

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT  
OF THE TTAB

Mailed:  
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Paper No. 13  
Grendel

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re *Grow Company, Inc.*

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Serial No. 76487502

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On Request for Reconsideration

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Before *Walters, Grendel<sup>1</sup> and Drost*, Administrative Trademark Judges.

Opinion by *Grendel*, Administrative Trademark Judge:

Applicant has requested reconsideration of the Board's July 22, 2004 decision affirming the Trademark Examining Attorney's refusal to register applicant's mark.<sup>2</sup>

The Board acknowledges that applicant in fact filed a reply brief, and we have considered that brief in reaching our decision herein. However, we are not persuaded by

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<sup>1</sup> Formerly known as Bottorff.

<sup>2</sup> The Board apologizes for the delay in addressing this matter.

applicant's arguments in its request for reconsideration that our original decision was in error.

The mark as it appears on the specimen of record is not a substantially exact representation of the mark as it is depicted (in typed form) on the application drawing page, and it therefore is not acceptable. Trademark Rule 2.51(a)(1), 37 C.F.R. §2.51(a)(1). Moreover, we remain of the opinion, as expressed in footnote 1 of our decision, that applicant's request to amend the mark from its current typed form to the highly stylized mark appearing on the specimen cannot be approved, because such amendment would result in a material alteration of the mark in violation of Trademark Rule 2.72(a)(2), 37 C.F.R. §2.72(a)(2). Nothing in our decision supports a contrary conclusion, including the language on page 6 of the decision cited by applicant in its request for reconsideration.

Decision: The request for reconsideration is denied.