

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

In re application of )  
 DELVAUX DESIGN COORDINATION & ) Examiner: James MacFarlane  
 FINANCE )  
 Serial No. 79/121,759 ) Law Office: 104  
 Filed: September 21, 2012 )  
 For: D and Design )

**RESPONSE TO OFFICE ACTION MAILED June 1, 2014 WITH  
REQUEST FOR RECONSIDERATION**

The Applicant herein responds to the Office Action mailed June 1, 2014 as follows:

The only issue pertains to the allegation that Applicant's mark is merely an ornamental, non-distinctive pattern that does not function as a trademark. The Applicant herein incorporates its prior arguments filed on May 6, 2014 in response to the earlier Office Action dated November 6, 2013 asserting that Applicant's mark is "merely" ornamental as used on the goods, and therefore does not function as a trademark to indicate the source of the goods, and that Applicant's mark consists "of a repeating pattern used on some or all of the surfaces of" the goods and would be perceived as a mere decorative feature of the goods. As previously explained in Applicant's May 6, 2014 response filing, the mark D & Design should be deemed inherently distinctive of Applicant's goods. The mark is an indicator of source or sponsorship of the identified goods and will be recognized as a trademark by the consuming public. Thus,



**12-08-2014**

the mark is registerable on the Principal Register without a showing of acquired distinctiveness.

The law is clear that the mere fact that a design mark covers the overall surface of the goods does not mean that the mark is ornamental as used on the goods. In In re Owens-Corning Fiberglas Corp., 774 F.2d 1116, 227 USPQ 417 (Fed. Cir. 1985), the Federal Circuit stated that, "An overall color is akin to an overall surface design, for which trademark registration has been held to be available when the statutory requirements are met." Id. at 1123. Similarly, the Ninth Circuit, in Vuitton et Fils S.A. v. J. Young Enterprises, Inc., 644 F.2d 769, 212 USPQ 85 (9th Cir. 1981), stated that, "There is no limitation on the percentage of a product's surface area which may be covered by a trademark. The Court of Customs and Patent Appeals has consistently refused to deny registration of trademarks on the ground that they cover the entire surface of a product." Id. at 775.

Moreover, as Applicant asserted in its May 6, 2014 response, the Trademark Office has issued many registrations for design marks comprising letters or other design features which cover the entire surface of handbags, luggage and the like, the same types of goods that are at issue in the current case. Some examples of registered marks for these types of goods are as follows:

<u>Mark</u>	<u>Owner</u>	<u>Reg. No.</u>
LV Design	Louis Vuitton	297,594 and 1,643,625

Grid Design	Christian Dior	1,776,536
DIOR and Design	Christian Dior	2,963,354
GG Design	Gucci	3,072,549 and 4,399,108

See copies of Certificates of Registration for these marks along with the registrants' specimens submitted in support of those registrations attached to Applicant's May 6, 2014 response. The Final Office Action contends that "[p]rior decisions and actions of other trademark examining attorneys . . . have little evidentiary value" and "[t]he fact that the Office has registered the other marks cited by [A]pplicant does not undermine the fact that [A]pplicant's mark is ornamental and does not function as a source identifier." Applicant respectfully disagrees and submits that this is a conclusory statement. Moreover, the Office should act consistently when examining and acting upon applications where the same issues are at play.

Additionally, Applicant notes that it is customary in the trade for luxury fashion products, such as handbags, purses and leather accessories, to include monogrammed or repetitive designs on the products to indicate the source of such goods. Many high-end fashion companies use such monograms as their logos or brands to convey luxury, exclusivity, fine workmanship, originality, taste and style. See attached Exhibit comprising pages from websites discussing this topic.

Accordingly, Applicant submits that pursuant to applicable law and the practices in the trade, its D & Design mark is considered distinctive and registerable for

the goods identified without further evidence. Moreover, Applicant's D & Design mark is of such character that the overall commercial impression is that of a trademark, a source identifier for Applicant and its identified luxury goods. The evidence, particularly Applicant's website found at [www.delvaux.com](http://www.delvaux.com) indicating that Applicant is "The oldest fine leather luxury goods house in the world since 1829," shows that the public recognizes Applicant as the source or sponsor of a wide range of handbags and other luxury goods. Thus, the mark is registerable for the goods identified in the application. It is respectfully requested that the refusal to register be withdrawn, and that Applicant's D & Design mark be passed to publication. Favorable action is earnestly solicited.

The Applicant has also filed a Notice of Appeal together with this response to the Final Office Action and the resolution by the Examiner could moot the appeal. For resolving this issue the Trademark Attorney Examiner is encouraged to contact the Applicant's counsel Burt Ehrlich at 312-427-1300.

Respectfully submitted,

Burton S. Ehrlich  
Ladas & Parry LLP  
224 South Michigan Avenue  
Suite 1600  
Chicago, IL 60604  
(312) 427-1300

  
\_\_\_\_\_  
Burton S. Ehrlich  
Attorney for Applicant

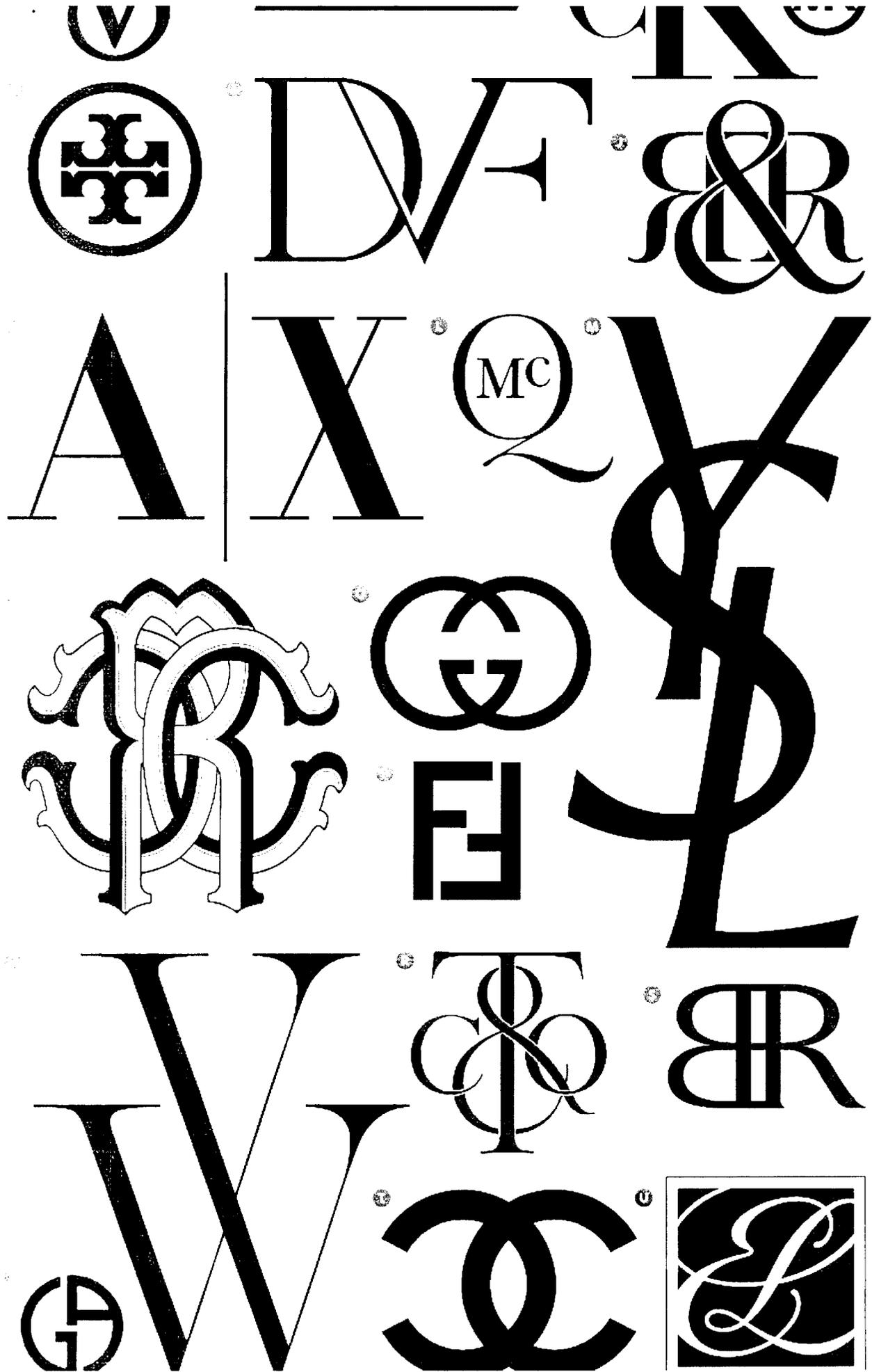
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Assistant Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, on December 1, 2014.

  
Burton S. Ehrlich, Esq.

# **EXHIBIT**





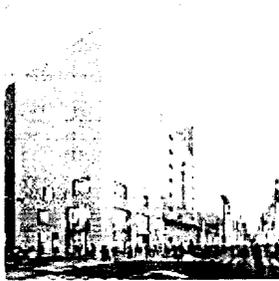
Alphabet

- A** Givenchy
- B** Louis Vuitton
- C** Valentino
- D** Rocawear
- E** Victoria's Secret
- F** Calvin Klein
- G** Michael Kors
- H** Tory Burch
- I** Diane von Fürstenberg
- J** Rock & Republic
- K** Armani Exchange
- L** Alexander McQueen
- M** Yves Saint Laurent
- N** Roberto Cavalli
- O** Gucci
- P** Fendi
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- S** Banana Republic
- T** Chanel
- U** Estée Lauder
- V** Giorgio Armani

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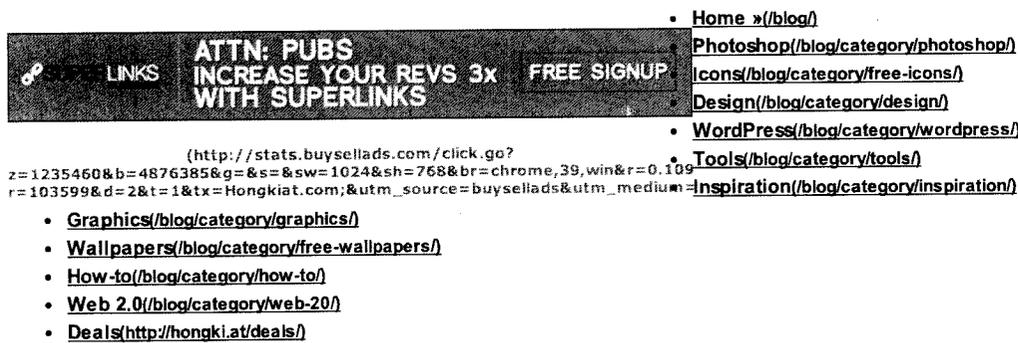
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Free vectors

## 40 Classy Uses Of Monogram Logos

By Jo Sabin. Filed in [Inspiration\(http://www.hongkiat.com/blog/category/inspiration/\)](http://www.hongkiat.com/blog/category/inspiration/)

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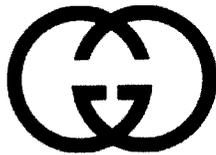
Custom Website Design([Monograms have been around since the time of Ancient Greece, but flourished in the late 19th century when companies across industries\(#\), most notably the fashion industry, began adopting monograms as their logos. A popular and enduring element of monograms is the usage of letters found in company names to form visually memorable acronyms.](http://www.googleadservices.com/pagead/acik?sa=L&ai=Cgtz9bPp8VNSrFYOlpgOc-IDoD_K3yNYHksjKqZoBI9r0_QgQASDr-ZQDYmMg_4fwo-wSoAHmyZTGA8gBAagDAaoEgAFP0Cz1jUDuE_heiEnatPB5fVzC4uRo0Am1WpPTomgGyjcK1eKfGBAGmr7JXWMKcCp5Zyh2L1Zi3H_KZfPwWzWzIQwg_KCeRNggfgZBueqWYFm-XyMXn0i4V3UkRB46iop-n2dvGqgwzQWzOIXxRPmKz8dYVPVBgV8mJxNw0uElgGAYAHgrbrOQ&num=1&cid=5Gj_7lq5Y47xojdogS0gkNqt&sig=AOD64_25kOMq1v5qWVALVhpzUeseR628Q&client=ca-pub-8918970543424762&adurl=http://www.ilit-group.com/)www.ilit-group.com(http://www.googleadservices.com/pagead/acik?sa=L&ai=Cgtz9bPp8VNSrFYOlpgOc-IDoD_K3yNYHksjKqZoBI9r0_QgQASDr-ZQDYmMg_4fwo-wSoAHmyZTGA8gBAagDAaoEgAFP0Cz1jUDuE_heiEnatPB5fVzC4uRo0Am1WpPTomgGyjcK1eKfGBAGmr7JXWMKcCp5Zyh2L1Zi3H_KZfPwWzWzIQwg_KCeRNggfgZBueqWYFm-XyMXn0i4V3UkRB46iop-n2dvGqgwzQWzOIXxRPmKz8dYVPVBgV8mJxNw0uElgGAYAHgrbrOQ&num=1&cid=5Gj_7lq5Y47xojdogS0gkNqt&sig=AOD64_25kOMq1v5qWVALVhpzUeseR628Q&client=ca-pub-8918970543424762&adurl=http://www.ilit-group.com/) Custom Website Designs that Impress Responsive, CMS, eCommerce & PHP</p>
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Major fashion brands adopted monogram logos designed to convey luxury, exclusivity, fine workmanship, originality, taste and style to their wealthy customers. Then industrial brands and corporations began adopting monogram logos.

Recommended Reading: [Logo Evolution Of 25 Famous Brands\(http://www.hongkiat.com/blog/logo-evolution/\)](http://www.hongkiat.com/blog/logo-evolution/)

In this post, we are featuring compelling monogram logos of the old and tested, as well as new and uprising online brands in software, photography, wine, architecture, art or [design](#)(#).

[Louis Vuitton](http://www.louisvuitton.com/)



[Givenchy](http://www.givenchy.com/)

[Gucci](http://www.gucci.com)

[Fendi](http://www.fendi.com)

[Chanel](http://www.chanel.com/)

[Volkswagen](http://www.volkswagen.de)

[GE](http://www.ge.com/)

[ShiftDock](http://www.shiftdock.com/)

[Sarah Appleby](http://www.sarahappleby.net/)

[McGah Family Cellars](http://www.mcgcellars.com/)

[The Old County](http://www.theoldcounty.com/)

[Yassine Bentaieb](http://www.yassinebentaieb.com/)

[Sean Heisler](http://www.seanheislerdesign.com/)

[Casa do Texto](http://www.casadotexto.com.br/)

[J. Herwitt](http://www.jherwitt.com)

[QuikSpeak](http://dribbble.com/shots/428637-Quikspeak-v2)

[MarryMe](http://www.thelogomix.com/logo-design-gallery/marryme-12010902.html)

[Fried Frères](http://www.designcrowd.com/design/1352230)

[Mondora](http://www.logogala.com/gallery/details/mondora/)

[Dalius Stuoka](http://creattica.com/logos/ds-monogram/74225)

[Ginaldi & Marino](http://www.behance.net/gallery/Ginaldi-Marino/9733245)

[Herb Lubalin](http://logooftheday.com/2012-08-09-herb-lubalin/)

[Dream Catching](http://brandcrowd.com/logo-design/details/60130)

[Ballet](http://logopond.com/gallery/detail/198753)

[Laura Zacarias](http://www.thelogomix.com/logo-design-gallery/laura-zacarias-logo-13060423.html)

[Bandora Holdings](http://www.behance.net/gallery/Bandora-Holdings/2777723)

[OM Productions](http://www.designcrowd.com/design/2203442)

[Price Tag](http://dribbble.com/shots/1157130-Price-Tag)

[IZ Studio](http://logopond.com/gallery/detail/202836)

[Negative Reality](http://dribbble.com/shots/302356-Negative-Reality-Logo-Design)

[Flying Horse](http://www.thelogomix.com/logo-design-gallery/flying-horse-monogram-11082634.html)

[Test Tube](http://dribbble.com/shots/282184-Test-Tube)

[KumbariArt](http://logopond.com/gallery/detail/187940)

[ac](http://creattica.com/logos/ac-monogram/95576)

[Alter Ego](http://www.logogala.com/gallery/details/alter-ego/)

[Wood Manufacture Sosnin](http://logopond.com/gallery/detail/196826)

[Victoria and Albert Museum](http://www.vam.ac.uk/)

[TS](http://www.brandcrowd.com/logo-design/details/30017)

[Aabridge](http://dribbble.com/shots/1077303-Aabridge)(<http://dribbble.com/shots/1077303-Aabridge>)

[UK](http://logottica.com/personal-monogram/)(<http://logottica.com/personal-monogram/>)

[society27](http://logospire.com/logos/4431)(<http://logospire.com/logos/4431>)

[Five One Design](http://logospire.com/logos/4147)(<http://logospire.com/logos/4147>)

With continuous application in contemporary graphic design practice and the versatility to work(#) across industries, the art of monograms has clearly stood the test of time. **If you are in search of a logo for your brand or organization, will you consider designing a monogram logo?**

*Editor's note: This post is written by Jo Sabin for [Hongkiat.com](http://www.hongkiat.com/)(<http://www.hongkiat.com/>). Jo is community manager at [DesignCrowd.com](http://www.designcrowd.com/)(<http://www.designcrowd.com/>), a leading online graphic design [jobs](http://www.hongkiat.com/blog/out/freelancer)(<http://www.hongkiat.com/blog/out/freelancer>) marketplace.*



1939



before  
WWI

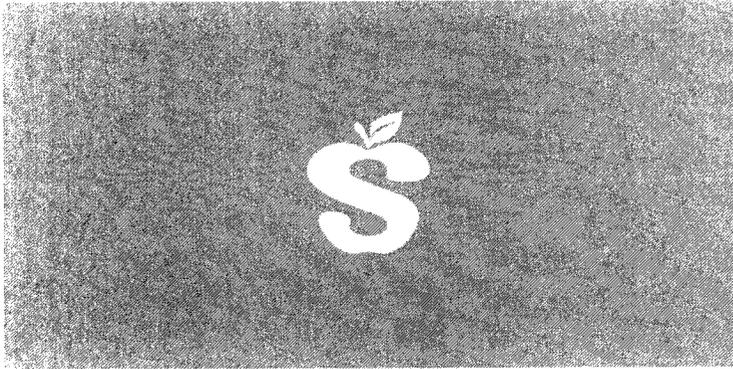


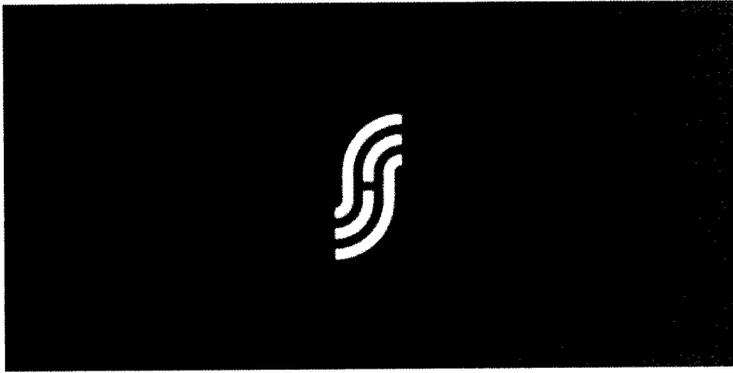
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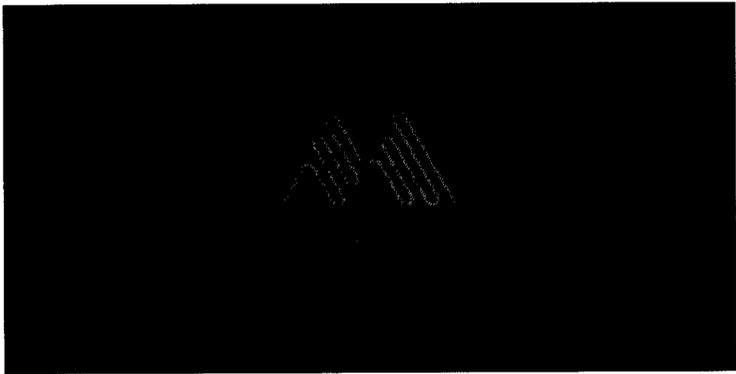
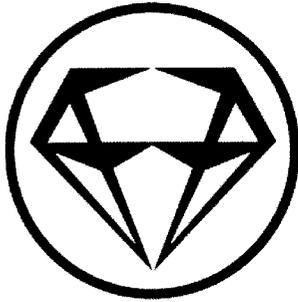


2000











**GINALDI & MARINO**

STUDIO LEGALE ASSOCIATO



*Ballet*



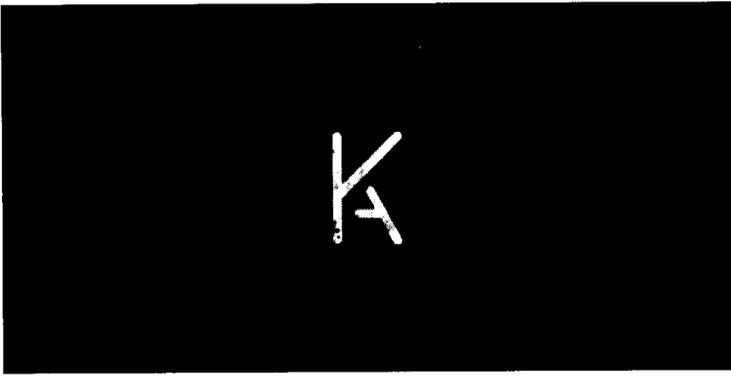


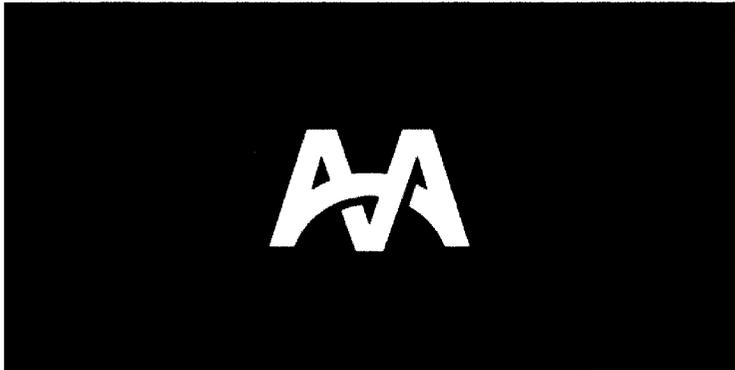
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Negative Reality







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 The creation of these logos represents not only creativity but also and white used to show balance. Black and White are the extreme ends of the visual spec of both hue and shade.

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**H** [Archie Makuwa](#) [View Profile](#)  
 My personal favourite: Aabridge

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**H** [Perçe Raul](#) [View Profile](#) [View Website](#)  
 I think that George Bokhua made it. Anyways, check his D

**H** [Dmitry](#) [View Profile](#)  
 My favourite is Herb Lubalin.

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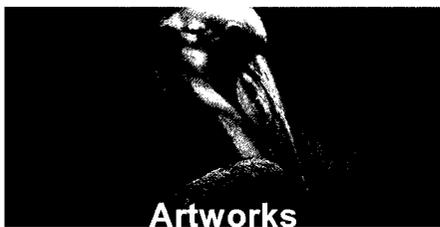
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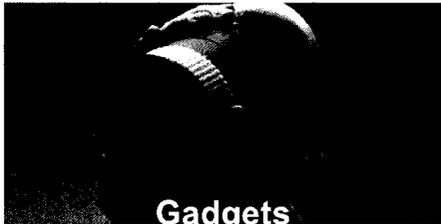
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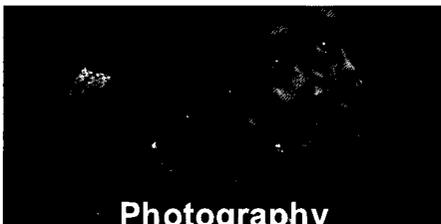
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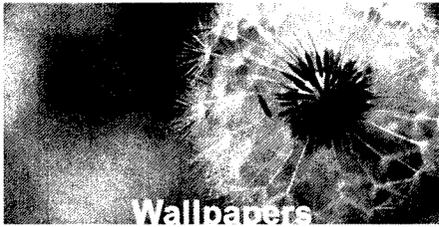
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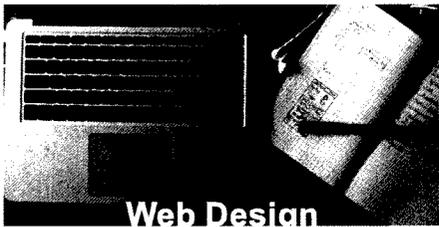
<http://trk.as/productivity>



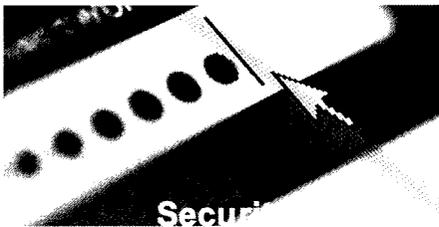
<http://trk.as/socialmedia>



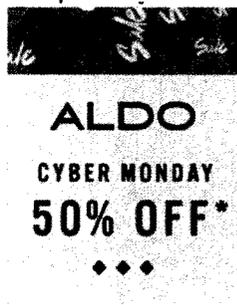
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

In re application of )  
 ) Examiner: James MacFarlane  
DELVAUX DESIGN COORDINATION & )  
FINANCE )  
 ) Law Office: 104  
Serial No. 79/121,759 )  
 )  
Filed: September 21, 2012 )  
 )  
For: D and Design )

NOTICE OF APPEAL WITH REQUEST FOR SUSPENSION OF  
PROCEEDINGS PENDING DISPOSITION OF REQUEST FOR RECONSIDERATION

Notice is hereby given that DELVAUX DESIGN COORDINATION & FINANCE, the Applicant in the above named application, hereby appeals to the Trademark Trial and Appeal Board from the Examiner's Final Office Action dated June 1, 2014 refusing the Applicant's above identified application.

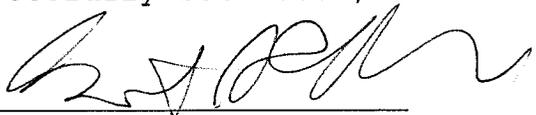
The requisite fee of \$100.00 and any additional fees as required, we hereby authorize to be charged to our Deposit Account No. 12-0400.

Applicant has requested reconsideration of the refusal from the Trademark Examining Attorney based upon various substantive arguments in support of registration, and herein requests

suspension of these proceedings pending the disposition of the Request for Reconsideration which could "moot" this appeal.

Respectfully submitted,

Burton S. Ehrlich  
Ladas & Parry  
224 South Michigan Avenue  
Chicago, IL 60604  
(312) 427-1300

  
\_\_\_\_\_  
Burton S. Ehrlich  
Attorney for Applicant

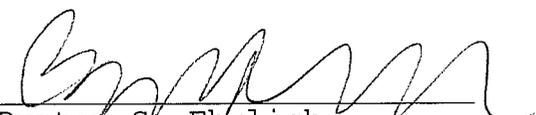
**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail addressed to ATTN: TTAB - FEE, Assistant Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, on December 1, 2014.

  
\_\_\_\_\_  
Burton S. Ehrlich

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing NOTICE OF APPEAL is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: James MacFarlane, Law Office 104, Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, on December 1, 2014.

  
\_\_\_\_\_  
Burton S. Ehrlich