

Filing Basis

Applicant does not wish to rely on Section 44(e) as a filing basis for this application, but would like to retain the priority date of its foreign application under Section 44(d).

Likelihood of Confusion

The examining attorney has cited Tiburon, Inc.'s registration of TIBURON (RN 2,039,860) as an obstacle to registration under Section 2(d) of the Trademark Act, on the grounds that the goods covered by Applicant's identification (namely, "computer software") are broad enough to encompass Tiburon, Inc.'s goods ("computer software in the field of database, information and personnel management, inventory, archiving, and messaging systems"). Applicant has now amended its identification of goods to clarify the nature of its software, and its identification of goods no longer overlaps with the goods listed in the cited registration. Applicant therefore respectfully requests that the Examining Attorney withdraw the Section 2(d) refusal, and approve the application for publication.