

Re: Trademark application of :  
 GIA Software Ltd. :  
 Serial No. 74/498345 :  
 Filing Date: March 8, 1994 :  
 For: TEACHER EASE : On Petition  
 Petition Filed: April 8, 1996 :

GIA Software Ltd. has petitioned the Commissioner to reverse the denial of a Request for Extension of Time to File a Statement of Use filed for the above identified application. Trademark Rules 2.89(g) and 2.146(a)(3) provide authority for the requested review.

### FACTS

A Notice of Allowance issued for the subject application on July 4, 1995. Pursuant to Section 1(d) of the Trademark Act, a Statement of Use, or Request for an Extension of Time to File a Statement of Use, was required to be filed within six months of the mailing date of the Notice of Allowance. On December 27, 1995, Petitioner filed a Request for Extension of Time to File a Statement of Use. In an Office Action dated March 21, 1996, the Applications Examiner in the ITU/Divisional Unit denied the extension request because it did not include a verification or declaration as required by Section 1(d)(2) of the Trademark Act.

This petition was filed on April 8, 1996.<sup>1</sup>

### DECISION

The petition is DENIED.

Section 1(d)(2) of the Trademark Act, 15 U.S.C. §1051(d)(2), and Trademark Rule 2.89, 37 C.F.R. §2.89, require that a Request for an Extension of Time to File a Statement of Use be verified by the applicant. This is a statutory requirement that must be satisfied before expiration of the time for filing the Statement of Use. TMEP § 1105.05(d). See *In re Hoffmann-La Roche Inc.*, 25 USPQ2d 1539 (Comm'r Pats. 1992); *In re Raychem Corp.*, 20 USPQ2d 1355 (Comm'r Pats. 1991).

Since the period of time for filing an acceptable Extension Request expired on January 4, 1996, the application remains abandoned. Petitioner may file a new application. The office will not hold the denial of this petition to be prejudicial in the filing of a new application.

Philip G Hampton, II  
 Assistant Commissioner  
 for Trademarks

<sup>1</sup>Applicant filed a Statement of Use during the pendency of the petition. The fee will be refunded.

PGH:NLO:CBK

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Re: Trademark Application of The :  
Pacesetter Group, Inc. :  
Serial No. 74-388,056 :

94-682