

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87745135
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/87745135/large
LITERAL ELEMENT	BATTER UP!
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
OWNER SECTION (current)	
NAME	Beckerman Family Bakery, LLC
STREET	1255 NE 172 St.
CITY	North Miami Beach
STATE	Florida
ZIP/POSTAL CODE	33162
COUNTRY	United States
OWNER SECTION (proposed)	
NAME	Beckerman Family Bakery, LLC
STREET	1255 NE 172 St.
CITY	North Miami Beach
STATE	Florida
ZIP/POSTAL CODE	33162
COUNTRY	United States
EMAIL	trademarks@bwsmiplaw.com
ARGUMENT(S)	
In response to the foregoing Office Action, the Applicant advises that it filed a Petition for Cancellation against U.S. Trademark Registration No. 4,558,440 (for BATTER UP BAKERY) on December 21, 2018. The registrant failed to timely respond to the petition and the Applicant subsequently submitted a Motion for Default Judgment on February 4, 2019. A true correct copy of the Trademark Trial and Appeal Board's March 4, 2019 decision granting Applicant's Motion for Default Judgment and ordering the cancellation of the BATTER UP BAKERY registration is attached. In view of the foregoing, the Applicant respectfully requests that the office withdraw its refusal in view of the BATTER UP BAKERY registration and approve this mark for publication.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	

ORIGINAL PDF FILE	evi_7141212190-20190312090159028659 . Board Decision 030419 .pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT17\IMAGEOUT17\877\451\87745135\xml7\RFR0002.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\877\451\87745135\xml7\RFR0003.JPG
DESCRIPTION OF EVIDENCE FILE	TTAB Decision issued on March 4, 2019
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Kevin W. Wimberly/
SIGNATORY'S NAME	Kevin W. Wimberly
SIGNATORY'S POSITION	Attorney of record, Florida bar member
SIGNATORY'S PHONE NUMBER	407-926-7713
DATE SIGNED	03/12/2019
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Mar 12 10:19:37 EDT 2019
TEAS STAMP	USPTO/RFR-XX.XX.XXX.XXX-2 0190312101937537300-87745 135-62099d7d09d9c8be34c45 ef3fe2181f8824b1ee95b538b f796f40da635a44fa622-N/A- N/A-20190312090159028659

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
PTO Form 1960 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **87745135** BATTER UP!(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87745135/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

In response to the foregoing Office Action, the Applicant advises that it filed a Petition for Cancellation against U.S. Trademark Registration No. 4,558,440 (for BATTER UP BAKERY) on December 21, 2018. The registrant failed to timely respond to the petition and the Applicant subsequently submitted a Motion for Default Judgment on February 4, 2019. A true correct copy of the Trademark Trial and Appeal Board's March 4, 2019 decision granting Applicant's Motion for Default Judgment and ordering the cancellation of the BATTER UP BAKERY registration is attached. In view of the foregoing, the Applicant respectfully requests that the office withdraw its refusal in view of the BATTER UP BAKERY registration and approve this mark for publication.

EVIDENCE

Evidence in the nature of TTAB Decision issued on March 4, 2019 has been attached.

Original PDF file:

[evi_7141212190-20190312090159028659 . Board Decision 030419 .pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

APPLICANT AND/OR ENTITY INFORMATION

Applicant proposes to amend the following:

Current: Beckerman Family Bakery, LLC, a limited liability company legally organized under the laws of New York, having an address of
1255 NE 172 St.
North Miami Beach, Florida 33162
United States

Proposed: Beckerman Family Bakery, LLC, a limited liability company legally organized under the laws of New York, having an address of
1255 NE 172 St.
North Miami Beach, Florida 33162
United States
trademarks@bwsmiplaw.com (not authorized)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Kevin W. Wimberly/ Date: 03/12/2019

Signatory's Name: Kevin W. Wimberly

Signatory's Position: Attorney of record, Florida bar member

Signatory's Phone Number: 407-926-7713

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 87745135

Internet Transmission Date: Tue Mar 12 10:19:37 EDT 2019

TEAS Stamp: USPTO/RFR-XX.XX.XXX.XXX-2019031210193753

7300-87745135-62099d7d09d9c8be34c45ef3fe

2181f8824b1ee95b538bf796f40da635a44fa622

-N/A-N/A-20190312090159028659

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

RA

March 4, 2019

Cancellation No. 92070238

Beckerman Family Bakery, LLC

v.

Jasmin T. Jordan

By the Trademark Trial and Appeal Board:

An answer to the petition to cancel was due on January 30, 2019. The record shows that an answer has not been filed.

This case now comes up for consideration of Petitioner's motion, filed February 4, 2019, for default judgment against Respondent for failure to file an answer. The motion is uncontested.¹

Inasmuch as Respondent failed to file an answer in this case, and failed to file a response to Petitioner's motion, the motion for default judgment is granted. *See* Trademark Rule 2.127(a).

¹ If a Respondent fails to file an answer to a complaint during the time allowed therefor, the Board, on its own initiative, may issue a notice of default allowing the Respondent time to show cause why default judgment should not be entered against it. The issue of whether default judgment should be entered against a Respondent for failure to file a timely answer may also be raised by means of a motion filed by the Petitioner. In such cases, the motion may serve as a substitute for the Board's issuance of a notice of default. *See* TBMP §312.01.

Cancellation No. 92070238

Accordingly, judgment is hereby entered against Respondent, the petition for cancellation is granted, and Registration No. 4558440 will be cancelled in due course by the Commissioner for Trademarks. *See* Fed. R. Civ. P. 55(b) and Trademark Rule 2.127(a).