

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

Mailed: April 15, 2008

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re Trumpf GmbH + Co. KG

\_\_\_\_\_  
Serial No. 79021358

Request for Reconsideration

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Peter L. Costas of Pepe & Hazard LLP for Trumpf GmbH + Co. KG.

Daniel S. Brody, Trademark Examining Attorney, Law Office  
115 (Tomas V. Vlcek, Managing Attorney).

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Before Hohein, Cataldo and Ritchie de Larena,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

On March 25, 2008, the Board issued a final decision in the above-captioned appeal. In our decision, we affirmed the examining attorney's refusal to register under Trademark Act Section 2(d).

On March 26, 2008, applicant timely filed a request for reconsideration of that decision. See Trademark Rule 2.129(c). In its request for reconsideration, applicant asserts that on November 26, 2007, it timely filed a

request for an oral hearing in this case. Applicant further asserts that it received a postcard receipt for its request for an oral hearing, but that no oral hearing was scheduled. Applicant requests reconsideration so that it may be afforded an opportunity to present arguments on the matter under appeal at oral hearing. In support of its contentions, applicant encloses a copy of its November 26, 2007 request for an oral hearing along with a certificate of mailing by Federal Express service, a printed copy of the Federal Express mailing label dated November 27, 2007, and a copy of the return receipt therefor.

A review of United States Patent and Trademark Office records indicates that neither the Board nor the Trademark Examining Operation received applicant's request for an oral hearing. Based upon the evidence made of record with its request for reconsideration, it appears nonetheless that applicant timely filed such request, which was due by December 6, 2007.<sup>1</sup>

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<sup>1</sup> We observe, however, that the "CERTIFICATE OF FEDERAL EXPRESS MAILING" which apparently accompanied applicant's request for an oral hearing certifies in relevant part that such request "is being deposited with Federal Express service under 37 CFR 1.10 on ... [November 26, 2007] and is addressed to the Trademark Assistance Center, Madison East, Concourse Level Room C 55, 600 Dulany Street, Alexandria, Virginia 22313." Applicant is advised that Patent Rule 1.10 (37 CFR §1.10) is not applicable to trademark cases. Instead, the governing rules of practice are Trademark Rule 2.190 (37 CFR §2.90) for mailing addresses, including hand delivery of a document, and either Trademark Rules

Ser No. 79021358

Accordingly, our March 25, 2008 decision is hereby vacated; and an oral hearing will be scheduled in due course.

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2.197 (37 CFR §2.97) or 2.198 (37 CFR §2.98) for, at applicant's discretion, mailing of a paper by certificate of mailing or filing a document by "Express Mail." In addition, it is pointed out that applicant may also avoid the inadvertencies inherent with its "CERTIFICATE OF FEDERAL EXPRESS MAILING" technique by filing documents in Board proceedings by means of the Board's Electronic System for Trademark Trials and Appeals (ESTTA).