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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	76293326
Applicant	Prema Jyothi Light
Applied for Mark	SHIMMERING BALLERINAS & DANCERS
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Submission	EXHIBIT F TO APPEAL BRIEF
Attachments	76293326 SHBD APPEAL BRIEF EXHIBIT F.pdf(40284 bytes)
Filer's Name	PREMA JYOTHI LIGHT
Filer's e-mail	premajyothilight@shimmeringly.com
Signature	/ prema jyothi light /
Date	06/11/2013

Trademark: SHIMMERING BALLERINAS & DANCERS, Serial #: 76293326, Applicant: Prema Jyothi Light

EXHIBIT F (Page 1 of 4)

**Email letter to Cynthia Lynch, Director of Trademark Policies & Procedures,
Re Petition Fee Issues, dated 02-13-2013**

Sent 02-13-13, 10:37 p.m.

February 13, 2013

TO: Cynthia Lynch
Administrative Director
Trademark Policies & Procedures

FROM: Prema Jyothi Light

DATE: February 13, 2013

RE: Your Executive Problem-Solving Talents Are Needed!

Dear Ms. Lynch,

I am writing to ask that you use your talents at executive problem-solving to help resolve an unusual situation, which has not been properly handled by your subordinates.

On January 28, 2013, I filed a single PETITION TO REVIVE with regard to two sister Trademarks, SHIMMERING RAINFOREST, Serial # 76293327, and SHIMMERING BALLERINAS & DANCERS, Serial # 76293326. (See attached pdf of PETITION TO REVIVE.)

These Trademarks were deemed “abandoned” because the TEAS filings of the RESPONSES TO OFFICE ACTIONS were deemed late. The RESPONSES were due November 26, 2013, and although they were filed while it was still November 26, 2013 in the Denver, Colorado area, the final clicks of the filing online came in a few minutes past midnight, East Coast time on November 27th, due to unforeseen glitches in using the TEAS system.

On November 28, 2012, I received a Notice of Abandonment from the USPTO, and two months to file a Petition to Revive.

Like Cinderella, a few minutes past the stroke of midnight, whose horse-drawn carriage turned back into a pumpkin and field mice, I found that my Trademarks were deemed “abandoned”, even though the filing receipts contained both dates, 11-26-12 as the date signed, given automatically by the TEAS system (the filings were initiated in the evening) and 11-27-12 (the date that the final clicks came in a few minutes after midnight, East Coast Time.) And, no prince with a glass slipper to soften the distressing situation!

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However, I submitted a timely PETITION TO REVIVE on January 28, 2013.

These two sister Trademarks were on remand to the Examining Attorney from the TTAB. Because the two Trademarks are so similar, and involve the same issues, the TTAB had ordered that the two Trademark cases be consolidated, to be handled in tandem, so that the paperwork for both could be synchronized. (Please see, attached as a pdf, the most recent TTAB Order dated 08-08-11, showing that the TTAB places both serial numbers on the same single consolidated Orders, which contain provisions for both Trademarks in a single Order.)

On February 1, 2013, I received notice that Revival had been granted, but just for one of the two Trademarks. (See Notice of Revival dated 02-01-13, attached as pdf.) However, my PETITION had been filed for both Trademarks. No mention was made of the second Trademark, and no Notice of Deficiency had been filed.

So, on February 5, 2013, I filed a REQUEST FOR REINSTATEMENT (please see attached pdf), asking that the second Trademark also be revived, as it had been deemed "abandoned" for the same reasons, on the same date, and as both had been included in the same short three-page PETITION TO REVIVE, which had explained that the two cases had been consolidated by the TTAB for ease in handling.

I wasn't totally sure that this was the correct form to file, but it was the only one available online which didn't require a fee for protesting a decision on filing a fee!

On February 6, 2013, I received a Notice of Deficiency from your paralegal, Deborah Blocker (see attached), informing me that I had 30 days to file a second \$100 fee for the one PETITION, even though I had already paid the \$100 Petition Fee for filing the PETITION.

She did not address any of the issues delineated in the original PETITION TO REVIVE, pertaining to the consolidation of the two cases by the TTAB, or any of the issues delineated in the REQUEST FOR REINSTATEMENT, explaining why the Notice of Revival should include both Trademarks.

Therefore, I filed a PRELIMINARY RESPONSE TO NOTICE OF DEFICIENCY, dated 02-07-13 (see attached pdf), to again explain this unusual situation. I asked for supervisory review.

In this PRELIMINARY RESPONSE, I attached proof of payment in full for the \$100 filing fee for the PETITION TO REVIVE, with citations to the TMEP and Code of Federal Regulations, including the sections cited by Ms. Blocker, showing that the Petition Fee is assessed per Petition, not per Trademark, and that there is nothing in either the TMEP or CFR prohibiting filing one Petition for two related and simultaneous Trademark cases.

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**Email letter to Cynthia Lynch, Director of Trademark Policies & Procedures,
Re Petition Fee Issues, dated 02-13-2013**

On February 7, 2013, I received an email from Ms. Blocker, in response to my PRELIMINARY RESPONSE TO NOTICE OF DEFICIENCY, requiring payment of the second \$100 fee by the earlier stated deadline. (See attached pdf of her email response.)

In her response, Ms. Blocker did not address ANY of my concerns, as to the consolidation of the two cases by the TTAB, set forth as the reason for petitioning for revival of both related cases in the same single PETITION. And, she did not cite any new provisions of the TMEP or CFR, to refute the simple fact that the Petition Fee is stated in the CFR as \$100 per Petition, not per Trademark.

I feel that this situation has not been properly handled by Ms. Blocker, and I am asking for your executive review of this situation.

To simply ignore orders by the TTAB, just because they may be unusual, and to brush off decisions of the TTAB, which they made with good cause, is a huge insult to the TTAB, and these two Trademark cases will be falling back into their laps fairly soon. The TTAB is a respectable body of judges, whose authority is usually respected within the USPTO.

Why have them thinking that your Trademark Policies & Procedures Department does not wish to respect their Orders?

To brush off TTAB Orders is not a good Trademark Policy and Procedure!

Could you kindly review the handling of this situation, glance through the attached pdfs of the paper trail for this situation, and have your staff issue a parallel NOTICE OF REVIVAL for SHIMMERING RAINFOREST?

Otherwise, your Department is needlessly throwing the two cases out of sync with each other, in needless defiance of TTAB wishes for consolidation and synchronization of handling of these two cases, and tandem handling, of the two cases together.

Your Department would also be charging \$200 for one short PETITION, with no backup in the TMEP or CFR for doing this, which simply provide for a single \$100 Petition Fee for any one Petition.

The TTAB goes "by the book", and there are no laws on the books which prohibit filing one Petition for two related Trademarks, or which provide for charging \$200 for a single short Petition.

Trademark: SHIMMERING BALLERINAS & DANCERS, Serial #: 76293326, Applicant: Prema Jyothi Light

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This is why we like to have people making decisions, rather than just robots, or touch-tone phone menus, or latch-key websites!

This pair of cases is a little unusual, and unusual handling, with a little TLC, is what is needed here, rather than just a rubber-stamp handling which ignores individual variations in cases. This is why we like to have people making decisions, rather than just robots, or touch-tone phone menus, or latch-key websites!

Review is needed by someone intelligent and perceptive enough to see that there are unusual features of this situation. I think you are probably just the right person to see this, and with the authority to do the right thing!

So I would be very grateful for your executive review. Your assistance would also be of assistance to the TTAB, which would appreciate your respect for their wishes and their Orders. This could prevent needless inter-departmental conflicts and acrimony.

Thank you for your kind attention. Please feel free to email me if you need further information.

God bless you and peace be with you!

Most sincerely,

Prema Jyothi Light
premajyothilight@shimmeringly.com

Attachments:

- 01 PETITION TO REVIVE both Trademarks dated 01-28-13
- 02 ACCOMPANYING RESPONSE TO OFFICE ACTION for both Trademarks dated 01-28-13
- 03 NOTICE OF REVIVAL for only one Trademark dated 02-01-13
- 04 REQUEST FOR REINSTATEMENT for other Trademark dated 02-05-13
- 05 TTAB ORDER dated 08-08-11, remanding consolidated cases back to Examining Attorney
- 06 NOTICE OF DEFICIENCY dated 02-06-13
- 07 PRELIMINARY RESPONSE TO NOTICE OF DEFICIENCY, with supporting 7 jpgs attached, dated 02-12-13
- 08 EMAIL RESPONSE dated 02-07-13
from DEBORAH BLOCKER, PARALEGAL
- 09 Attachment to email response dated 02-07-13
by DEBORAH BLOCKER, PARALEGAL