

Petition To Revive For Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77926169
LAW OFFICE ASSIGNED	LAW OFFICE 104
DATE OF NOTICE OF ABANDONMENT	03/11/2013
PETITION	
PETITION STATEMENT	Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional, and requests the USPTO to revive the abandoned application.
RESPONSE TO OFFICE ACTION	
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant currently amends the application from a multi-class application to a single class application, and concurrently files an Allegation of Use form to convert the application from a Section 1(b) application to a Section 1(a) application. A Notice of Appeal is being submitted concurrently herewith. Applicant respectfully submits that the application as currently amended is in condition for registration. The applied- for mark is not merely descriptive, and the informality noted by the Examiner with respect to the listing of goods and services for International Class 28 is now moot. Applicant's applied-for mark in International Class 25 identifies the goods and services as "Children's clothing, namely, infant body suits and cloth bibs." Applicant substitutes a new specimen showing the mark in use in commerce for the identified goods and services. The applied for mark BABY BESPOKE is non-descriptive in relation to the goods, "Children's clothing, namely, infant body suits and cloth bibs." Therefore, the applied-for mark should not be refused as merely descriptive. Applicant respectfully submits that the third party evidence enclosed by the Examiner fails to indicate that the applied-for mark is merely descriptive. The first, second and third references describe stationary. The fourth reference refers to bespoke custom gifts for babies including personalized gifts, blankets, apparel, frames albums and rattles. This evidence fails to support Examiner's argument that Applicant's applied-for mark is descriptive in relation to the goods pictured in Applicant's substitute specimen, which are currently in use in commerce. The fifth reference refers to a rattle. The cited references fail to support a refusal of the applied-for mark. Therefore, Applicant respectfully requests full allowance of the applied-for mark.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT

FILE NAME(S)	16\779\261\77926169\xml7\ POA0002.JPG
DESCRIPTION OF EVIDENCE FILE	Gift set of infant body suit and cloth bib
GOODS AND/OR SERVICES SECTION (016)(class deleted)	
GOODS AND/OR SERVICES SECTION (018)(class deleted)	
GOODS AND/OR SERVICES SECTION (020)(class deleted)	
GOODS AND/OR SERVICES SECTION (024)(class deleted)	
GOODS AND/OR SERVICES SECTION (025)(current)	
INTERNATIONAL CLASS	025
DESCRIPTION	
Children's' clothing, namely, coveralls, infant body suits, vests, sweaters, coats, kimonos, shirts, pants, leggings, dresses, skirts, sleepwear, socks, stockings, undergarments, diaper covers, booties, cloth bibs, hats, mittens and shoes; baby bunting	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (025)(proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	
Children's' clothing, namely, coveralls, infant body suits, vests, sweaters, coats, kimonos, shirts, pants, leggings, dresses, skirts, sleepwear, socks, stockings, undergarments, diaper covers, booties, cloth bibs, hats, mittens and shoes; Children's clothing, namely, infant body suits and cloth bibs; baby bunting	
FINAL DESCRIPTION	
Children's clothing, namely, infant body suits and cloth bibs	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (028)(class deleted)	
PAYMENT SECTION	
TOTAL AMOUNT	100
TOTAL FEES DUE	100
SIGNATURE SECTION	
PETITION SIGNATURE	/chelsea davis/
SIGNATORY'S NAME	Chelsea Davis
SIGNATORY'S POSITION	Attorney of Record, Texas
SIGNATORY'S PHONE NUMBER	214-884-8723
DATE SIGNED	04/06/2013

RESPONSE SIGNATURE	/chelsea davis/
SIGNATORY'S NAME	Chelsea Davis
SIGNATORY'S POSITION	Attorney of Record, Texas
SIGNATORY'S PHONE NUMBER	214-884-8723
DATE SIGNED	04/06/2013
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Sat Apr 06 15:48:11 EDT 2013
TEAS STAMP	USPTO/POA-99.147.129.97-2 0130406154811044950-77926 169-500393749c0686b8dfe9c 328bac1a3a34c8563de6ff6cb 170e5711a5a4be5f47311-CC- 7273-20130406144722086814

Petition To Revive For Office Action To the Commissioner for Trademarks:

Application serial no. **77926169** has been amended as follows:

PETITION

Petition Statement

Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional, and requests the USPTO to revive the abandoned application.

RESPONSE TO OFFICE ACTION

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Applicant currently amends the application from a multi-class application to a single class application, and concurrently files an Allegation of Use form to convert the application from a Section 1(b) application to a Section 1(a) application. A Notice of Appeal is being submitted concurrently herewith. Applicant respectfully submits that the application as currently amended is in condition for registration. The applied-for mark is not merely descriptive, and the informality noted by the Examiner with respect to the listing of goods and services for International Class 28 is now moot. Applicant's applied-for mark in International Class 25 identifies the goods and services as "Children's clothing, namely, infant body suits and cloth bibs." Applicant substitutes a new specimen showing the mark in use in commerce for the identified goods

and services. The applied for mark BABY BESPOKE is non-descriptive in relation to the goods, "Children's clothing, namely, infant body suits and cloth bibs." Therefore, the applied-for mark should not be refused as merely descriptive. Applicant respectfully submits that the third party evidence enclosed by the Examiner fails to indicate that the applied-for mark is merely descriptive. The first, second and third references describe stationary. The fourth reference refers to bespoke custom gifts for babies including personalized gifts, blankets, apparel, frames albums and rattles. This evidence fails to support Examiner's argument that Applicant's applied-for mark is descriptive in relation to the goods pictured in Applicant's substitute specimen, which are currently in use in commerce. The fifth reference refers to a rattle. The cited references fail to support a refusal of the applied-for mark. Therefore, Applicant respectfully requests full allowance of the applied-for mark.

EVIDENCE

Evidence in the nature of Gift set of infant body suit and cloth bib has been attached.

[Evidence-1](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant hereby deletes the following class of goods/services from the application.

Class 016 for Stationery

Applicant hereby deletes the following class of goods/services from the application.

Class 018 for Diaper bags

Applicant hereby deletes the following class of goods/services from the application.

Class 020 for Bassinets; upholstered sleeping baskets functioning as a bed for children; diaper changing mats

Applicant hereby deletes the following class of goods/services from the application.

Class 024 for Children's accessories, namely, children's bedding, namely, bed sheets, pillow cases, towels, washcloths and blankets

Applicant hereby deletes the following class of goods/services from the application.

Class 028 for Children's gifts made of silver, namely novelty items including rattles, picture frames, jewelry, combs, brushes and cups

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 025 for Children's' clothing, namely, coveralls, infant body suits, vests, sweaters, coats, kimonos, shirts, pants, leggings, dresses, skirts, sleepwear, socks, stockings, undergarments, diaper covers, booties, cloth bibs, hats, mittens and shoes; baby bunting

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Proposed:

Tracked Text Description: ~~Children's' clothing, namely, coveralls, infant body suits, vests, sweaters, coats, kimonos, shirts, pants, leggings, dresses, skirts, sleepwear, socks, stockings, undergarments, diaper covers, booties, cloth bibs, hats, mittens and shoes;~~ Children's clothing, namely, infant body suits and cloth bibs; ~~baby bunting~~

Class 025 for Children's clothing, namely, infant body suits and cloth bibs

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

FEE(S)

Fee(s) in the amount of \$100 is being submitted.

SIGNATURE(S)

Signature: /chelsea davis/ Date: 04/06/2013
Signatory's Name: Chelsea Davis
Signatory's Position: Attorney of Record, Texas
Signatory's Phone Number: 214-884-8723

Response Signature

Signature: /chelsea davis/ Date: 04/06/2013
Signatory's Name: Chelsea Davis
Signatory's Position: Attorney of Record, Texas

Signatory's Phone Number: 214-884-8723

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

RAM Sale Number: 77926169
RAM Accounting Date: 04/08/2013

Serial Number: 77926169
Internet Transmission Date: Sat Apr 06 15:48:11 EDT 2013
TEAS Stamp: USPTO/POA-99.147.129.97-2013040615481104
4950-77926169-500393749c0686b8dfe9c328ba
c1a3a34c8563de6ff6cb170e5711a5a4be5f4731
1-CC-7273-20130406144722086814



RAM SALE NUMBER: 77926169
RAM ACCOUNTING DATE: 20130408

INTERNET TRANSMISSION DATE:
2013/04/06

SERIAL NUMBER:
77/926169

Description	Fee Code	Transaction	Total Fees Paid
POA	7005	2013/04/06	100