

Re: Trademark Application of :
 Alexandria Sugaring Products, Inc. :
 Serial No. 74/635319 :
 Filing Date: February 17, 1995 : On Petition
 For: SWEET SOLUTIONS :
 Petition Filed: November 14, 1996 :

Alexandria Sugaring Products, Inc., has petitioned the Commissioner to accept its Request for Extension of Time to File a Statement of Use and revive the above-identified application. Trademark Rules 2.89(g) and 2.146(a)(3) provide authority for the requested review.

FACTS

A Notice of Allowance issued for the subject application on January 16, 1996. Pursuant to Section 1(d) of the Trademark Act, a Statement of Use, or Request for an Extension of Time to File a Statement of Use, was required to be filed within six months of the mailing date of the Notice of Allowance.

On June 21, 1996, Petitioner filed a Request for Extension of Time to File a Statement of Use. In an Office Action dated November 5, 1996, the Applications Examiner in the ITU/Divisional Unit denied the extension request because it did not include a verified statement that the applicant has a continued bona fide intention to use the mark in commerce, specifying those goods or services identified in the notice of allowance on or in connection with which the applicant has a continued bona fide intention to use the mark in commerce, as required by Trademark Act Section 1(d)(2), 15 U. S.C. § 1051(d)(2), and Trademark Rule 2.89, 37 C.F.R. §2.89. This petition followed.

Counsel for Petitioner states that the verified statement of continued bona fide intention to use the mark in commerce was inadvertently omitted.

DECISION

Section 1(d)(2) of the Trademark Act, 15 U.S.C. §1051(d)(2), and Trademark Rule 2.89, 37 C.F.R. §2.89, clearly and explicitly require that a Request for Extension of Time to file a Statement of Use include a verified statement that the applicant has a continued bona fide intention to use the mark in commerce, specifying those goods or services on or in connection with which the applicant has a continued bona fide intention to use the mark. Since this is a statutory requirement, it must be satisfied prior to the expiration of the period for filing the Statement of Use. *In re Hoffmann-La Roche Inc.*, 25 USPQ2d 1539, 1541 (Comm'r Pats.

1992); *In re Custom Technologies, Inc.*, 24 USPQ2d 1712 (Comm'r Pats. 1991); TMEP §§1105.05(d)(i) and 1105.05(d)(ii).

Accordingly, the petition is denied. The application will remain abandoned.

Philip G. Hampton, II
Assistant Commissioner
for Trademarks

PGH:NLO:CPS

Date:

Attorney for Petitioner:

Robert F. Delbridge, Esq.
Rogers & Scott
214 Randall Street
Oakville, Ontario
Canada, L6J 1P7