

To: Bar NND Ranches, LLC (info@Peacocklaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77928601 - UNGULATTE - 32286-1001
Sent: 12/16/2014 3:49:37 PM
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Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 77928601 MARK: UNGULATTE	*77928601*
CORRESPONDENT ADDRESS: JUSTIN R JACKSON PEACOCK MYERS PC PO BOX 26927 ALBUQUERQUE, NM 87125-6927	CLICK HERE TO RESPOND TO THIS I http://www.uspto.gov/trademarks/teas/response VIEW YOUR APPLICATION FILE
APPLICANT: Bar NND Ranches, LLC	
CORRESPONDENT'S REFERENCE/DOCKET NO : 32286-1001 CORRESPONDENT E-MAIL ADDRESS: info@Peacocklaw.com	

OFFICE ACTION

ISSUE/MAILING DATE: 12/16/2014

THIS IS A FINAL ACTION.

The Trademark Trial and Appeal Board (Board) suspended applicant's appeal and remanded the application to the trademark examining attorney for consideration of an additional matter. A new non-final action was issued on May 16, 2014. Applicant kindly provided a response on November 17, 2014.

The trademark examining attorney has carefully reviewed applicant's most recent response. In the response, applicant argued against all outstanding refusals and requirements. Applicant's arguments were carefully considered, but ultimately found unpersuasive. Therefore, all issues raised in the previous final Office action and the additional "phantom mark" issue that was raised in the most recent Office action remain outstanding.

Because applicant's response does not resolve all outstanding refusals and/or requirements nor otherwise put the application in condition for publication or registration, the trademark examining attorney is holding all issues final. *See* 37 C.F.R. §§2.64(a)-(b), 2.142(d); TMEP §715.04(b).

Thus, the following issues are in final status:

- 1. Phantom mark refusal.**
- 2. Requirement for an acceptable drawing.**
- 3. Requirement for an acceptable mark description.**
- 4. Specimen refusal.**

In light of the foregoing, the Trademark Trial and Appeal Board is presently being notified to resume the appeal in this matter. *See* TMEP §715.04(b).

I. Phantom Mark Refusal

A. General Refusal:

In applicant's June 20, 2013 request for reconsideration after final action, applicant amended the drawing back to the originally submitted drawing. This drawing comprises a deer design. Applicant has used dotted lines in its drawing to represent antlers on the design of a deer, and applicant has stated they are not claimed as part of the mark.

In light of the foregoing, registration is now refused because applicant seeks registration of more than one mark in its application. Registration is, therefore, refused because applicant seeks registration of more than one mark in its application. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; TMEP §1214.01. An application must be limited to only one mark. 37 C.F.R. §2.52; TMEP §807.01; *see* 15 U.S.C. §1051(a)(1). A mark that contains a changeable or "phantom" element is considered to be more than one mark. *See In re Int'l Flavors & Fragrances Inc.*, 183 F.3d 1361, 51 USPQ2d 1513 (Fed. Cir. 1999); *In re Primo Water Corp.*, 87 USPQ2d 1376 (TTAB 2008); TMEP §1214.01.

A phantom mark is one in which an integral portion of the mark may be represented in the drawing by a blank or dashed line, dots, underlining, or a designation such as "XXXX," which acts as a placeholder for a term or symbol that changes, depending on the use of the mark. *See In re Int'l Flavors & Fragrances Inc.*, 183 F.3d 1361, 1363 n.1, 51 USPQ2d 1513, 1515 n.1 (Fed. Cir. 1999); TMEP §1214. A phantom element may consist of a relatively minor, descriptive or disclaimed element. *See In re Primo Water Corp.*, 87 USPQ2d 1376, 1378 (TTAB 2008). Examples of phantom elements are a calendar date (usually a year), a geographic location, and a model number that is subject to change. TMEP §1214. Another example is telephone number prefixes that will vary. *Cineplex Odeon Corp. v. Fred Wehrenberg Circuit of Theatres Inc.*, 56 USPQ2d 1538 (TTAB 2000).

Marks with phantom elements provide insufficient notice to potential consumers and businesses as to what the mark consists of when it is in actual use in commerce. Registering such marks could facilitate confusion about the source of products sold under such a trademark as well as prevent business owners from being able to rely on the federal trademark register when adopting marks for goods or services.

As the [U.S. Court of Appeals for the Federal Circuit] stated in [*In re Int'l Flavors & Fragrances Inc.*, 183 F.3d 1361, 51 USPQ2d 1513 (Fed. Cir. 1999)], a primary purpose of registration is to provide notice to potential users of the same or a confusingly similar mark, and that to serve this

purpose, the mark, as registered, must accurately reflect the way it is used in commerce so that someone who searches the registers of the USPTO for the mark, or a similar mark, will locate the registered mark. The court further stated, at 51 USPQ2d 1517-18, that “phantom” marks with missing elements “encompass too many combinations or permutations to make a thorough and effective search possible. The registration of such marks does not provide proper notice to other trademark users, thus failing to help bring order to the marketplace and defeating one of the vital purposes of federal trademark registration.”

In re Primo Water Corp., 87 USPQ2d 1376, 1378 (TTAB 2008).

B. Discussion of the Applied-for Mark and Conclusion:

In its request for reconsideration after final action, applicant amended the drawing back to the originally submitted drawing. The original/current drawing consists of the design of a deer that is holding a steaming cup with the word “ungulate” thereon. There are dotted lines representing small antlers on the deer, and applicant has said that these dotted lines are not part of the mark. In this regard, applicant refers to them as “non-claimed” matter.

In its February 17, 2012 petition, applicant said:

Applicant’s mark is for goods of coffee; coffee based beverages; roasted coffee beans. Applicant has always intended to illustrate different coffee brews and/or roasts using different antler configurations, which is why applicant elected not to claim the antler portion of the mark in the initial filing.

In its August 15, 2012 statement of use, applicant said:

The type of antlers (i.e. felt or no felt) indicates whether the goods sold under the mark are from a caffeinated or decaffeinated coffee roast. And, the number of points on the antlers is used to describe the flavor that the consumer can expect (i.e. more bold for more points and less bold for less points).

In its February 19, 2014 appeal brief, pp. 2-3, applicant said:

Applicant places different antler configurations above the deer to describe particular qualities for each particular coffee product sold. For example, applicant applies antlers having more tips (i.e. “points”) above the deer for bolder coffee. For decaffeinated coffee, applicant applies antlers having velvet thereon above the deer. Thus, consumers are still buying the same brand of coffee from the same provider. However, rather than having some side-statement written out on the product label which describes whether the coffee is caffeinated or not and whether the roast is more bold than another roast, applicant is instead achieving this graphically via different antler configurations above the mark.

Moreover, although the specimen of record shows only one complete deer design thereon, the specimen contains additional information regarding applicant’s intent to use different antlers to identify characteristics of applicant’s various coffee goods. It establishes that one antler design is to identify “a decaffeinated product that is bolder” than another, and other antler designs are used to show varying degrees of boldness in applicant’s caffeinated goods.

The foregoing, therefore, establishes that 1) the dotted lines shown in the drawing act as a placeholder for

a design element that can change, namely, an antler design that changes depending on the use of the mark, and 2) the different antler designs convey different meanings and commercial impressions relating to the characteristics of applicant's various coffee products. Thus, the antlers in the drawing act as a changeable phantom element.

Finally, please keep in mind that a phantom element may consist of a relatively minor, descriptive or even a disclaimed element. *In re Primo Water Corp.*, 87 USPQ2d at 1378. Thus, registration must be refused even if the antlers comprising the phantom element in this case are not a large portion of the drawing.

In light of the foregoing, registration is refused under Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; TMEP §1214.01.

C. Applicant's Argument and Response Thereto:

Applicant argues that the mark is not a phantom mark and goes into great detail when distinguishing its mark from other marks deemed phantom marks such as the mark in the *In re Primo Water Corp.* case. Applicant also argues that there is no phantom mark issue when applicant has specifically said that the portion in dotted lines is not actually claimed as part of the mark. Moreover, applicant reminds the examining attorney that it is required to show the antler portion of the mark in dotted lines because it is not claimed as part of the mark.

Applicant also argues the following:

Applicant's dashed antler portion, along with the language in the specimen of record, which describes the commercial meaning of the different antler configurations, the more points, the bolder the coffee, creates a separate commercial impression from the rest of the deer image.

Finally, applicant 1) again reiterates its argument that consumers would not perceive the antlers as part of the mark because, in real life, deer lose their antlers, and 2) further argues that consumers would recognize and identify the portion of the deer without antlers especially when consumers see the steam rising off of the hot coffee that the deer is holding and the word "ungulate" printed on the coffee mug.

The examining attorney respectfully disagrees with applicant's analysis.

First, applicant is reminded that a proper analysis mark must rely on the mark as it appears in the application. One cannot presume that consumers will always see the mark in connection with product packaging or other materials that describe the type of antlers on the deer and what they may mean.

Second, 37 C.F.R. §2.52(b)(4) provides that, **if necessary**, to adequately depict the commercial impression of the mark, the applicant may be required to submit a drawing that shows the placement of the mark by surrounding the mark with a proportionately accurate broken-line representation of the particular goods, packaging, or advertising on which the mark appears. The applicant must also use broken lines to show any other matter not claimed as part of the mark. For any drawing using broken lines to indicate placement of the mark, or matter not claimed as part of the mark, the applicant must describe the mark and explain the purpose of the broken lines.

The mark in this case is not a configuration of the goods or their packaging nor is it a design feature of the goods or their packaging. Moreover, the broken lines used in this case are not used to represent the mark's placement on the particular goods, their packaging, or advertising nor are they used to represent matter

that could not be claimed as part of the mark such as functional matter. Thus, it is unnecessary for applicant to use dotted lines in its mark.

Moreover, the evidence or record establishes that **applicant is actually using one or more marks showing the body of the deer with antler designs. Thus, it appears that the sole purpose of the dotted lines in applicant's drawing is to identify an interchangeable, phantom element.**

With respect to applicant's argument that consumers would perceive the portion of the deer *without* antlers to create a separable commercial impression so that this portion and the antlers would **not** be considered unitary, the examining attorney disagrees with applicant's analysis. In particular, applicant's analogy of its mark to real-life deer is flawed.

In this regard, applicant's analysis goes beyond considering what the actual mark(s) in the application and specimen is/are. **The issue is whether the dotted lines in the drawing represent an interchangeable phantom element.**

The specimen and applicant's remarks identified above establish that applicant is actually using multiple marks comprising a similar deer body (like the one shown in the drawing), but which have different antlers that are attached to the deer's head. Moreover, the commercial impressions of each antler design are different as the antlers are used to identify characteristics of the various coffees.

When the examining attorney previously mentioned real-life deer, it was merely to show that consumers would certainly perceive the antlers on the deer shown in the drawing/specimens as unitary. In this regard, ***when real deer actually they have antlers***, the antlers are attached to the body of the deer and all the body parts, including the antlers, work and move together. Thus, when consumers see a design of a deer with antlers, the antlers and rest of the deer would be considered unitary.

Finally, the issue here is not whether or not consumers would recognize the portion of the deer without antlers. Many companies have a variety of similar trademarks. Thus, even if consumers become familiar with the face or body of applicant's deer design, that fact alone does not negate the fact that in the trademark application at issue here, applicant appears to be applying for a phantom mark allowing for applicant to change out the antlers used on its deer.

In light of the foregoing it is clear that the only reason applicant included dotted antlers in the drawing is to identify a changeable, phantom element, namely, a changeable antler design. Registration is, therefore, refused under Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127, is made final. *See* TMEP §1214.01.

2. ***Drawing is Unacceptable***

A. General Drawing Information:

An application must be limited to only one mark. 15 U.S.C. §1051(a)(1); 37 C.F.R. §2.52. *See In re International Flavors & Fragrances Inc.*, 183 F.3d 1361, 1366, 51 USPQ2d 1513, 1516 (Fed. Cir. 1999). TMEP §807.01.

37 C.F.R. §2.52(b)(4) provides that, **if necessary**, to adequately depict the commercial impression of the mark, the applicant may be required to submit a drawing that shows the placement of the mark by surrounding the mark with a proportionately accurate broken-line representation of the particular goods,

packaging, or advertising on which the mark appears. The applicant must also use broken lines to show any other matter not claimed as part of the mark. For any drawing using broken lines to indicate placement of the mark, or matter not claimed as part of the mark, the applicant must describe the mark and explain the purpose of the broken lines.

The need for dotted lines to show placement often arises with respect to three-dimensional configuration marks. In this regard, when an applicant applies to register a configuration mark, the applicant must depict the mark in the drawing to include broken or dotted lines to show the position of the mark on the goods or container. 37 C.F.R. §2.52(b)(4); TMEP §§807.08, 1202.02(c)(i). The mark itself is to be displayed using solid lines. See 37 C.F.R. §§2.52(c), 2.54(e); TMEP §§807.05(c), 807.06(a).

B. Dotted Lines are Unnecessary in Applicant's Mark:

In this case, applicant has submitted a two-dimensional, special form drawing consisting of a deer design. Included on the drawing page are antlers on the deer's head, which are shown in broken lines and which applicant has indicated are not claimed as a feature of the mark.

However, the mark in this case is not a configuration of the goods or their packaging nor is it a design feature of the goods or their packaging. Moreover, the broken lines used in this case are not used to represent the mark's placement on the particular goods, their packaging, or advertising nor are they used to represent matter that could not be claimed as part of the mark such as functional matter.

In light of the foregoing, the use of the dotted lines in the drawing is unacceptable because it is unnecessary in order to adequately depict the commercial impression of the mark. At best, it appears that applicant is using dotted lines in an attempt to register a phantom mark. As discussed above, a phantom mark is not registrable.

C. Applicant's Argument :

Applicant argued that 37 C.F.R. §2.52(b)(4) "mandates" that it use dotted lines to show matter not claimed as part of the mark. It is applicant's opinion that the dotted lines are acceptable to show "placement of the mark." The examining attorney respectfully disagrees.

Even assuming *arguendo* that dotted lines identifying "non-claimed" matter were generally considered "necessary" in connection with some non-configuration, special form drawings, such dotted lines are unnecessary in this case. Moreover, applicant is not using dotted lines to show position or placement on the goods, their packaging, etc.

More specifically, applicant's mark is a legible, two-dimensional design mark. The outline of the antlers in the drawing does not aid in showing position of the mark on the packaging, product, etc. In fact, applicant itself has argued that 1) the applied-for mark is the design of the deer without antlers, and 2) the deer's body creates a completely separate commercial impression apart from any antlers that may be used with it. Thus, it appears from applicant's own arguments that the dotted lines are not claimed as part of the mark and are unnecessary to adequately depict the commercial impression of the mark. At best, it appears that applicant is attempting to register a phantom mark, which is impermissible (this issue is discussed in detail above).

Finally, it is noted that applicant argued in its appeal brief that the dotted lines in its mark are acceptable in light of the fact that other registered marks contain similar dotted lines. The examining attorney respectfully disagrees.

As a preliminary matter, applicant has not made of record the registration information for the registered marks that it refers to. Thus, the registration information referred to by applicant cannot be considered. To make registrations of record, copies of the registrations or the complete electronic equivalent (i.e., complete printouts taken from any of the USPTO's automated systems (X-Search, TESS, TSDR, or TRAM)) must be submitted. *In re Ruffin Gaming LLC*, 66 USPQ2d 1924, 1925 n.3 (TTAB 2002); *In re Volvo Cars of N. Am. Inc.*, 46 USPQ2d 1455, 1456 n.2 (TTAB 1998); *In re Broadway Chicken Inc.*, 38 USPQ2d 1559, 1561 n.6 (TTAB 1996); *In re Smith & Mehaffey*, 31 USPQ2d 1531, 1532 n.3 (TTAB 1994). TMEP §710.03.

Additionally, trademark examining attorneys are not bound by the actions of past examining attorneys in prior registrations, even if the registrations have some characteristics similar to the application at issue; each case is decided on its own merits. *In re Manwin/RK Collateral Trust*, 111 USPQ2d 1311, 1315 (TTAB 2014) (citing *In re Nett Designs, Inc.*, 236 F.3d 1339, 1342, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001)).

In light of the foregoing, the drawing remains unacceptable.

3. **Drawing Differs from Mark on Specimen**

An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each international class of goods and/or services identified in the statement of use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Registration is refused because the specimen does not show the applied-for mark in the drawing in use in commerce. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a), 1301.04(g)(i). Specifically, the specimen of record shows the mark used on a package of roasted coffee. The mark on the specimen is comprised of the same deer design and wording as shown in the drawing, except that the deer shown on the specimen has large antlers with five points on each antler. The drawing, on the other hand, shows the deer with two-point antlers comprised of dotted lines that applicant has not even claimed as part of the mark.

A. The Mark on the Specimen is Unitary:

Significantly, a mark or portion of a mark is considered “unitary” when it creates a commercial impression separate and apart from any unregistrable component. The test for unitariness inquires whether the elements of a mark are so integrated or merged together that they cannot be regarded as separable. *See In re EBS Data Processing*, 212 USPQ 964, 966 (TTAB 1981); *In re Kraft, Inc.*, 218 USPQ 571, 573 (TTAB 1983). The inquiry focuses on “how the average purchaser would encounter the mark under normal marketing of such goods and also ... what the reaction of the average purchaser would be to this display of the mark.” *Dena Corp. v. Belvedere Int’l, Inc.*, 950 F.2d 1555, 1561, 21 USPQ2d 1047, 1052 (Fed. Cir. 1991) (quoting *In re Magic Muffler Serv., Inc.*, 184 USPQ 125, 126 (TTAB 1974)).

In this case, the antlers shown on the deer in the mark on the specimen are very large and prominent. In fact, they visually take up almost as much space as the rest of the deer and its coffee mug combined. Moreover, the deer's antlers are attached to the deer's head and mixed in with the hair on the deer's head. The antlers flow straight into the rest of the deer's body, and there is no visual or spatial separation between the antlers and the rest of the deer. Thus, the commercial impression of the deer's body and antlers is that of a single, distinct, and inseparable whole.

Finally, it is noted that the antlers in the mark on the specimen are similar in color to the rest of the deer. The color continuity and the fact that the antlers are integrated with the rest of the deer causes the antlers and rest of the deer to be perceived as a continuous, inseparable, and unitary design.

B. Drawing Does Not Match Mark on the Specimen:

Whether the drawing is viewed as 1) having no antlers or 2) having small, two-point antlers, the drawing does not match the unitary mark shown on the specimen. As noted above, the mark on the specimen shows a deer with large, five-point antlers.

The drawing shows the mark sought to be registered, and must be a substantially exact representation of the mark as used on or in connection with the goods and/or services, as shown by the specimen. 37 C.F.R. §2.51(a); TMEP §807.12(a). Because the mark in the drawing is not a substantially exact representation of the mark on the specimen, applicant has failed to provide the required evidence of use of the applied-for mark in commerce on or in connection with applicant's goods and/or services. See TMEP §807.12(a).

Examples of specimens for goods include tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, and displays associated with the actual goods at their point of sale. See TMEP §§904.03 *et seq.* Webpages may also be specimens for goods when they include a picture or textual description of the goods associated with the mark and the means to order the goods. TMEP §904.03(i).

C. Action:

Normally, an applicant may respond to this type of refusal by satisfying one of the following for each applicable international class. However, please note that, in light of applicant's appeal, the application file is being returned to the Board and applicant cannot simply submit a response (applicant would need to request remand).

- (1) Submit a [new drawing of the mark](#) that agrees with the mark on the specimen and, if appropriate, an amendment to the color claim and/or mark description that conforms to the new drawing.
- (2) Submit a different specimen (a verified ["substitute" specimen](#)) that (a) was in actual use in commerce prior to the expiration of the deadline for filing the statement of use and (b) shows the mark in actual use in commerce for the goods and/or services identified in the statement of use.

Applicant, however, may not withdraw the statement of use. See 37 C.F.R. §2.88(g); TMEP §1109.17.

For an overview of *both* response options referenced above and instructions on how to satisfy either option online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/J3.jsp>.

D. Applicant's Argument:

Applicant argues the following:

Applicant's dashed antler portion, along with the language in the specimen of record, which

describes the commercial meaning of the different antler configurations, the more points, the bolder the coffee, creates a separate commercial impression from the rest of the deer image.

Applicant also 1) again reiterates its argument that consumers would not perceive the antlers as part of the mark because, in real life, deer lose their antlers, and 2) further argues that consumers would recognize and identify the portion of the deer without antlers especially when consumers see the steam rising off of the hot coffee that the deer is holding and the word “ungulate” printed on the coffee mug.

With respect to applicant’s argument that consumers would perceive the portion of the deer *without* antlers to create a separable commercial impression so that this portion and the antlers would **not** be considered unitary, the examining attorney disagrees with applicant’s analysis. In particular, applicant’s analogy of its mark to real-life deer is flawed.

In this regard, applicant’s analysis goes beyond considering what the actual marks in the application and on the specimen actually are. **The issues to consider here are whether the deer body and antlers in the mark on the specimen are unitary and whether the mark on the specimen matches the drawing.** The analysis here must be limited to what the marks actually are.

The specimen shows a mark comprising a deer character that clearly has antlers attached to its head. Moreover, the hair on its head is intermixed with the antlers so that the commercial impression to consumers would be that the antler portions and body of the deer create a unitary whole.

When the examining attorney previously mentioned real-life deer in her own argument, it was merely to show that consumers would perceive the antlers on the deer shown in the specimen and its body to be unitary. In this regard, ***when real deer have antlers***, the antlers are attached to the body of the deer and the antlers and body create a single animal whose antlers and body work and move together. Simply put, the deer in the specimen appears to be comprised of many body parts that comprise a single unitary whole, and they include the antlers.

Finally, the issue here is not whether or not consumers would recognize the portion of the deer without antlers (many companies often have a variety of similar trademarks with parts that are identical or very similar). The issue here is whether the mark on the specimen matches the drawing of the mark. For the foregoing reasons, it is clear that the drawing does not match the mark on the specimen. Thus, the specimen refusal is continued.

4. Description of the Mark

Applications for marks not in standard characters must include an accurate and concise description of the entire mark that identifies literal elements as well as any design elements. *See* 37 C.F.R. §2.37; TMEP §§808 *et seq.* As discussed above, the amended drawing cannot be accepted. The amended description of the mark is, therefore, unacceptable. Moreover, periods, rather than a series of semi-colons, should be used in a mark description to separate complete sentences.

Therefore, applicant must provide a more accurate description of the applied-for mark. Assuming the previously accepted drawing is reinstated or applicant submits a new drawing showing the deer mark on the specimen (with antlers that are NOT in dotted lines), the following is suggested:

The mark consists of the design of a fanciful deer holding a steaming coffee mug, which has the word “UNGULATTE” thereon.

**** The refusal(s) and/or requirement(s) above is/are made FINAL.****

Because applicant previously filed a Notice of Appeal, the application file is being returned to the Trademark Trial and Appeal Board and the Board is being notified to resume the appeal. See TMEP §715.04(b).

Please do not hesitate to contact the undersigned with any questions.

/MaureenDallLott/

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PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **12/16/2014** FOR U.S. APPLICATION SERIAL NO. 77928601

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **12/16/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the

ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.