

Manny D. Pokotilow, Esq.
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Re: Petition to Revive Application Serial No. 75-028589
Applicant: Vincenzo Carollo
For: CART-AROUND

Dear Mr. Pokotilow:

This will acknowledge receipt of the petition to revive the above-identified application, filed May 12, 1997.

FACTS

On December 6, 1995, applicant filed for registration of the trademark CART-AROUND. The mark was published for opposition on July 16, 1996. A Notice of Allowance was mailed to applicant on October 8, 1996. A Statement of Use or a Request for Extension of Time to File a Statement of Use was required within six (6) months of the mailing date of the Notice of Allowance, i.e., April 8, 1997. No response was filed with the Trademark Office, and the application was abandoned on April 9, 1997.

This petition to revive followed.

DECISION AND ANALYSIS

Decision: The Petition to Revive is hereby DENIED.

Both Applicant and its counsel were on notice of the statutory deadline well in advance, and each of them had a responsibility to keep adequate records, allocate sufficient time, and take whatever action was necessary to file a good faith response before the expiration of the response period. Applicant had a duty to timely respond to counsel's inquiries and requests, and counsel had a duty to follow up on communications to the Applicant to ensure that all necessary documents and instructions were received in time to file a proper response. Since counsel had a full six months in which to obtain the necessary instructions and documents from the Applicant, and despite counsel's repeated efforts to obtain the necessary information, the failure to respond due to the Applicant's delay is not considered unavoidable.

Sincerely,

Nancy L. Omelko
Administrator for Petitions
Office of the Assistant Commissioner
for Trademarks
(703) 308-8910, ext. 39

NLO/hsp

cc: Mr. Vincenzo Carollo
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