

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79153923
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant is seeking to register the mark KANGOO JUMPS. In the prior response, Applicant had amended the description of goods to "Gymnastic and sporting articles not included in other classes, namely rebound boots and jumping shoes" in Class 28. The Examining Attorney thereafter issued a FINAL refusal on the ground that "these revised goods are normally classified in a different international class; i.e., International Class 25. Thus, the proposed amendment is beyond the scope of the original identification because it references goods in a class different from that originally assigned by the International Bureau." Applicant has further amended the description of goods to "Gymnastic and sporting articles, namely exercise equipment in the nature of a portable device with a spring and rebound mechanism that is attached to the feet that allows the wearer to work out and exercise" and based thereon respectfully requests that the refusal be reconsidered. It is submitted that the amended description supports maintaining the goods in Class 28. In addition, the amendment is in accord with the classification and goods description set forth in the International Registration. The amendment serves to accurately describe the nature and purpose of the goods, namely they are exercise and work-out equipment. As such the goods are properly classified with other exercise equipment. The goods are neither clothing nor footwear. The fact that the device is attached to the wearer does not negate its primary purpose of functioning as a piece of exercise equipment. Applicant also notes that the guidelines state that "a finished product which is a multipurpose composite object (e.g., clocks incorporating radios) may be classified in all classes that correspond to any of its functions or intended purposes." (Emphasis supplied). TMEP Section 1401.02(a) Applicant is filing a Notice of Appeal with the Request for Reconsideration.</p>	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	028
DESCRIPTION	
Gymnastic and sporting articles not included in other classes, namely rebound boots and jumping shoes	
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	028
TRACKED TEXT DESCRIPTION	
Gymnastic and sporting articles not included in other classes, namely rebound boots and jumping shoes;	

[Gymnastic and sporting articles, namely exercise equipment in the nature of a portable device with a spring and rebound mechanism that is attached to the feet that allows the wearer to work out and exercise](#)

FINAL DESCRIPTION

Gymnastic and sporting articles, namely exercise equipment in the nature of a portable device with a spring and rebound mechanism that is attached to the feet that allows the wearer to work out and exercise

CORRESPONDENCE SECTION

ORIGINAL ADDRESS	ABOGADOS DAUDEN, S.L.P. Avenida Maisonnave, 11, 2º E-03003 Alicante ES
-------------------------	---

NEW CORRESPONDENCE SECTION

NAME	Julie B. Seyler
FIRM NAME	ABELMAN FRAYNE & SCHWAB
INDIVIDUAL ATTORNEY DOCKET/REFERENCE NUMBER	997967
STREET	666 Third Avenue
CITY	NY
STATE	New York
ZIP/POSTAL CODE	10017
COUNTRY	United States
PHONE	2129499022
EMAIL	jbseyler@lawabel.com;docket@lawabel.com
AUTHORIZED EMAIL COMMUNICATION	Yes

SIGNATURE SECTION

RESPONSE SIGNATURE	/Julie B. Seyler/
SIGNATORY'S NAME	Julie B. Seyler
SIGNATORY'S POSITION	Attorney of record- NY Bar
SIGNATORY'S PHONE NUMBER	212-949-9022
DATE SIGNED	05/26/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES

FILING INFORMATION SECTION

SUBMIT DATE	Tue May 26 16:10:10 EDT 2015
TEAS STAMP	USPTO/RFR-216.75.92.26-20 150526161010238783-791539 23-530c97fead8d8250922884 cdbc173e4188b433122e8429e fadb9487990a1822961-N/A-N /A-20150526160254325139

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **79153923** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Applicant is seeking to register the mark KANGOO JUMPS. In the prior response, Applicant had amended the description of goods to "Gymnastic and sporting articles not included in other classes, namely rebound boots and jumping shoes" in Class 28. The Examining Attorney thereafter issued a FINAL refusal on the ground that "these revised goods are normally classified in a different international class; i.e., International Class 25. Thus, the proposed amendment is beyond the scope of the original identification because it references goods in a class different from that originally assigned by the International Bureau." Applicant has further amended the description of goods to "Gymnastic and sporting articles, namely exercise equipment in the nature of a portable device with a spring and rebound mechanism that is attached to the feet that allows the wearer to work out and exercise" and based thereon respectfully requests that the refusal be reconsidered. It is submitted that the amended description supports maintaining the goods in Class 28. In addition, the amendment is in accord with the classification and goods description set forth in the International Registration. The amendment serves to accurately describe the nature and purpose of the goods, namely they are exercise and work-out equipment. As such the goods are properly classified with other exercise equipment. The goods are neither clothing nor footwear. The fact that the device is attached to the wearer does not negate its primary purpose of functioning as a piece of exercise equipment. Applicant also notes that the guidelines state that "a finished product which is a multipurpose composite object (e.g., clocks incorporating radios) may be classified in all classes that correspond to any of its functions or intended purposes." (Emphasis supplied). TMEP Section 1401.02(a) Applicant is filing a Notice of Appeal with the Request for Reconsideration.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 028 for Gymnastic and sporting articles not included in other classes, namely rebound boots and jumping shoes

Original Filing Basis:

Filing Basis Section 66(a) , Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Gymnastic and sporting articles not included in other classes, namely rebound boots and jumping shoes;~~ Gymnastic and sporting articles, namely exercise equipment in the nature of a portable device with a spring and rebound mechanism that is attached to the feet that allows the wearer to work out and exercise

Class 028 for Gymnastic and sporting articles, namely exercise equipment in the nature of a portable device with a spring and rebound mechanism that is attached to the feet that allows the wearer to work out and exercise

Filing Basis Section 66(a) , Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current:

ABOGADOS DAUDEN, S.L.P.
Avenida Maisonnave, 11, 2º
E-03003 Alicante
ES

Proposed:

Julie B. Seyler of ABELMAN FRAYNE & SCHWAB, having an address of
666 Third Avenue NY, New York 10017
United States
jbseyler@lawabel.com;docket@lawabel.com
2129499022
The attorney docket/reference number is 997967 .

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Julie B. Seyler/ Date: 05/26/2015

Signatory's Name: Julie B. Seyler

Signatory's Position: Attorney of record- NY Bar

Signatory's Phone Number: 212-949-9022

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to

withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: Julie B. Seyler
ABELMAN FRAYNE & SCHWAB
666 Third Avenue
NY, New York 10017

Serial Number: 79153923
Internet Transmission Date: Tue May 26 16:10:10 EDT 2015
TEAS Stamp: USPTO/RFR-216.75.92.26-20150526161010238
783-79153923-530c97fead8d8250922884cdbc1
73e4188b433122e8429efadb9487990a1822961-
N/A-N/A-20150526160254325139