

From: Moreno, Paul

Sent: 7/6/2015 9:56:49 PM

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CC:

Subject: U.S. TRADEMARK APPLICATION NO. 79133036 - NAIL HQ - 14-021 - Request for
Reconsideration Denied - Return to TTAB - Message 1 of 7

Attachment Information:

Count: 13

Files: 1-1.jpg, 1-2.jpg, 1-3.jpg, 1-4.jpg, 2-1.jpg, 2-2.jpg, 2-3.jpg, 2-4.jpg, 2-5.jpg, 4-1.jpg, 4-2.jpg, 4-3.jpg,
79133036.doc

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

U.S. APPLICATION SERIAL NO. 79133036

MARK: NAIL HQ



CORRESPONDENT ADDRESS:

JON K PERALA

PERALA LAW OFFICE

332 S MICHIGAN AVE SUITE 1032

CHICAGO, IL 60604

GENERAL TRADEMARK INFORMATION:

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

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APPLICANT: Bespoke Europe Limited

CORRESPONDENT'S REFERENCE/DOCKET NO:

14-021

CORRESPONDENT E-MAIL ADDRESS:

jkperala@peralaw.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 7/6/2015

INTERNATIONAL REGISTRATION NO. 1167742

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 requirement(s) and/or refusal(s) made final in the Office action dated

10/29/14 are maintained and continue to be final: SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION. See TMEP §§715.03(a)(ii)(B), 715.04(a).

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

Please see additional evidence displaying the relatedness of the registrant's retail services and the applicant's class 003 and class 008 goods.

Finally Applicant has stated the following:

"In Applicant's response to the initial office action, Applicant proposed deleting from the description of services in class 44 "beauty salons; hairdressing salons" because these services also typically sell similar products as the owner of Registration 4431047 in its registration for services in class 35. Applicant believes the remaining services in class 44 do not offer a likelihood of confusion when related to the services in Registration 4431047. The Final Action issued on October 29, 2014 is silent on this point."

Applicant has the following identification in class 044:

“Provision of beauty, perfumery, make-up and skin treatment services, namely, make-up application and cosmetic body care; beauticians' services; beauty consultation services regarding the selection and use of personal care products, cosmetics, make-up, toiletries, manicure and pedicure products; manicure services; pedicure services; nail treatment services; hygienic and beauty services for human beings.”

Please see attached copies of printouts from the USPTO X-Search database, which show third-party registrations of marks used in connection with the same or similar goods and/or services as those of applicant and registrant in this case. These printouts have probative value to the extent that they serve to suggest that the goods and/or services listed therein, namely **“Provision of beauty, perfumery, make-up and skin treatment services; beauticians' services; beauty consultation services; manicure services; pedicure services”** and **“retail store services”**, are of a kind that may emanate from a single source. In re Infinity Broad. Corp., 60 USPQ2d 1214, 1217-18 (TTAB 2001); In re Albert Trostel & Sons Co., 29 USPQ2d 1783, 1785-86 (TTAB 1993); In re Mucky Duck Mustard Co., 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

As such the refusal of registration as to class 044 remains, despite Applicant's amendment to the recitation of services.

RESPONSE

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. §§2.62(c), 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.

/Paul Moreno/

United States Patent and Trademark Office

Attorney

Law Office 103

571-272-2651

paul.moreno@uspto.gov



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- Maybelline

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- Nails
- Makeup Sets & Palettes
- Nail Tools

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- Lipsticks
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- Liners
- Mascara
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 - Nail Polishes
 - Gets
 - Nail Polish Remover
 - Nail Sets
 - Nail Art
 - Nail Hardener
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- Brand**
- Sally Hansen
 - OPI Nail
 - Nicole by Opi
 - Revlon
 - essie
 - SINFUL COLORS, INC
 - Kiss
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Category



Nail Polish



Nail Polish Removers



False Nails

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Best Seller



\$2.48 15.56 / fl oz
ONYX Professionals 100% Pure Acetone Nail Polish Remover, 16 fl oz
★★★★★ (30)
Free shipping on orders over \$50



\$34.41
Amope Pedi Perfect Electronic Pedicure Foot File and Callus Remover
★★★★★ (9)
Free shipping on orders over \$50
Free store pickup



\$2.48 15.56 / fl oz
ONYX Professional Moisturizing Formula Nail Polish Remover, 16 fl oz
★★★★★ (3)
Free shipping on orders over \$50



\$2.00 8.36 / each
Revlon Compact Emery Boards, 24 count
Free shipping on orders over \$50



\$9.99
SensatioNail Gel Primer Base & Top Coat, 71722, 4 pc
★★★★★ (3)
Free shipping on orders over \$50



- Nails
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Price ▲

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- \$10 - \$20
- \$20 - \$50
- \$50 - \$100
- \$100 - \$150
- \$150 - \$200
- \$200 - \$250
- \$250 - \$500

- Retailer ▲
- Walmart.com
 - BundleMonster
 - Salon Supply Store
 - Miles Kimball Company
 - DrHotDeal

\$7.97 \$14.34 / 8 oz

Sally Hansen Miracle Gel Top Coat, 0.5 fl oz

★★★★★ (851)

Free shipping on orders over \$50
Free store pickup today



\$2.74 \$1.37 / each

Revlon Expert Shapers Emery Boards, 2 count

★★★★★ (3)

Free shipping on orders over \$50



\$8.95

Duoi 0.61oz Rejuvenate Nail Growth Polish System

★★★★★ (18)

Sold & Shipped by Salon Supply Store



\$3.89 \$1.94 / each

Trim: Nailcare Fingernail & Toenail 09625 Clippers, 2 Ct

★★★★★ (15)

Free shipping on orders over \$50



\$4.97

Kiss Everlasting Color Square Nail Kit - Medium

★★★★★ (12)

Free shipping on orders over \$50



\$6.37 26.56 / each

Nailene French Express Short Pink Press-On Nails, 71986, 24 count

Free shipping on orders over \$50



\$4.97 50.26 / each

Kiss Everlasting Real Short Length French Nails, Pearl White Tip

★★★★★ (58)

Free shipping on orders over \$50



\$2.00 33.36 / 8 oz

Cutex Advanced Revival Nail Polish Remover, 6 fl oz

Free shipping on orders over \$50



\$4.99 5.06 / each

Kiss Salon Results Natural Length Nails, 20019 Short Square, 100ct

★★★★★ (1)

Free shipping on orders over \$50
Free store pickup today



\$2.26 - \$2.48

Sally Hansen Hard As Nails Xtreme Wear Nail Color

★★★★★ (97)

Free shipping on orders over \$50



\$2.00 \$4.44 / 8 oz

Sally Hansen Hard as Nails Nail Color, Crystal Clear

★★★★★ (6)

Free shipping on orders over \$50



\$3.67 \$1.84 / oz

Piggy Paint Nail Polish Remover, 2 oz

★★★★★ (13)

Free shipping on orders over \$50



\$4.88 \$4.88 / 8 oz

Fing'rs Crayola Scented Nail Polish, 0.20 fl oz, 5 count

★★★★★ (16)

Free shipping on orders over \$50



\$4.79

Sally Hansen Instant Cuticle Remover

★★★★★ (16)

Free shipping on orders over \$50



\$4.79 \$10.64 / 8 oz

Sally Hansen Insta-Dri Anti-Chip Top Coat

★★★★★ (57)

Free shipping on orders over \$50



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- Customer rating**
- ★★★★★ 8.1/10
- ★★★★☆ 8.1/10
- ★★★☆☆ 8.1/10
- ★★☆☆☆ 8.1/10
- ★☆☆☆☆ 8.1/10

- Special offers**
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Store for good



 <p>\$2.67 \$15.71 / 8.02</p> <p>Nailene Ultra Quick Pink Brush On Nail Glue, 0.17 fl oz</p> <p>★★★★★ (4)</p> <p>Free shipping on orders over \$50</p>	 <p>\$4.14 \$4.14 / 8.02</p> <p>Nailene SensatioNail Gel Polish Removal Tool</p> <p>★★★★★ (4)</p> <p>Free shipping on orders over \$50</p>	 <p>\$2.97 \$2.97 / each</p> <p>Sally Hansen Ahead Of The Curve Sapphire Nail File, 1ct</p> <p>★★★★★ (5)</p> <p>Free shipping on orders over \$50</p>	 <p>\$2.80 \$4.00 / 8.02</p> <p>Pure Ice Nail Polish, 828 First Love, 0.5 fl oz</p> <p>★★★★★ (3)</p> <p>Free shipping on orders over \$50</p>	 <p>\$2.97 14.26 / 8.02</p> <p>Onyx Professional Soak Off Maximum Strength Gel Remover, 16 fl oz</p> <p>★★★★★ (2)</p> <p>Free shipping on orders over \$50</p>
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 <p>\$2.97 \$5.94 / 8.02</p> <p>Hoof Hands Kick the Habit Nail-Biting Deterrent, 0.5 fl oz</p> <p>★★★★★ (35)</p> <p>Free shipping on orders over \$50</p>	 <p>\$24.98 \$24.98 / each</p> <p>SensatioNail Pro 3060 LED Lamp</p> <p>★★★★★ (29)</p> <p>Free shipping on orders over \$50</p>	 <p>\$10.17 Was \$14.98 / You save \$3.71</p> <p>As Seen on TV Personal Pedi by Laurant</p> <p>★★★★★ (1)</p> <p>Free shipping on orders over \$50 Free store pickup</p>	 <p>\$3.67 \$8.16 / 8.02</p> <p>Sally Hansen Double Duty Strengthening Base and Top Coat</p> <p>★★★★★ (30)</p> <p>Free shipping on orders over \$50</p>	 <p>\$2.97 - \$2.97</p> <p>Maybelline Color Show Nail Lacquer</p> <p>★★★★★ (78)</p> <p>Free shipping on orders over \$50</p>
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 <p>\$2.90 \$4.00 / 8.02</p> <p>Sinful Colors Professional</p>	 <p>\$2.48 29.26 / 8.02</p> <p>ONYX Professional 3-2-1</p>	 <p>\$4.98 \$4.98 / oz</p> <p>Hoof Hands: Nail</p>	 <p>\$2.74 \$2.74 / each</p> <p>Revlon Compact Emarv</p>	 <p>\$4.97 17.86 / each</p> <p>Kiss Everlasting French</p>
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Sinful Colors Professional Nail Polish, Cinderella, 0.5 fl oz
★★★★ (8)
Free shipping on orders over \$50

ONYX Professional 3-2-1 Dry! Salon Nail Dryer, 8.5 oz
★★★★ (8)
Free shipping on orders over \$50

Hoof Hands: Nail Strengthening Cream Hand As Hoof, 1 oz
★★★★ (27)
Free shipping on orders over \$50

Revlon Compact Emery File
★★★★ (8)
Free shipping on orders over \$50

Kiss Everlasting French Pink Petite Length Nail Kit, 28cc
★★★★ (8)
Free shipping on orders over \$50



\$2.88 \$2.88 / each
Trim Nail Care 7-Way Buffer
★★★★ (7)
Free shipping on orders over \$50



\$2.67 \$14.83 / oz
Fing'rs Brush-On Nail Glue, 1130, 0.18 oz
★★★★ (2)
Free shipping on orders over \$50



\$2.97 \$2.97 / each
Revlon Pumice Stone
★★★★ (5)
Free shipping on orders over \$50



\$3.98 \$9.96 / 8 oz
Cutex Spa Formula Nail Polish Remover, 10 fl oz
★★★★ (1)
Free shipping on orders over \$50



\$2.99 \$3.36 / 8 oz
Equate Acetone Regular Nail Polish Remover Dip, 6 fl oz
Free shipping on orders over \$50

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\$8.47
essie Nail Color
★★★★ (43)



\$8.49
Essie Nail Polish
★★★★ (27)



\$8.50
essie Nail Color
★★★★ (24)



\$4.44
essie Nail Color...
★★★★ (34)



\$2.09
Maybelline Color...
★★★★ (102)



\$8.47
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Beauty Makeup Face

Type

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- Blush
- Bronzer
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- Powders
- Pressed Powder
- Loose Powder

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Brand

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- L'oreal
- CoverGirl
- Revlon
- E.L.F.
- Physicians Formula
- Neutrogena

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Category

- Face
- Eyes



Best Seller

 \$6.19 - \$6.94 COVERGIRL Ready, Set Gorgeous Liquid Makeup Foundation Cream, 110 ★★★★★ (53) Free shipping on orders over \$50	 \$4.79 - \$5.94 Maybelline New York Fit Me! Matte + Poreless Foundation ★★★★★ (84) Free shipping on orders over \$50 Free store pickup today	 \$6.24 - \$8.86 L'oreal Paris True Match Super-Blendable Liquid Make-Up ★★★★★ (312) Free shipping on orders over \$50	 \$6.00 Hard Candy Glamouflage Heavy Duty Concealer with Concealer Pencil ★★★★★ (50) Free shipping on orders over \$50 Free store pickup today	 \$4.11 - \$4.19 Maybelline New York Fit Me Concealer, 30 Cafe, 0.23 oz ★★★★★ (81) Free shipping on orders over \$50
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 \$4.99 - \$5.99 Neutrogena Baby Skin Liquid Makeup ★★★★★ (120) Free shipping on orders over \$50	 \$3.99 - \$4.99 Clearance Covergirl Clean Matte Concealer ★★★★★ (150) Free shipping on orders over \$50	 \$4.99 - \$5.99 Covergirl Clean Matte Concealer ★★★★★ (150) Free shipping on orders over \$50	 \$4.99 - \$5.99 Covergirl Clean Matte Concealer ★★★★★ (150) Free shipping on orders over \$50	 \$4.99 - \$5.99 Covergirl Clean Matte Concealer ★★★★★ (150) Free shipping on orders over \$50
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- Makeup Sets & Palettes
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- Lips
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- ★★★☆☆ (8.1k)
- ★★☆☆☆ (8.1k)
- ★☆☆☆☆ (8.1k)

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 <p>\$4.19 \$6.25 / 8 oz Maybelline Baby Skin Instant Pore Eraser, 0.87 fl oz ★★★★★ (17) Free shipping on orders over \$50</p>	 <p>\$4.48 - \$5.94 COVERGIRL Clean Pressed Powder, Normal Skin ★★★★★ (224) Free shipping on orders over \$50</p>	 <p>\$8.97 Maybelline Mineral Power Powder Foundation ★★★★★ (38) Free shipping on orders over \$50 Free store pickup today</p>	 <p>\$6.53 - \$9.47 COVERGIRL Outlast Stay Fabulous 3-in-1 Foundation Warm ★★★★★ (130) Free shipping on orders over \$50</p>	 <p>\$6.99 \$8.22 / 0.2 oz Hard Candy Glam Concealer Light 312 ★★★★★ (72) Free shipping on orders over \$50</p>
 <p>\$6.99 \$8.22 / 0.2 oz Hard Candy Glamofluage Heavy Duty Concealer With Concealer Pen ★★★★★ (97) Free shipping on orders over \$50</p>	 <p>\$3.97 Rimmel Stay Matte Pressed Powder ★★★★★ (44) Free shipping on orders over \$50</p>	 <p>\$2.99 \$1.48 / 8 oz e.l.f. Cosmetics Makeup Mist & Set, 2 oz ★★★★★ (791) Free shipping on orders over \$50</p>	 <p>\$5.43 - \$7.19 Maybelline Dream Matte Mousse Foundation ★★★★★ (155) Free shipping on orders over \$50 Free store pickup today</p>	 <p>\$2.77 - \$3.44 Covergirl Blush ★★★★★ (168) Free shipping on orders over \$50</p>
 <p>\$6.94 - \$6.29 Maybelline Dream Fresh BB Cream Sheer Tint 8-in-1 Skin Perfector ★★★★★ (545) Free shipping on orders over \$50 Free store pickup today</p>	 <p>\$3.85 - \$4.39 COVERGIRL Classic Color Blush Rose Silk Neutral 640, 0.3 oz ★★★★★ (55) Free shipping on orders over \$50</p>	 <p>\$5.99 - \$6.94 Maybelline Fit Me Shine-Free Foundation ★★★★★ (161) Free shipping on orders over \$50 Free store pickup today</p>	 <p>\$7.94 - \$8.44 COVERGIRL Smoothers Aquasmooth Compact Foundation 730 Cream ★★★★★ (259) Free shipping on orders over \$50</p>	 <p>\$5.33 - \$7.44 COVERGIRL Ultimate Finish Liquid Powder Make Up Buff Beige ★★★★★ (76) Free shipping on orders over \$50 Free store pickup today</p>
				

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\$3.99 - \$3.99

Maybelline Cover Stick Corrector Concealer

★★★★ (31)

Free shipping on orders over \$50



\$3.99 - \$4.48

Maybelline New York Fit Me Blush

★★★★ (26)

Free shipping on orders over \$50



\$4.79 - \$17.78

Maybelline New York Fit Me Foundation

★★★★ (233)

Free shipping on orders over \$50



\$3.97 Was \$4.28
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Rimmel Natural Bronzer

★★★★ (10)

Free shipping on orders over \$50



\$8.97

L'Oréal Paris Hydra Perfecte Powder

★★★★ (39)

Free shipping on orders over \$50
Free store pickup today



\$5.99 - \$5.94

Maybelline New York Fit Me! Matte + Poreless Powder

★★★★ (2)

Free shipping on orders over \$50



\$5.94

Covergirl Clean Oil Control Pressed Powder

★★★★ (93)

Free shipping on orders over \$50



\$9.78 - \$12.88

Iman Pressed Powder

★★★★ (24)

Free shipping on orders over \$50



\$5.97 \$2.60 / oz

Coty Airspun Translucent Extra Coverage Loose Face Powder

★★★★ (25)

Free shipping on orders over \$50



\$3.99 \$10.71 / oz

e.l.f. Cosmetics Blush & Bronzing Powder, Blushed/Bronzed St...

★★★★ (1000)

Free shipping on orders over \$50



\$5.99 - \$7.96

L'Oréal Paris Magic Skin Beautifier B.B. Cream



\$5.49 - \$7.94

Covergirl Simply Powder Foundation



\$5.43 - \$7.51

Maybelline Dream Liquid Make-up



\$4.10 - \$5.94

Maybelline New York Fit Me Pressed Powder



\$4.49 - \$5.94

COVERGIRL Clean Liquid Make Up Foundation