

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

Mailed: October 10, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Glenn A. Bjorkman
v.
American Needle

Opposition No. 91169308
to application Serial No. 76609576
filed on August 30, 2004

Request for Reconsideration

Glenn A. Bjorkman, *pro se*.

John S. Mortimer of Wood, Phillips, Katz, Clark & Mortimer
for American Needle.

Before Walsh, Bergsman, and Wellington,
Administrative Trademark Judges.

Opinion by Wellington, Administrative Trademark Judge:

On July 14, 2008, opposer requested reconsideration of the Board's June 2, 2008 decision, in which the Board dismissed opposer's opposition to the involved application in its entirety. Inasmuch as this motion lacks proof of service on applicant, as required by Trademark Rule 2.119(a), it has not been properly submitted and normally

would not be given consideration by the Board.

Nevertheless, we exercise our discretion to review the request for reconsideration and, on the merits, find that it is not well taken.

It has often been stated that the premise underlying a request for reconsideration under Trademark Rule 2.129(c) is that, based on the evidence of record and the prevailing authorities, the Board erred in reaching the decision it issued. See TBMP §544 (2d ed. rev. 2004) and the authorities cited therein. The request may not be used to introduce additional evidence, nor should it be devoted simply to a reargument of the points presented in the requesting party's brief on the case. See *Amoco Oil Co. v. Amerco, Inc.*, 201 USPQ 126 (TTAB 1978). Rather, the request normally should be limited to a demonstration that, based on the evidence properly of record and the applicable law, the Board's ruling is in error and requires appropriate change. See, for example, *Steiger Tractor Inc. v. Steiner Corp.*, 221 USPQ 165 (TTAB 1984), *different results reached on reh'g*, 3 USPQ2d 1708 (TTAB 1984). Cf. *In re Kroger Co.*, 177 USPQ 715, 717 (TTAB 1973).

By way of the request for reconsideration, opposer is attempting to do now what he failed to do during his testimony period, that is, to submit evidence regarding his pleaded registrations and use of the marks. Opposer states

that "[a]n inquiry into the USPTO database will show that I am the owner [of the pleaded registrations]" and certain "documents of samples of use of [opposer's pleaded marks] on products submitted earlier, should be given consideration as evidence since they were sent to both the applicant and the TTAB before the trial." While these statements may or may not be true, the simple fact is that the referenced materials were not properly introduced into the record. Accordingly, the materials were not considered in our June 2, 2008 decision and may not be considered now.

In view thereof, applicant's request for reconsideration of the Board's decision is denied, and the decision of June 2, 2008 stands.