a final Office action refusing registration of petitioner's mark. On June 7, 2024, petitioner filed a request for reconsideration of the final refusal and a notice of appeal to the Trademark Trial and Appeal Board (Board). The Board instituted the appeal and remanded the application to the examining attorney to consider the request for reconsideration that same day.

The examining attorney denied the request for reconsideration on September 6, 2024. On September 9, 2024, the Board resumed the appeal and provided petitioner until November 8, 2024 to file its appeal brief. Petitioner did not file its appeal brief by the deadline.

On November 11, 2024, petitioner filed this petition, stating that the failure to file the brief by the deadline was unintentional and requesting acceptance of a late-filed brief. (Petition.) Petitioner explains that the attorney responsible for monitoring petitioner's trademark deadlines did not receive the notice that the appeal had been resumed because her email address was misspelled in USPTO records.[1] *Id.* A copy of petitioner's appeal brief is included with the petition.

If an applicant misses the deadline for filing its appeal brief, it may file a motion with the Board requesting acceptance of a late-filed brief. If the Board denies the motion, the applicant may file a petition to the Director under Trademark Rule 2.146(a)(3) requesting review of the Board's action, which will be granted only if the Board clearly erred or abused its discretion in denying the motion. 37 C.F.R. §2.146(a)(3); *Trademark Trial and Appeal Board Manual of Procedure* (TBMP) §1203.02(a); *Trademark Manual of Examining Procedure* (TMEP) §1501.02(a). An applicant should not file a petition to the Director until it has *first* filed a motion to accept the late-filed brief with the Board, and the Board has denied the motion. TBMP §1203.02(a); TMEP §1501.02(a).

Because the Board has not yet had the opportunity to entertain a motion from petitioner requesting acceptance of the late-filed brief, the petition is premature. Accordingly, the petition is denied. The petition will be forwarded to the Board to consider as a motion to accept the late-filed brief. If the Board denies petitioner's request to accept the brief, petitioner may file a new petition to the Director seeking review of the Board's decision under Rule 2.146(a)(3).

/David S. Gooder/

David S. Gooder
Commissioner for Trademarks

DSG:APC:JEM

[1] The email address has been corrected in the TTABVUE database.

Malformed Document!