

From: Trusilo, Kelly

Sent: 3/10/2015 2:48:00 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 79118868 - WANDERLUST - N/A - Request for  
Reconsideration Denied - Return to TTAB - Message 1 of 4

\*\*\*\*\*

Attachment Information:

Count: 17

Files: 1-1.jpg, 1-2.jpg, 1-3.jpg, 1-4.jpg, 2-1.jpg, 2-2.jpg, 3-1.jpg, 3-2.jpg, 3-3.jpg, 3-4.jpg, 3-5.jpg, 4-1.jpg,  
4-2.jpg, 4-3.jpg, 4-4.jpg, 6-1.jpg, 79118868.doc

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

**U.S. APPLICATION SERIAL NO.** 79118868

**MARK:** WANDERLUST



**CORRESPONDENT ADDRESS:**

JEFFREY P THENNISCH

INGRASSIA FISHER & LORENZ

7010 E COCHISE ROAD

SCOTTSDALE, AZ 85253

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** SF MODE

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@ifllaw.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 3/10/2015

**INTERNATIONAL REGISTRATION NO.** 1131630

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following refusal made final in the Office action dated July 10, 2014 is maintained and

continue to be final: Trademark Act Section 2(d) Refusal to Register. See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issues, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issues in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues.

The marks are identical. The goods and services of the applicant and registrant are highly similar. Registrant's argument with regard to Registration 3880519 that the goods, namely, audio and video recordings in the field of music, fitness, etc. differ because of the wording, "all of which relate to a festival featuring these activities" is not persuasive as consumers of applicant's audio and video recordings in the field of music, fitness, etc. would be unaware of any limitations in registrant's recitation of goods. Indeed, consumers of applicant's goods may assume that they are the same audio/video recordings from a music festival they attended. Further, consumers may know nothing about registrant's music festivals and would simply confuse the source of the goods due to their identical nature and the identical marks.

Regarding Registration Numbers 3880423 and 4092974, the services of nightclub entertainment events, live music festivals and concerts, in Registration Number 3880423 are identical to applicant's live musical concerts, performances, etc. services. Registration Number 4092974 contains the further identical services of online information, namely, in the form of publications in the field of music, as applicant's provision of non-downloadable electronic publications in the field of music services. In addition, both of these registrations' recitations of services are confusingly similar with applicant's Class 043 services of provision of food and drink, temporary housing and bar services. Registrant's provision of information services in the field of musical festivals, retreats, entertainment, as well as the actual provision of nightclub services and music concerts, are similar services to applicant's Class 043 services. Further website evidence is attached evidencing purveyors of nightclub and music venue services, and provision of food and drink services. (*See attached from worldfoodandmusicfestival.org, delraymusicfestival.com, eatocracy.cnn.com, edgefieldconcerts.com, atasteofcolorado.com, chicagetraveler.com, ultrabar.dc, foxjazztampa.com, justluxe.com, Charleston.southernfoodfestival.com, bottlerocknapavalley.com*).

Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); see 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); see TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Kelly Trusilo/

Trademark Examining Attorney

Law Office 107

(571) 272-8976

kelly.trusilo@uspto.gov



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Sunday, Sept. 20: 11 a.m. - 5 p.m.

The image shows the top portion of a website for the Del Ray Music Festival. The header features a navigation menu with the following items: Home, About, Music, Food & Fun, Supporters, Merch, Gallery, Volunteer, Directions, Media, and Contact. Below the menu is a large banner image of a woman with long dark hair, smiling and holding a small dog. The text '2014 Del Ray Music Festival' is overlaid on the bottom of the banner. To the right of the banner, there is a section titled 'THE 2014 DEL RAY MUSIC FESTIVAL' with a brief description: 'The Del Ray Music Festival is a celebration of local music, food and community. Join the party on June 28, 2014! SORRY NO DOGS'. Below this is a 'RECENT NEWS' section with three bullet points: 'Save the Dates!', 'DRMF 2013 Headliner', and 'DRMF 2012 Headliner'. At the bottom of the page, there are three columns: 'CONNECT:', 'PARTICIPATING RESTAURANTS:', and 'FEATURED SPONSORS:'. The background of the page is dark with purple and blue light effects.

Del Ray Music Festival  
Contact: Kate Moran  
info@delraymusicfestival.com

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**PORK BARREL BBQ**

**JACK TAYLOR'S Alexandria**  
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SCION

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Music and food festivals: a feast for the senses

July 26th, 2013 02:45 PM EDT

The best in music and food festivals

Kate Krader (@kkrader on Twitter) is Food & Wine's restaurant editor. When she tells us where to find our culinary heart's desire, we listen up.

You don't need me to tell you that food festivals have gotten exponentially better since the days when a foot-long corn dog was big news. You also know that, beverage-wise, music festivals aren't just about bad beer in plastic cups that you hope someone doesn't throw at your head.

Advertisement for a Jawbone UP24 Wristband (Medium) - Onyx for \$129.99, featuring Best Buy and Price Match Guarantee logos.

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Steak cooked over liquid hot magma

hope someone doesn't know as your meal.

SB! The improvement is mind-blowing. The only problem, besides getting into some of them, is deciding whether to describe these events as food festivals or music festivals. It's your call.

**Lollapalooza: Chicago, Illinois August 2-4**

If you were lucky enough to score a ticket to the sold-out Lollapalooza, you'll be rewarded with three dozen awesome food vendors chosen by its culinary director, Graham Elliot. Among those vendors: himself, serving his signature lobster corn dogs, and tuffe-and-Parmesan popcorn.

At Tony Manzano's Italian Bar Toma, you'll find potato chips with Calabrian Icorice powder, and the One-Hiber sandwich with smoked prosciutto and mozzarella. The local brewer Goose Island Brewing offers grilled cheese-stuffed pretzels, plus the Goose Island beer brai. Festival headliners include The Cure, Mumford & Sons, The Killers and Nine Inch Nails.

**Outside Lands: San Francisco, California August 9-11**

The great thing about having three fields of space for the festival is that there's plenty of room for food. There's a food truck roundup including Bacon Bacon (bacon burgers, spicy pork files), and the excellent mobile pizza truck Del Popolo. Check out the brand-new Cheeselands (an entire cheese-dedicated area), and Choccolands, featuring the Guffard Golden Bar scavenger hunt.

All that space means there's also room for lots of music, including Paul McCartney, Grizzly Bear and Red Hot Chili Peppers. We hope you have your tickets already, because Outside Lands just sold out.

**Cultivate Festival: Denver, Colorado August 17**

Food, ideas & music. That's the tagline of this free, Chipotle-sponsored festival. For food, there are cooking demos from the likes of Top Chef winner Richard Blais and Chopped judge Amanda Freitag, plus lots of dishes such as soft tacos and gorditas. Musicwise, the L.A. band Cust War Kids is scheduled to headline. And then there are the ideas, which include the California Avocado Experience, and the Farm Facts experience, which teaches about livestock (tree-range versus confined, and more).

This being Colorado, the craft brew scene will be off the hook, represented by the likes of Avery Brewing Co., Oskar Blues Brewery and Strange Brewing Co.

**Boston Calling: Boston, Massachusetts September 7-8**

Boston is lucky: The town has already had one Boston Calling festival this year, in May. The food lineup for the fall edition is still a secret, so let's talk about what happened at the spring show, which featured a roundup of the city's best food trucks, including Rory's Grilled Cheese, the Shuckin' Truck (lobster and scallop rolls), fish tacos, clam chowder) and Kiddass Cupcakes (cupcake-ice cream sundaes).

As far as the fall music lineup, Vampire Weekend and Passion Pit are headlining.

Which chain restaurants reign 'Xtreme'?

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Solange and Kendrick Lamar are scheduled to be there, too.

Music City Eats and Petty Fest Nashville, Tennessee September 21-22  
It might be easier to list the cool chefs who aren't part of this subset of Nashville's terrific Music City Eats festival, whose creators include Kings of Leon's Caleb and Nathan Followitt, and chef Jonathan Waxman. (Full disclosure: Food & Wine magazine is a sponsor.) The festival features chefs' demos and panel discussions with Michael Symon, Tim Love, John Besh, Nancy Silverton, Ed Lee and Donald Link.

On September 21, you'll also find the fourth annual Tom Petty and the Heartbreakers—dedicated Petty Fest, hosted by the Kings of Leon and the Cap'n Down. Below: Eats, with special guests. The website promises: "If you love Tom Petty and the Heartbreakers you'll be in heaven. If you don't, you will. Petty Fest will do you like that."

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Posted by: [Kate Krader](#) — Special to CNN  
Filed under: [Content Partner](#) - [Events](#) - [Fair Food](#) - [Food and Wine](#) - [Music](#)

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soundoff (9 Responses)

**curlytopnola**

how can jazz fest in new orleans not be on this list? bollocks, say i.  
July 29, 2013 at 12:26 am |

**Theodore**

Are you kidding me? Festival International de Louisian isn't the greatest food and music festival in the history of the world?  
July 29, 2013 at 12:04 am |

**GIGI Eats Celebrities**

I wish there were an event in Los Angeles coming up!  
July 27, 2013 at 8:41 pm |

**ODE**

A good addition to this article would also be the Life is Beautiful Festival in Vegas in late October, they have tons of good music and big name chefs lined up.  
July 26, 2013 at 8:16 pm |

**LG**

Petty Fest? How did I NOT know about Petty Fest :) Thanks for the info.  
July 26, 2013 at 3:27 pm |

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With coleslaw and potato salad (\*D)

**SPICY OREGON BAY SHRIMP PO' BOY \$10**  
With lemon mayonnaise on a hoagie roll, served with potato salad

**CURRIED VEGETABLES W/ TOFU \$12**  
Summer vegetables, yellow curry, Jasmine rice (\*G, X)

**HUMMUS PLATE \$12**  
Baby carrots, cucumbers, cherry tomatoes, Kalamata olives, pita bread (\*X)

**HAMBURGER \$8**  
6oz all-natural Piedmontese beef, lettuce, tomato, red onion, pickles

**CHEESEBURGER \$9**  
6oz all-natural Piedmontese beef, Tillamook cheese, lettuce, tomato, red onion, pickles

**GRATEFUL\_VEG BURGER \$8**  
Vegan patty with walnut-pomegranate spread (\*X)

**TERMINATOR SAUSAGE \$8**  
Olympic Provisions sausage on a Timberline roll, served with sauerkraut

**CAESAR SALAD \$9**  
Romaine, Asiago, croutons & Caesar dressing  
Add chicken \$13

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1/2 for 1 scoop, 1/2 for 2 scoops

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- Bittersweet Chocolate Fudge: Cocoa and bittersweet chocolate with a tang of buttermilk and a swirl of fudge
- Marionberry: Bursting with the flavor of Oregon marionberries
- Oregon Hazelnut: Chunks of toasted Oregon hazelnuts in a hazelnut ice cream



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Sorry, Cosmic Tripster happy hour pricing does not apply

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White Rabbit or Black Rabbit Red

Edgefield Hard Cider \$8

Estrella Damm Daura (gluten-free beer) \$5

Pabst Blue Ribbon \$6

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