

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85310960
LAW OFFICE ASSIGNED	LAW OFFICE 111
MARK SECTION (no change)	
ARGUMENT(S)	
RESPONSE TO OFFICE ACTION	
DATED JANUARY 27, 2013	
<p>Applicant Erik Brunetti hereby respectfully responds to the Office Action dated July 27, 2013.</p>	
<p>1. <u>Argument</u></p>	
<p>Applicant submits that the Examining Attorney made the correct decision and approved this application for publication.</p>	
<p>It was only after approval for publication that an office action was issued refusing this Application based upon Section 2(a) on the grounds that the mark contains immoral or scandalous matter, specifically, that is vulgar.</p>	
<p>Applicant responded with a thoughtful and considered response, supported by evidence. Such response to office action made a sufficient record to establish that the mark has a meaning that is not immoral or scandalous, and is not vulgar.</p>	

Applicant wants the examining attorney to consider additional evidence, in this case, of the owner of a well-known in a premiere shopping district, about how the mark is perceived by consumers and the parents of consumers (the latter are presumably more sensitive than teenage males). The other additional evidence is examples of how the mark is actually being used. These photographs show that the mark is not being used in a vulgar sense.

Applicant respectfully requests that this Application be approved for publication, since that is the correct result under the evidence and the law.

Concurrently with this response, Applicant will be filing an appeal. However, it is hoped that this request for reconsideration and the attached evidence will convince the examining attorney that the mark be approved for publication.

2. Conclusion

Applicant believes that the mark is not immoral, scandalous or vulgar. Furthermore, the evidence shows that the mark is not considered immoral, scandalous or vulgar by the public that comes into contact with the brand. In the case of doubt, the mark should be approved for publication.

Respectfully submitted.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_645818066-195052548 . ChrisGibbs.declaration.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\853\109\85310960\xml7\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\853\109\85310960\xml7\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\853\109\85310960\xml7\RFR0004.JPG
ORIGINAL PDF FILE	evi_645818066-195052548 . Brunetti.suppl.decl.pdf

CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\853\109\85310960\xml7\RFR0005.JPG
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ORIGINAL PDF FILE	evi_645818066-195052548_.Brunetti.suppl.decl.Exhibits.pdf
CONVERTED PDF FILE(S) (5 pages)	\\TICRS\EXPORT16\IMAGEOUT16\853\109\85310960\xml7\RFR0007.JPG
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DESCRIPTION OF EVIDENCE FILE	Declaration of Chris Gibbs; Supplemental Declaration of Erik Brunetti; Exhibits to Supplemental Brunetti Declaration.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/John R. Sommer/
SIGNATORY'S NAME	John R. Sommer
SIGNATORY'S POSITION	Attorney of Record, member California bar
SIGNATORY'S PHONE NUMBER	(949) 752-5344
DATE SIGNED	07/27/2013
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Sat Jul 27 19:57:11 EDT 2013
TEAS STAMP	USPTO/RFR-64.58.180.66-20 130727195711258370-853109 60-500e7e2934ad69aaa248c9 e226ede73fe721369eadd5664 35ee92bb76c79ff1c-N/A-N/A -20130727195052548132

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

Application serial no. **85310960** has been amended as follows:

ARGUMENT(S)

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

RESPONSE TO OFFICE ACTION

DATED JANUARY 27, 2013

Applicant Erik Brunetti hereby respectfully responds to the Office Action dated July 27, 2013.

1. Argument

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not being used in a vulgar sense.

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Respectfully submitted.

EVIDENCE

Evidence in the nature of Declaration of Chris Gibbs; Supplemental Declaration of Erik Brunetti; Exhibits to Supplemental Brunetti Declaration. has been attached.

Original PDF file:

[evi_645818066-195052548 . ChrisGibbs.declaration.pdf](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

Original PDF file:

[evi_645818066-195052548 . Brunetti.suppl.decl.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_645818066-195052548 . Brunetti.suppl.decl.Exhibits.pdf](#)

Converted PDF file(s) (5 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /John R. Sommer/ Date: 07/27/2013

Signatory's Name: John R. Sommer

Signatory's Position: Attorney of Record, member California bar

Signatory's Phone Number: (949) 752-5344

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 not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85310960

Internet Transmission Date: Sat Jul 27 19:57:11 EDT 2013

TEAS Stamp: USPTO/RFR-64.58.180.66-20130727195711258

370-85310960-500e7e2934ad69aaa248c9e226e

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A-N/A-20130727195052548132

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK APPLICATION -- PRINCIPAL REGISTER

In re Application of)	
ERIK BRUNETTI)	Int'l Class 25
)	
Serial No.: 85/310960)	Examiner: Zachery R. Bello
)	
Application Date: May 3, 2011)	Law Office: 1111
)	
For: FUCT)	
_____)	

Declaration of Chris Gibbs

I, Chris Gibbs, declare and say:

1. I am the owner of the UNION store in Los Angeles, at 110 South LaBrea Ave., Los Angeles, CA 90036. I know the following facts to be true of my own personal knowledge. If called as a witness I could and would testify competently thereto.

2. My background is that I have been the owner and manager of the UNION store for 15 years. I have been actively involved in the street fashion or youth fashion industry for 15 years. I attend many of the trade shows, read most of the magazines and blogs that deal with youth culture in the United States, and spend much time talking to customers and others in the clothing industry (including store employees of my store and others, store managers, brand managers and owners of dozens of brands) about trends and brands. I feel that I can give useful opinions based upon my knowledge and experience.

3. To provide perspective on my store and the area where it is located I want to provide some background. This portion of LaBrea is an important shopping district for youth fashion as, in addition to UNION, it includes the STUSSY, UNDEFEATED, AMERICAN RAG and the LA BREA BAKERY. The Los Angeles Times says “For more than two decades, a roughly 1.5-mile stretch of La Brea between Melrose Avenue and Wilshire Boulevard arguably has been the city’s most diverse and densely packed district for Old World antiques, vintage furniture, contemporary décor and urban fashion.” November 21, 2012. The August 30, 2011 issue of Cooling Hunting says: “From Japanese selvage denim to modern bohemian tunics, La Brea is quickly becoming one of the most creative shopping destinations in Los Angeles.” Frommers.com says “La Brea Avenue (north of Wilshire Blvd.) -- This is L.A.'s artiest shopping strip.”

4. The UNION store is widely recognized as a leading retail outlet in the youth or street fashion industry. It has been in existence for 25 years. We carry dozens of brands, one of which is FUCT.

5. I do not view FUCT as immoral, obscene, scandalous, vulgar or otherwise offensive.

6. In the approximately three years that the UNION store has carried FUCT not once has a customer complained about the FUCT brand. Significantly, even though many mothers come in with their teenage children, not once has a mother complained to me about the FUCT brand. So I do not think customers would view the FUCT brand as obscene, scandalous, immoral, vulgar or offensive.

7. In addition to the physical UNION store at 110 South LaBrea Ave., Los Angeles, it has an internet store that serves customers throughout the United States. We have carried FUCT on the web-store for approximately 3 years. We have not received any complaint from any state or territory in the United States, or elsewhere, about FUCT being obscene, scandalous, immoral, vulgar or offensive.

8. Not once has anyone told me that he or she understood FUCT to be anything other than a brand of clothing.

9. Not once has anyone told me that he or she understood FUCT on clothing to refer to “fuck.”

10. If the public understood FUCT on clothing to refer to “fuck,” I believe I would have heard it.

11. In my opinion, the vast majority of persons who shop for or who see it worn, the primary significance of FUCT is the name of a brand.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and this declaration is executed this 27th day of July 2013.

/s/ Chris Gibbs

Chris Gibbs

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK APPLICATION -- PRINCIPAL REGISTER

In re Application of)	
ERIK BRUNETTI)	Int'l Class 25
)	
Serial No.: 85/310960)	Examiner: Zachery R. Bello
)	
Application Date: May 3, 2011)	Law Office: 1111
)	
For: FUCT)	
_____)	

Supplemental Declaration of Erik Brunetti

I, Erik Brunetti, declare and say:

1. I am the founder of the FUCT brand. I know the following facts to be true of my own personal knowledge. If called as a witness I could and would testify competently thereto.

2. Since 1990, I have been actively involved in the street fashion or youth fashion industry. I have attended many trade shows, read many magazines and blogs that deal with youth culture in the United States, and spend much time talking to artists, designers, customers and others in the clothing industry. Based upon my experience I can opine about what is immoral, scandalous and vulgar. What is considered such has changed much over the last 23 years. Furthermore, I am a professional artist.

3. The FUCT brand does make comments about current political and societal issues, sometimes obvious, and sometimes subtly. But those comments are not scandalous, immoral or vulgar.

4. The use of FUCT by the brand clearly as a brand identifier, not as referring to “fuck.” The exhibits below illustrate that.

5. Attached as Exhibit “7” are photographs of products sold under the FUCT brand.

6. Attached as Exhibit “8” are photographs of the printing on the neck (in lieu of a neck label) and labels.

7. The FUCT trademark is registered in other countries so that is why the ® symbol is used on products.

8. It is a significant problem for my business not to have a trademark registration in the home country for the FUCT brand. Among other problems, I cannot obtain an International Registration under the Madrid agreements.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and this declaration is executed this 27th day of July 2013.

/s/ Erik Brunetti

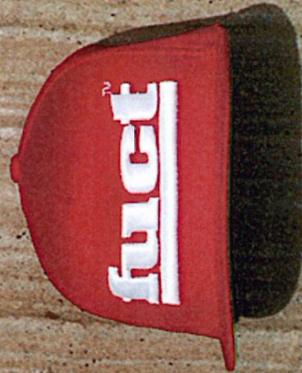
Erik Brunetti

Applicant: Brunetti, Erik

Mark: FUCT

S/N: 85/310960

Exhibit 7

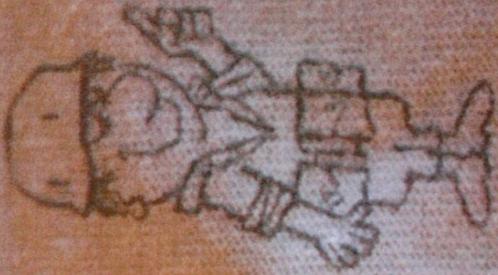


Applicant: Brunetti, Erik

Mark: FUCT

S/N: 85/310960

Exhibit 8



USA



RUCK[®]

MADE IN THE USA
100% COTTON
MACHINE WASH/WARM
GENTLE CYCLE
DRIE LOW HEAT
GARMENT FINISH

FUCT[®]

EST. 1991//LOS ANGELES, CA

100% COTTON

MADE IN BANGLADESH