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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

99-384

Re: Trademark Application of :
CHK Management, Inc. :
Serial No: 74/712546 : On Petition
Filing Date: August 8, 1995 :
For: ALKA-WELL :
Petition Filed: March 3, 1999 :

CHK Management, Inc. has petitioned the Commissioner to reverse the denial of a fourth Request for Extension of Time to File a Statement of Use for the subject application. The petition is denied under 37 C.F.R. §2.89(b)(4).

FACTS

In an Office Action dated February 2, 1999, the Applications Examiner in the ITU/Divisional Unit denied Applicant's Fourth extension request because it did not include a showing of good cause as required by 15 U.S.C. §1051(d)(2), and 37 C.F.R. §2.89(b)(4). Petitioner was advised that, since the period of time within which to file an acceptable Extension Request or Statement of Use had expired, the application would be abandoned in due course. The application abandoned and this petition was filed on March 3, 1999.

A further review of the application file found that the third extension request also did not include a showing of good cause. On July 22, 1999, Petitioner was granted thirty (30) days to perfect the application by submitting (1) either a substitute third extension request in accordance with 37 C.F.R. §2.89(b)(4); or (2) a declaration under Rule 2.20, signed by the Applicant, attesting to the fact that ongoing efforts to use the mark in commerce were in effect at the time the third extension request was filed. No response was received.

Petitioner was also requested to submit a fifth extension request, which became due during the pendency of the petition. *In re Moisture Jamzz, Inc.* 47 USPQ2d 1762.

DECISION

The Commissioner has determined that a showing of good cause can be accepted upon petition filed under 37 C.F.R. §2.146(a)(3). *In re El Taurino Restaurant, Inc.*, 41 USPQ2d 1220 (Comm'r Pats. 1996). The Petitioner must provide either a verified statement of the ongoing efforts being made to use the mark in commerce, or a satisfactory explanation for the failure to use such efforts. *Id.* at 1222.

The petition is denied because Petitioner has not submitted a proper third extension request, pursuant to 15 U.S.C. §1051(d)(2) and 37 C.F.R. §2.89(b)(4). The application file will remain abandoned.

Robert M. Anderson
Acting Assistant Commissioner
for Trademarks

RMA:NLO:SMW

Date:

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