

Janet M. Robertson, Esq.  
Weeks, Rathbone, Robertson & Johnson, L.L.P.  
225 Broadway, Suite 1515  
San Diego, California 92101

Re: Petition to Revive Application Serial No. 74-544986  
Applicant: Oakley, Inc.  
For: ZERO O and Design

Dear Ms. Robertson:

1. This will acknowledge receipt of the petition to revive the above-identified application~, filed on August 5, 1996.

2. Decision:

Petition to Revive is hereby DENIED.

3. Explanation:

It is unclear from the record as to why no Statement of Use was filed. However, the failure to file appears to stem from confusion on the part of counsel's support staff as to whether the Notice of Allowance for the above-identified application pertained to the mark Petitioner wanted to register, rather than from a failure in counsel's docketing system.

While the confusion as to whether the Notice of Allowance referred to the proper mark appears to have been completely inadvertent and unintentional, it could have been avoided by the exercise of reasonable care. Certainly, the Office could have been contacted for clarification with respect to questions regarding the mark denoted by the Notice of Allowance.

For these reasons, the petition to revive is denied. A new application may be filed. The Office will not hold the abandonment of this application as being prejudicial to the Applicant in the filing of a new application. Currently, the application filing fee is \$245.00 per class.

4. Please feel free to contact the undersigned staff attorney with any questions regarding this letter.

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1 Although the application was identified as Serial No. 74-522986, it has been determined that the petition to revive refers to application Serial No. 74-544986.

Sincerely,

Eleanor K. Meltzer,  
Staff Attorney  
Office of the Assistant Commissioner  
for Trademarks  
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