Commissioner of Patents and Trademarks
Patent and Trademark Office (P.T.O.)

RE: TRADEMARK APPLICATION OF HOCALAR, B.V.
Serial No. 74/503,755 [FN1]
July 18, 1994
***1** Application Received: March 21, 1994 [FN2]

For: CIRCLE OF FRIENDS
Petition Filed: May 13, 1994

Philip G. Hampton, II

Assistant Commissioner for Trademarks

On Petition

Hocalar, B.V. has petitioned the Commissioner to accord a filing date of March 21, 1994 to the above identified application. Trademark Rule 2.146(a)(3) provides authority for the requested review.

FACTS

On March 21, 1994, petitioner filed an application for registration of the above identified mark, pursuant to Section 1(b) of the Trademark Act. Included with the application was a two-page drawing of the mark. The first page identified the applicant, applicant's address and the goods and services, and the second page exhibited the mark and identified counsel for petitioner's law firm and address.

The papers were initially accorded a filing date of March 21, 1994. Subsequently, this filing date was cancelled and the papers were returned to petitioner with a Notice of Incomplete Trademark Application dated March 21, 1994, indicating that they could not be granted a filing date because "the drawing page does not show the mark." Trademark Rules 2.21(a)(3) and 2.52. The application papers were subsequently returned and the filing fee refunded.

This petition followed. Copies of the application, original drawing and Notice of Incomplete Trademark Application have been submitted with the petition. In addition, a one page drawing of the applied-for mark has been submitted, as well as a check for the application filing fee.

DECISION

Past Office policy has required that the mark appear on the first page of a multiple page drawing. 1139 TMOG 24; TMEP § 807.02(a). This policy is due to the problematic nature of multiple-page drawings, which could become separated and lost during processing. The Supervisor of the Pre-Examination Section, following established Office policy, properly cancelled the subject application's filing date in this case.

However, in the present case and in many others, multiple drawings have been and are currently being carefully handled by the mail room staff, and have not been separated or lost as feared above. After further consideration of this past policy and the concerns it attempted to alleviate, as well as the ramifications of denying filing dates to applications that have essentially complied with 37 C.F.R. § 2.52, the practice outlined in the Official Gazette notice dated June 9, 1992 is overruled to the extent that applications accompanied by multiple page drawings will not be denied a filing date solely on this basis. However, applicants are encouraged to follow past Office practice of submitting one page drawings so as to avoid the possibility of the Office's misplacing and losing the drawing page with the mark appearing thereon.

***2** Accordingly, the petition is granted. The application papers will be forwarded to the Mail Room for serialization. The application will be accorded a filing date of March 21, 1994. In addition, the petition fee will be refunded.

FN1. The serial number has been declared "misassigned" and will not be reassigned to the application.

FN2. The filing date is the issue on petition.

35 U.S.P.Q.2d 1575

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