

To: SIG Combibloc Systems GmbH (trademarks@webblaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 79121145 - COMBISWIFT - 3988-130945
Sent: 12/1/2014 2:57:17 PM
Sent As: ECOM119@USPTO.GOV
Attachments:

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

U.S. APPLICATION SERIAL NO. 79121145 MARK: COMBISWIFT	*79121145*
CORRESPONDENT ADDRESS: RUSSELL D ORKIN THE WEBB LAW FIRM 420 FT DUQUESNE BLVD SUITE 1200 ONE GATEWAY CENTER PITTSBURGH, PA 15222	CLICK HERE TO RESPOND TO THIS 1 http://www.uspto.gov/trademarks/teas/response VIEW YOUR APPLICATION FILE
APPLICANT: SIG Combibloc Systems GmbH	
CORRESPONDENT'S REFERENCE/DOCKET NO : 3988-130945 CORRESPONDENT E-MAIL ADDRESS: trademarks@webblaw.com	

OFFICE ACTION

ISSUE/MAILING DATE: 12/1/2014

THIS IS A FINAL ACTION.

INTERNATIONAL REGISTRATION NO. 1137640

This Office action is in response to applicant's communication filed on 10/10/14.

In the previous office action dated 4/11/14 the following issue was raised:

- **FINAL SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION / EVIDENCE OF UNITY OF CONTROL INSUFFICIENT**

In response, applicant has filed a Notice of Appeal, and has requested reconsideration of the final refusal

by submitting arguments and new evidence in the form of a declaration from one of applicant's employees. Applicant's arguments and evidence have been considered and found unpersuasive for the reasons set forth below.

SUBSEQUENT FINAL SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION / EVIDENCE OF UNITY OF CONTROL REMAINS INSUFFICIENT

Registration of the applied-for standard character mark COMBISWIFT continues to be refused because of a likelihood of confusion with the following four registered marks owned by "SIG COMBIBLOC, INC." and the one registered mark owned by "SIG Combibloc GmbH & Co. KG":

Owner: SIG COMBIBLOC, INC.

U.S. Reg. No. 1197721 COMBIBLOC
U.S. Reg. No. 2654461 COMBITOP
U.S. Reg. No. 2986024 COMBITWIST
U.S. Reg. No. 1914826 COMBITOP stylized

Owner: SIG Combibloc GmbH & Co. KG

U.S. Reg. No. 4062006 COMBILIFT

Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.*

APPLICANT HAS NOT ESTABLISHED UNITY OF CONTROL

Applicant has continued to argue that the cited marks are owned by entities related to the applicant which are subject to a unity of control. In support of the claim of unity of control, in its response filed on 2/24/14 applicant stated that the applicant and the two entities that are owners of the cited registrations "are sister corporations subject to the common control of the SIG Combibloc Group", that "[t]he SIG Combibloc Group is itself part of a larger, Swiss industrial conglomerate". Furthermore, applicant submitted "[c]opies of the Applicant's website (generally available at www.sig.biz)" that applicant asserts "show the cooperation among and unity of control over the three separate entities." In addition, applicant declared that "an appropriate corporate relationship exists between the three entities to qualify as unity of control for the purposes of mooting the likelihood of confusion refusal."

In its response filed on 10/10/14, applicant submitted a declaration by an employee of the applicant, as well as the following statement by Applicant's counsel:

"In response, Applicant submits the attached Declaration executed by Dr. Werner Seiche, Head of Technology Intelligence & IP Management for SIG Combibloc Systems GbH.[sic] Dr. Seiche attests that SIG Combibloc Systems GmbH is related to SIG Combibloc GmbH & Co. KG, and SIG Combibloc, Inc. Particularly, all three entities are wholly owned by Beverage Packaging Holdings I S.A. of Luxembourg. Further, Dr. Seiche attests that Beverage Packaging Holdings I S.A. exercises control over trademarks owned by its subsidiaries to ensure that consumers are aware that goods covered by the respective marks emanate from a single source. Therefore, as described previously, these three entities are sister corporations subject to the common control of Beverage Packaging Holdings I S.A. The three entities, along with Beverage Packaging Holdings I S.A., cooperate in use of their respective trademarks. Accordingly and in view of the attached Declaration, Applicant, by way of its undersigned attorney, declares an appropriate corporate relationship exists between the three entities to qualify as unity of control for the purposes of mooting the likelihood of confusion refusal."

Applicant's arguments and the submitted declaration have been considered and found unpersuasive for the reasons set forth below.

Applicant is hereby reminded that a legal relationship between the parties is insufficient to overcome a likelihood of confusion unless the parties constitute a "single source." That is, the legal relationship between the parties must exhibit a "unity of control" over the nature and quality of the goods and/or services in connection with which the trademarks and/or service marks are used, and a "unity of control" over the use of the trademarks and/or service marks. *See In re Wella A.G.*, 5 USPQ2d 1359, 1361 (TTAB 1987); *see also* TMEP §1201.07.

The examining attorney reiterates that unity of control is presumed in instances where, absent contradictory evidence, one party owns (1) all of another entity, or (2) substantially all of another entity and asserts control over the activities of that other entity. *See* TMEP §1201.07(b)(i)-(ii). Such ownership is established, for example, when one party owns all or substantially all of the stock of another or when one party is a wholly owned subsidiary of another. *See In re Wella A.G.*, 5 USPQ2d at 1361; TMEP §1201.07(b)(i)-(ii). Applicant is hereby again informed that it is additionally presumed when, absent contradictory evidence, applicant is shown in USPTO records as a joint owner of the cited registration, or the owner of the registration is listed as a joint owner of the application, and applicant submits a written statement asserting control over the use of the mark by virtue of joint ownership. TMEP §1201.07(b)(ii).

As specified in the previous office action, applicant was cautioned **that in most other situations, additional evidence is required to show unity of control.** For example, **if the parties are sister corporations** or if the parties share certain stockholders, directors or officers in common, **additional evidence must be provided to show how the parties constitute a single source.** *See In re Pharmacia, Inc.*, 2 USPQ2d 1883, 1884 (TTAB 1987); TMEP §1201.07(b)(iii).

In the previous response filed on 2/24/14, applicant merely reasserted that the cited registrants (SIG Combibloc Inc. and SIG Combibloc GmbH & Co. KG) are sister corporations to the applicant, and that those three entities are somehow "subject to the common control of the SIG Combibloc Group." The applicant offered in that response only that "[t]he SIG Combibloc Group is itself part of a larger, Swiss industrial conglomerate" and website excerpts that illustrate the locations of the applicant and the two cited registrants, and that include the following wording:

"SIG Combibloc worldwide
Packaging plants and subsidiaries located throughout the world enable SIG Combibloc to respond quickly and effectively to local customer needs."

In the office action of 4/11/14 applicant was informed that the statements and evidence in the 2/24/14 response were insufficient to establish a unity of control, as the applicant failed to establish that the applicant or registrants own all, or substantially all of the other parties. Applicant was informed that it had not even established that the registrants and the Applicant are wholly owned subsidiaries of the "SIG Combibloc Group", and it was noted that the applicant had failed to disclose the entity type and state or country of organization of the SIG Combibloc Group. *See* TMEP §1201.07(b)(i)-(ii). In addition, it was noted that applicant failed to establish that either of the cited registrants owns all or substantially all of the stock of the Applicant, or that the registrants are wholly owned subsidiaries of the Applicant.

Therefore, applicant was required to provide a written statement explaining the nature of the legal relationship between the parties, and to provide a detailed written explanation and documentary evidence

showing the parties' "unity of control" over the nature and quality of the goods and/or services in connection with which the trademarks and/or service marks are used, and the parties' "unity of control" over the use of the trademarks and/or service marks. *See* TMEP §1201.07(b)(i)-(iii). This statement and explanation was required to be verified with an affidavit or signed declaration under 37 C.F.R. §2.20. TMEP §1201.07(b)(ii)-(iii); *see* 37 C.F.R. §2.193(e)(1).

In response, applicant disclosed that the cited registrants and the applicant are sister corporations; however, applicant was informed that it had failed to provide sufficient detail as to how there is a "unity of control" over the nature and quality of the goods in connection with which the trademarks are used. In the final office action dated 10/10/14, applicant was warned that it would not be enough to state that the parties are subject to common control by another entity that is part of a larger conglomerate. Applicant was required to provide a detailed explanation of exactly what type of entity is the SIG Combibloc Group, and exactly how it controls the nature and quality of the goods in connection with which the trademarks are used by the registrants and applicant. The applicant was informed that although the applicant's evidence suggested that the sister corporations are somehow related to an entity called the "SIG Combibloc Group" as subsidiaries or as packaging plants, the applicant had failed to persuasively articulate how SIG Combibloc Group controls the nature and quality of the goods in connection with which the registrants' and applicant's trademarks are used.

Curiously, applicant's response filed on 10/10/14 does not discuss the aforementioned "SIG Combibloc Group" that it had previously identified as the entity that exerts common control over the applicant and registrants, and the response does not any longer refer to the "larger, Swiss industrial conglomerate" that applicant had previously asserted that the SIG Combibloc Group is part of. Instead, the response filed on 10/10/14 identifies a new entity called "Beverage Packaging Holdings I S.A. of Luxembourg", and applicant asserts that the applicant and the registrants are wholly-owned subsidiaries of this entity. Further, the declaration of applicant's employee, identified as "Dr. Werner Seiche, Head of Technology Intelligence & IP Management for SIG Combibloc Systems GbH[sic]" is characterized by the applicant's counsel as attesting that "Beverage Packaging Holdings I S.A. exercises control over trademarks owned by its subsidiaries to ensure that consumers are aware that goods covered by the respective marks emanate from a single source." Applicant's attorney asserts that the registrants and the applicant are sister corporations, and that the three entities "along with Beverage Packaging Holdings I S.A., cooperate in use of their respective trademarks."

A closer inspection of the declaration of applicant's employee reveals two entities that have been brought to the examining attorney's attention for the first time,. These entities are "SIG Combibloc Holding GmbH" and "SIG Holding USA, LLC". In the declaration, applicant's employee asserts that the applicant and one of the registrants (SIG Combibloc GmbH & Co. KG) are both owned by SIG Combibloc Holding GmbH, and that "SIG Combibloc Holding GmbH is wholly owned by "Beverage Packaging Holdings I S.A. of Luxembourg". The applicant's employee further declares that the other registrant ("SIG Combibloc, Inc.) is a wholly owned subsidiary of "SIG Holding USA, LLC", and that "SIG Holding USA, LLC" is wholly owned by "Beverage Packing Holdings I S.A. of Luxembourg." The declarant further specifies that "Beverage Packing Holdings I S.A. of Luxembourg exercises control over trademarks owned by its subsidiaries." Although the declarant is an employee of the applicant, and no evidence is of record of him being a corporate officer of Beverage Packing I S.A. of Luxembourg, the declarant represents that "Beverage Packing I S.A. ensures that the respective marks are used in a manner that indicates to consumers that goods covered by the marks originate from a single source, and that "[i]f consumer confusion is identified, Beverage Packing I S.A." along with the applicant, and cited registrants, "will work together to resolve such instances of consumer confusion and to prevent any future instances of consumer confusion."

The examining attorney finds that the representations made by applicant's counsel and the statements included in the declaration of the applicant's employee are insufficient to establish unity of control. At best, the applicant has established that the applicant and one of the registrants are first-tier sister corporations that are owned by a common parent entity, and that the applicant and both registrants are second-tier sister corporations second-tier sister corporations subject to the control of an entity identified as Beverage Packing I S.A. of Luxembourg. Although applicant has not specified the national citizenship of "Beverage Packing I S.A. of Luxembourg", the examining attorney notes that TMEP Appendix D indicates that "SA" is an acceptable entity abbreviation for a foreign commercial entity in the country of Luxembourg, and describes such an entity as "Société Anonyme. Joint stock company, equivalent to a corporation." (The examining attorney also notes that the applicant has not specified the state of organization of the entity identified as "SIG Holding USA, LLC".)

The relevant section of the TMEP that addresses when the record does not support a presumption of unity of control reads as follows (bolding added by examining attorney for emphasis):

TMEP § 1201.07(b)(iii)

"When the Record Does Not Support a Presumption of Unity of Control

"If neither the applicant nor the registrant owns all or substantially all of the other entity, and USPTO records do not show their joint ownership of the application or cited registration (see TMEP § 1201.07(b)(ii)), the applicant bears a **more substantial burden** to establish that unity of control is present. For instance, if both the applicant and the registrant are wholly owned by a third common parent, the applicant would have to provide **detailed evidence to establish how one sister corporation controlled the trademark activities of the other to establish unity of control to support the contention that the sister corporations constitute a single source**. See *In re Pharmacia Inc.*, 2 USPQ2d 1883 (TTAB 1987); *Greyhound Corp. v. Armour Life Ins. Co.*, 214 USPQ 473 (TTAB 1982). Likewise, where an applicant and registrant have certain **stockholders, directors, or officers in common, the applicant must demonstrate with detailed evidence or explanation how those relationships establish unity of control**. See *Pneutek, Inc. v. Scherr*, 211 USPQ 824 (TTAB 1981). The applicant's evidence or explanation should generally be supported by an affidavit or a declaration under 37 C.F.R. § 2.20."

Applicant has failed to provide sufficient detailed evidence or an explanation which establishes that the applicant and the registrants share or control the trademark activities of each other, so as to establish unity of control to support the contention that the applicant and the registrants constitute a single source. It is not enough that the applicant and registrants are second-tier sister corporations. The statement that "Beverage Packing Holdings I S.A. of Luxembourg exercises control over trademarks owned by its subsidiaries" made by applicant's employee, specifies that the parent corporation, rather than any of the second-tier sister corporations, is the entity that actually exerts control over the applicant's and registrant's trademarks. The examining attorney notes that the evidence of record in this case consists solely of representations from applicant's counsel and a declaration by one of applicant's employees; no declarations have been submitted from the entity identified as "Beverage Packing Holdings I S.A. of Luxembourg", or by the owners of the cited registrations.

In addition, the statement by applicant's declarant that "[i]f consumer confusion is identified, Beverage Packing I S.A." along with the applicant, and cited registrants, "will work together to resolve such instances of consumer confusion and to prevent any future instances of consumer confusion" is inconsistent with applicant's contention of unity of control. If there is a unity of control between the applicant and the cited registrants, there is no possibility that consumers could be confused as to the source

of the applicant's and registrant's goods. If cooperation is required between the parties to prevent possible future instances of consumer confusion, the implication is that the goods of the parties actually emanate from different sources that are not subject to a unity of control.

Accordingly, it continues to be found that the applicant has failed to meet its substantial burden of providing detailed evidence of how any one of the three identified sister corporations controls the trademark activities of the others, to establish unity of control to support the contention that the sister corporations constitute a single source.

SECTION 2(d) ANALYSIS

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

Here, as detailed in the previous final office action, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

It continues to be noted that applicant has not presented any arguments pertaining to the similarity of the marks or the relatedness of the goods.

MARKS ARE HIGHLY SIMILAR

The applicant's mark COMBISWIFT and the registered marks are COMBIBLOC, COMBITOP, COMBITWIST, COMBITOP stylized, and COMBILIFT all share the common first portion "COMBI" and therefore are very similar. Consumers are generally more inclined to focus on the first word, prefix, or syllable in any trademark or service mark. *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) ("it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered" when making purchasing decisions).

In this respect, the literal portions of the applicant's mark and those of the registrants are highly similar in appearance, sound, connotation and commercial impression, and therefore, are likely to cause confusion as to the origin of the goods.

GOODS ARE IDENTICAL AND CLOSELY RELATED

The applicant's goods are identified as follows:

Class 16: Containers and packaging materials of paper or cardboard; packaging material in the form of composite materials of paper, cardboard and/or plastic; laminated packaging materials of paper, cardboard and/or plastic for the manufacture of packaging, containers and boxes; packaging material of paper, cardboard and/or plastic

Class 20: Non-metal and non-paper closures and opening elements for packaging for use with foodstuffs and beverages; non-metal and non-paper closures and opening elements for containers and packaging of paper or cardboard

The goods named in the registrations comprise/include the following:

U.S. Reg. No. 1197721 COMBIBLOC

Class 16: Containers and Packaging Made of Paper, Paperboard and Boxboard

U.S. Reg. No. 2654461 COMBITOP

Class 16: Paper, paperboard or cardboard wrapping and packaging materials for food and beverage packaging containers; paper containers, paperboard containers; cardboard containers; paper boxes, paperboard boxes; cardboard boxes, for use in the manufacture of packaging containers.

U.S. Reg. No. 2986024 COMBITWIST

Class 16: Paper, paperboard or cardboard wrapping and packaging materials for food and beverage packaging containers; paper containers, paperboard containers; cardboard containers; paper boxes, paperboard boxes; cardboard boxes, for use in the manufacture of packaging containers.

U.S. Reg. No. 1914826 COMBITOP stylized

Class 16: paper or cardboard wrapping and packaging materials, paper containers, cardboard containers, paper boxes and cardboard boxes.

U.S. Reg. No. 4062006 COMBILIFT

Class 20: Non-metal resealable closures and punch-open devices for food and beverage containers

The marks are used to identify potentially identical and closely related packaging, containers, and closures.

With respect to applicant's and registrant's goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. See, e.g., *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-70, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012); *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Absent restrictions in an application and/or registration, the identified goods and/or services are "presumed to travel in the same channels of trade to the same class of purchasers." In *re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. See *In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application and registrations has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods travel in all normal channels of trade, and are available to the same class of purchasers. Further, the application uses broad wording to describe the goods and this wording is presumed to encompass all goods of the type described, including those in registrants' more narrow identifications.

The goods of the registrants remain potentially identical and closely related to the identified packaging, containers, and closures of the applicant. The same consumers will be exposed to the goods identified with the marks. The similarities among the marks and the goods of the parties are so great as to create a likelihood of confusion.

CONCLUSION

Where the goods and/or services of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods and/or services. See *United Global Media Grp., Inc. v. Tseng*, 112 USPQ2d 1039, 1049 (TTAB 2014) (quoting *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992)); TMEP §1207.01(b).

Accordingly, in view of the identical and closely related nature of the goods of the parties and the strong similarity of the marks and their commercial impressions, confusion as to the source of the goods continues to be likely under Section 2(d) of the Trademark Act.

This refusal is hereby maintained and made **FINAL**.

RESPONSE GUIDELINES – SUBSEQUENT FINAL REFUSAL – NO AUTOMATIC SIX MONTH RESPONSE PERIOD

PLEASE NOTE: This subsequent final action has been issued after the filing of an appeal, and it does not give the applicant an automatic six-month response period. The Board will be notified to resume the

appeal. Once proceedings with respect to the appeal are resumed, any further request for reconsideration of this application must be made via a request for remand, for which good cause must be shown. See TMEP 715.04(b); TBMP §§1204, 1207.02

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/John M. C. Kelly/
United States Patent and Trademark Office
Trademark Examining Attorney
Law Office 119
571-272-9412
john.kelly@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

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>.

To: SIG Combibloc Systems GmbH (trademarks@webblaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 79121145 - COMBISWIFT - 3988-130945
Sent: 12/1/2014 2:57:18 PM
Sent As: ECOM119@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

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

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **12/1/2014** FOR U.S. APPLICATION SERIAL NO. 79121145

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 **12/1/2014** (*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.