

**THIS OPINION IS NOT A
PRECEDENT OF THE T.T.A.B.**

Mailed:
May 11, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re BAE SYSTEMS Information and
Electronic Integration, Inc.

RECONSIDERATION

Serial No. 76512472

Daniel J. Long of BAE SYSTEMS Information and Electronic
Integration, Inc.

Tracy Cross, Trademark Examining Attorney, Law Office 109
(Dan Vavonese, Managing Attorney)

Before Walters, Holtzman, and Bergsman, Administrative
Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

On April 23, 2007, applicant, BAE SYSTEMS Information
and Electronic Integration, Inc., filed a "Request For
Remand To Examining Attorney." By this "Request" applicant
seeks to amend its application to the Supplemental
Register. We treat applicant's "Request For Remand" as a
request for reconsideration filed pursuant to Trademark
Rule 2.144, 37 CFR §2.144.

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Applicant's request for reconsideration is denied because it is not timely and because an amendment to the Supplemental Register is not the proper subject matter for a request for reconsideration from a decision in an *ex parte* appeal.

On February 23, 2007, the Board issued a decision affirming the refusal to register applicant's mark on the ground that it is merely descriptive pursuant to Section 2(e)(1) of the Lanham Act, 15 U.S.C. §1052(e)(1). Applicant was allowed one month, or until March 23, 2007, to file a request for reconsideration. Trademark Rule 2.144, 37 CFR §2.144. Because applicant filed its request for reconsideration on April 23, 2007, it was thirty (30) days late.

As indicated *supra*, applicant seeks to amend its application to the Supplemental Register. After a decision has been rendered in a *ex parte* appeal to the refusal to register an application, prosecution of the application will not be reopened except for the entry of a disclaimer pursuant to Section 6 of the Lanham Act. Trademark Rule 2.142(g), 37 CFR §2.142(g). *See also* TBMP §1218 n.258 (2nd ed. rev. 2004); TMEP §1501.06 (4th ed. 2005). The Trademark office has consistently refused to allow an applicant to amend its application to the Supplemental Register after an

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appeal has been decided because the applicant has elected a course of action and has had an adjudication of its application. *In re Phillips-Van Heusen Corp.*, 63 USPQ2d 1047 n.2 (TTAB 2002); *In re Taverniti, SARL*, 225 USPQ 1263, 1264 n.3 (TTAB 1985); *Ex parte Simoniz Co.*, 161 USPQ 365 (Comm'r. Pats. 1969).

Decision: Applicant's request for reconsideration is denied.