

THIS DECISION IS NOT A  
PRECEDENT OF THE TTAB

Mailed: November 10, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Michael R. Nevils and Kristen Nevils

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Serial No. 78912361

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Daniel S. Polley for Michael and Kristen Nevils.

Emily K. Carlsen, Trademark Examining Attorney, Law Office  
103, Michael Hamilton, Managing Attorney.

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**Before Zervas, Mermelstein, and Bergsman, Administrative  
Trademark Judges.**

**Opinion by Mermelstein, Administrative Trademark Judge:**

On September 29, 2008, applicant filed a request for reconsideration of the Board's decision issued on August 29, 2008, affirming the examining attorney's final refusal to register applicant's mark pursuant to Trademark Act § 2(d).

As grounds for its request, applicant points out (as it had in briefing the case) that its goods and those of the prior registrant differ, and questions the Board's weighing of the evidence.

It is axiomatic that the purpose of reconsideration is to point out errors made by the Board in making its decision, not to merely reargue the case or ask the Board to reweigh the evidence as applicant has done:

A motion that merely republishes the reasons that had failed to convince the tribunal in the first place gives the tribunal no reason to change its mind. It's as if the movant, when he appealed, had filed two copies of his appeal brief, and when his appeal was rejected asked us to read the second copy. Reconsideration is not an appropriate forum for rehashing previously rejected arguments or arguing matters that could have been heard during the pendency of the previous motion. The repetition of previous arguments is not sufficient to prevail.

*Ahmed v. Ashcroft*, 388 F.3d 247, 248 (7<sup>th</sup> Cir. 2004)

(citations and internal quotations omitted).

The basis for the Board's decision is clearly articulated and we do not find any error in reaching that decision. While we will not review applicant's arguments in detail, we note that our original decision acknowledged that "the goods at issue are clearly different," Decision at 6, but nonetheless found them related in function. Given the fact that the marks at issue are "virtually identical," we found that relationship to be sufficient to support the examining attorney's refusal in this case.

In view of the foregoing, applicant's request for reconsideration is DENIED.