

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

Mailed:  
May 23, 2008

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re Legal Promotions, Inc.

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Serial No. 76655995

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Howard A. MacCord, Jr. of MacCord Mason PLLC for Legal Promotions, Inc.

Ada P. Han, Trademark Examining Attorney, Law Office 106 (Mary I. Sparrow, Managing Attorney).

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Before Zervas, Cataldo and Bergsman, Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Legal Promotions, Inc. filed a use-based application for the mark THEAUTOFILE (as amended), in standard character format, for "vinyl folders to hold auto insurance papers and the like sized to fit in an automobile glove box," in Class 16. Applicant disclaimed the exclusive right to use the word "file." The Trademark Examining Attorney refused registration under Section 2(e)(1) of the Trademark Act of 1946, 15 U.S.C. §1052(e)(1), on the ground that the mark THEAUTOFILE is merely descriptive. In a

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decision dated April 9, 2008, the Board affirmed the refusal to register applicant's mark.

On May 15, 2008, applicant filed a request to amend the application to the Supplemental Register. We construe applicant's request to amend the application to the Supplemental Register as a request for reconsideration of the refusal to register based on applicant's proposed amendment of the application to the Supplemental Register. For the reasons set forth below, applicant's request is denied.

First, applicant's request for reconsideration was not timely filed. Trademark Rule 2.144, 37 CFR §2.144, provides that "[a]ny request for rehearing or reconsideration, or modification of the decision, must be filed within one month of the date of the decision." Applicant's request for the Board to take any action with respect to an application for which a final decision has been rendered must be filed within one month of the date of the decision. Because the Board's final decision was issued on April 9, 2008 and because applicant's request was filed on May 15, 2008, applicant's request was not timely filed.

Second, applicant may not request an amendment to the Supplemental Register after a final decision has been

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rendered. Trademark Rule 2.143(g), 37 CFR §2.143(g), provides that "[a]n application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under §6 of the Act of 1946 or upon order of the Director." This means that an application may not be "reopened" (*i.e.*, amended) except to enter a disclaimer or upon an order from the Director. TBMP §1218 (2<sup>nd</sup> ed. rev. 2004). See also *In re Petite Suites Inc.*, 21 USPQ2d 1709, 1711 (after a final decision by the Board, prosecution of an application will not be reopened to allow applicant to amend its application to seek registration under Section 2(f)); *Ex parte Simoniz Company*, 161 USPQ 365 (Comm'r Pat. 1969); *Ex parte Helene Curtis Industries, Inc.*, 134 USPQ 73 (Comm'r Pat. 1962).

In view of the foregoing, applicant's request to amend its application to the Supplemental Register is denied.