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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

98-545

Re: Trademark Application of :  
Hannah G. Williams :  
Serial No. 75/176085 :  
Filing Date: October 3, 1996 : On Petition  
For: POTTED BROWNIE :  
Petition Filed: June 1, 1998 :

Hannah G. Williams has petitioned the Commissioner to reverse the denial of a Request for Extension of Time to File a Statement of Use in connection with 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 October 7, 1997. 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 April 1, 1998, Petitioner filed a Request for Extension of Time to File a Statement of Use. The request was signed by Michael F. Hoffman. In an Office Action dated May 5, 1998, the Legal Instruments Examiner in the ITU/Divisional Unit denied the extension request because the statement of continued bona fide intention to use the mark in commerce had not been signed by an officer of the corporate applicant. This Petition followed.

Petitioner states that it overlooked the fact that statutory authority was required for filing the extension request.

#### **DECISION**

Pursuant to Trademark Rule 2.89, 37 C.F.R. §2.89, any Request for an Extension of Time to File a Statement of Use must be verified by the applicant. Because the extension request must include a statement of a continued bona fide intention to use the mark in commerce, only those individuals who possess statutory authority to sign the original application are permitted to sign the request. An extension request signed by any other party must be denied. TMEP §1105.05(d).

Under Trademark Rule 2.71(c), 37 C.F.R. §2.71(c), if the person who signed the extension request had at least color of authority to sign, the Applicant can provide a substitute extension request, signed by someone with statutory authority to sign, after the expiration of the deadline for filing the extension request. *In re IMI Cornelius Inc.*, 33 USPQ2d 1062 (Comm'r Pats. 1994). However, as in this case, if the person who signed the extension request lacked even color of authority to sign, the Applicant cannot provide a substitute extension request, signed by a proper party, unless there is time remaining in the statutory filing period. *In re Moisture Systems Corp.*, 37 USPQ2d 1541 (Comm'r Pats. 1995).

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

Philip G. Hampton, II  
Assistant Commissioner  
for Trademarks

PGH:NLO:RJD

Date:

Attorney for Petitioner:

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