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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

98-701

Re: Trademark Application of :
Tasar Electronics Corp. :
Serial No. 75/398,391¹ :
For: GOING ONCE : On Petition
Application Received² :
Petition Filed: September 18, 1998 :

Tasar Electronics Corp. has petitioned the Commissioner to accord a filing date for the above identified application. The petition is denied pursuant to 37 C.F.R. §2.21(a)(7).

FACTS

The above identified application was received in the Patent and Trademark Office on May 8, 1998. The application included a check in the amount of \$245 as payment of the filing fee. The papers were initially accorded a filing date of May 8, 1998. However, this filing date was cancelled and the papers were returned to Counsel for Petitioner with a Notice of Incomplete Trademark Application dated July 16, 1998, indicating that a filing date could not be granted because the check was returned to the Office unpaid.

In the petition, Counsel explains that he received a letter from the Financial Accounting Division dated January 12, 1998, informing him of the returned check and requesting that he resubmit the fee plus a \$50 processing fee. In response to this letter, a check in the amount of \$295 was submitted on February 5, 1998. However, this check was applied to application serial number 75/398539, the application referenced in the letter from the finance division. Counsel states that this was in error and that the fee should have been applied to the above-referenced application which is the subject of this petition.

DECISION

Office records indicate that application serial number 75/398539 is for the mark PROS-TAMIA and the applicant is Premier Direct Inc. Counsel for Petitioner is also the attorney of record for Premier Direct Inc. and that the initial filing fee for this application was returned as unpaid as well. Therefore, the \$295 check sent to the office was properly applied to application serial number 75/398539 and a new filing date of February 11, 1998, the date of receipt of the check, was granted. Efforts to contact Counsel to discuss this matter have been futile since Counsel has

¹The serial number has been misassigned and is no longer valid.

²The filing date is the issue on petition.

not returned the telephone calls made to him by Janis Long, a staff attorney in the Office of the Assistant Commissioner for Trademarks.

Under 37 C.F.R. §2.21(a)(7), the filing fee for at least one class of goods or services must be submitted before an application can be granted a filing date. When a check submitted in payment of an application filing fee is returned to the Office unpaid, the filing date is cancelled, because the requirement for payment of the fee has not been satisfied. *See In re Paulsen*, 35 USPQ2d 1638 (Comm'r Pats. 1995); *In re Cantatore*, 231 USPQ 742, 744 (Comm'r Pats. 1986).

Since the application filing fee for this application has not been submitted, the petition is denied and the application papers are being returned.

Robert M. Anderson
Acting Assistant Commissioner
for Trademarks

RMA:JCL

Date:

Attorney for Petitioner:

Melvin K. Silverman, Esq.
2455 E. Sunrise Boulevard
Suite 410
Fort Lauderdale, FL 33304