

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

Mailed:
March 31, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Mintek Corporation
v.
Samuel Bouter dba Minatek Solutions

Opposition No. 91167540
to application Serial No. 78490643
filed on September 28, 2004

On Request for Reconsideration

Thomas E. Toner of Smith & Hopen, P.A. for Mintek
Corporation.

Samuel Bouter dba Minatek Solutions, pro se.

Before Grendel, Drost and Zervas, Administrative Trademark
Judges.

Grendel, Administrative Trademark Judge:

On December 17, 2007, the Board issued its decision in
the above-captioned opposition proceeding, sustaining
opposer's Section 2(d) ground of opposition to registration
of applicant's mark. On February 13, 2008, applicant filed

a paper with the Board captioned "APPEAL," in which applicant states:

Applicant hereby requests that the board and opposer review the possibility of a simultaneous registration whereby both the applicant and opposer may use, under agreed guidelines, the trademark for the respective businesses.

Please note that the opposer states they have clients throughout North America. Under such an agreement, the applicant would grant usage of the opposer's mark in Canada.

The final decision of the Board in an opposition proceeding may be appealed only to the Court of Appeals for the Federal Circuit or to a U.S. District Court with appropriate jurisdiction. See Trademark Act Sections 21(a)(1) and 21(b)(1), 15 U.S.C. §§1071(a)(1) and 1071(b)(1); Trademark Rule 2.145, 37 C.F.R. §2.145; TBMP §901.01. The Board does not entertain "appeals" of its own final decisions.

In view thereof, and despite applicant's captioning of its paper as an "appeal," we deem applicant's February 13, 2008 filing to be a request for reconsideration of the Board's December 17, 2007 final decision in this case, pursuant to Trademark Rule 2.129(c), 37 C.F.R. §2.129(c). See TBMP §543.

A request for reconsideration of the Board's final decision must be filed within thirty days of the date of issuance of the final decision. See *id.* Applicant's February 13, 2008 request for reconsideration was filed more

Opposition No. 91167540

than thirty days after the Board's December 17, 2007 final decision, and it therefore is untimely and will not be considered.¹

The request for reconsideration is denied. The Board's December 17, 2007 final decision stands.

¹ We note that even if applicant's request had been timely, it would have been denied. Essentially, applicant appears to be seeking a geographically limited concurrent use registration. See Trademark Act Section 2(d), 15 U.S.C. §1052(d). However, the Board will consider and determine geographical limitations only in the context of a concurrent use proceeding. See Trademark Rule 2.133(c), 37 C.F.R. §2.133(c). If applicant seeks a concurrent use registration, applicant must file a new concurrent use application which complies with the eligibility and procedural requirements for such an application. See TMEP §1207; see also Trademark Rule 2.99, 37 C.F.R. §2.99, and TBMP Chapter 1100. Additionally, with respect to the reference in applicant's filing to use of the mark in Canada, applicant is advised that the Office does not determine rights in a mark outside the United States, in a concurrent use proceeding or otherwise.