

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

Mailed: October 2, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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Motion Picture Association of America, Inc.

v.

Respect Sportswear, Inc.

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Request for Reconsideration
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Opposition No. 91153141
to application Serial No. 75654662
filed on March 5, 1999
—————

Andrew Baum of Darby & Darby P.C. for Motion Picture
Association of America, Inc.

Simon V. Haberman of Simon V. Haberman, P.C. for Respect
Sportswear, Inc.

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Before Hohein, Bucher and Cataldo,
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

On April 13, 2007, the Board issued a final decision in
the above-captioned proceeding, sustaining the opposition
and refusing registration to applicant on the ground of
priority and likelihood of confusion. On May 16, 2007,

applicant filed a motion for reconsideration of that decision. Opposer has filed a brief in opposition thereto.¹

The timing of a motion for reconsideration of a final decision by the Board is governed by Trademark Rule 2.129(c), which provides as follows:

Any request for rehearing or reconsideration or modification of a decision issued after final hearing must be filed within one month from the date of the decision. A brief in response must be filed within fifteen days from the date of service of the request. The times specified may be extended by order of the Trademark Trial and Appeal Board on motion for good cause.

Thus, applicant was allowed until May 13, 2007, that is, one month from our April 13, 2007 decision after final hearing, in which to file its request for reconsideration thereof. Inasmuch as May 13, 2007 fell on a Sunday, applicant's request for reconsideration was due no later than Monday, May 14, 2007. See Trademark Rule 2.196.

However, applicant filed its motion for reconsideration with a "CERTIFICATION" of service upon counsel for opposer by first class mail dated May 15, 2007. As noted above, applicant's motion was received by the Board on May 16, 2007. As a result, applicant's motion for reconsideration

¹ In addition, applicant has filed a reply brief. Although the applicable Trademark Rules of Practice make no provision for the filing of a reply brief on a request for reconsideration of a decision issued after final hearing, we will exercise our discretion to consider applicant's reply brief to the extent that it addresses arguments in opposer's responsive brief. See Trademark Rule 2.129(c) and *Curtice-Burns, Inc. v. Northwest Sanitation Products, Inc.*, 185 USPQ 61, recon. denied, 185 USPQ

was filed more than one month after the complained-of decision on final hearing and, therefore, is untimely.

We are not persuaded by applicant's argument, raised in its reply brief, that its motion for reconsideration is timely because it was filed within one month of its counsel's April 17, 2007 receipt of the decision on final hearing. Applicant cites to no authority for its contention that the time for filing a motion for reconsideration of a final decision of the Board runs from the date of receipt of such decision by the filing party. To the contrary, Trademark Rule 2.129(c) clearly requires that any such motion must be filed "within one month from the date of the decision." See *Id.* Nor are we persuaded that applicant has made a sufficient showing of excusable neglect for us to exercise our discretion to consider applicant's untimely motion for reconsideration. See Fed. R. Civ. P. 6(b).

In view of the foregoing, applicant's motion for reconsideration is denied as untimely.²

176, 177 n.2 (TTAB 1975), *aff'd*, 530 F.2d 1396, 189 USPQ 138 (CCPA 1976).

² We note, nonetheless, that even if we were to consider applicant's motion for reconsideration, we would find it unpersuasive inasmuch as applicant essentially reargues points previously raised in its brief on the merits of the case and expresses its disagreement with our determination thereof.