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Sent: 1/12/2015 4:59:36 PM

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Subject: U.S. TRADEMARK APPLICATION NO. 85459235 - CHOPRA MEDIA - 02491/ - Request for
Reconsideration Denied - Return to TTAB - Message 1 of 11

Attachment Information:

Count: 16

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shop5c-3.jpg, 85459235.doc

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

U.S. APPLICATION SERIAL NO. 85459235 MARK: CHOPRA MEDIA	
CORRESPONDENT ADDRESS: JONATHAN D REICHMAN KENYON & KENYON LLP 1 BROADWAY NEW YORK, NY 10004-1007	GENERAL TRADEMARK INFORMATION: http://www.uspto.gov/trademarks/index.jsp VIEW YOUR APPLICATION FILE
APPLICANT: Deepak Chopra , LLC	
CORRESPONDENT'S REFERENCE/DOCKET NO: 02491/ CORRESPONDENT E-MAIL ADDRESS: tmdocketny@kenyon.com	

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 1/12/2015

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. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated March 13, 2013 are maintained and continue to be final. *See* TMEP §§715.03(a)(2)(B), (a)(2)(E), 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.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

DISCUSSION

Registration was refused as final with respect to the following issues:

1. Sec. 2(d) likelihood of confusion refusal
2. Sec. 2(e)(4) surname refusal
3. Requirement for an acceptable identification of goods

Applicant's request for reconsideration addresses only the requirement for an acceptable identification, and does so only in part. As such, the refusals and requirements are maintained as follows:

CONTINUED IDENTIFICATION OF GOODS REQUIREMENT

Applicant has amended its identification of goods as follows:

“Printed matter and publications, namely, a series of books and written articles and brochures featuring information on yoga, physical fitness, meditation, nutrition, mental training, spirituality, inspiration, self-help, motivation and wellness, exploration of the subject of the wellness triad,” in Class 16.

Although largely acceptable, the wording “exploration of the subject of the wellness triad” remains ambiguous. As previously discussed, this language is itself somewhat ambiguous. This indefinite nature is compounded by applications inclusion of the wording without any connecting terms, e.g., “and”. As such, it is unclear whether it refers to the subject matter of the printed matter or to some unrelated “exploration” service.

The USPTO has the discretion to determine the degree of particularity needed to clearly identify goods and/or services covered by a mark. *In re Fiat Grp. Mktg. & Corp. Commc’ns S.p.A*, 109 USPQ2d 1593, 1597 (TTAB 2014) (citing *In re Omega SA*, 494 F.3d 1362, 1365, 83 USPQ2d 1541, 1543-44 (Fed. Cir. 2007)). Accordingly, the USPTO requires the description of goods and/or services in a U.S. application to be specific, definite, clear, accurate, and concise. TMEP §1402.01; see *In re Fiat Grp. Mktg. & Corp. Commc’ns S.p.A*, 109 USPQ2d at 1597-98; *Cal. Spray-Chem. Corp. v. Osmose Wood Pres. Co. of Am.*, 102 USPQ 321, 322 (Comm’r Pats. 1954).

The Trademark Act requires that a trademark or service mark application must include a “**specification** of ... the goods [or services]” in connection with which the mark is being used or will be used. 15 U.S.C. §1051(a)(2) (emphasis added), (b)(2) (emphasis added); see 15 U.S.C. §1053. Specifically, a complete application must include a “list of the **particular** goods or services on or in connection with which the applicant uses or intends to use the mark.” 37 C.F.R. §2.32(a)(6) (emphasis added). This requirement for a specification of the particular goods and/or services applies to applications filed under all statutory bases. See 15 U.S.C. §§1051(a)(2), 1051(b)(2), 1053, 1126(d)-(e), 1141f; 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.01(b)-(c).

Applicant may clarify the wording as set forth below, if accurate:

“Printed matter and publications, namely, a series of books and written articles and brochures featuring information on yoga, physical fitness, meditation, nutrition, mental training, spirituality, inspiration, self-help, **motivation, wellness, and exploration of the subject of the triad of wellness,**” in Class 16.

Please note that, while the identification of goods/services may be amended to clarify or limit the goods/services, adding to the goods/services or broadening their scope is not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, applicant may not amend the identification to include goods/services that are not within the scope of the goods/services set forth in the present identification.

For assistance with identifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>.

CONTINUED SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Applicant seeks registration of for the mark CHOPRA MEDIA for, as amended, “Printed matter and publications, namely, a series of books and written articles and brochures featuring information on yoga, physical fitness, meditation, nutrition, mental training, spirituality, inspiration, self-help, motivation and wellness, exploration of the subject of the wellness triad,” in Class 16.

Upon further review, the final refusal of registration of the applied-for mark is continued because of a likelihood of confusion with the marks in the following U.S. registrations:

Reg. No. 2202591 for THE CHOPRA CENTER FOR WELL BEING covering “massage therapy services, health and beauty treatment services, detoxification and cleansing therapy services, and restaurant services.”

Reg. No. 2215788 for THE CHOPRA CENTER FOR WELL BEING covering “educational services, namely, conducting seminars, lectures, workshops, and instructor training in the fields of ayurvedic and holistic healing, health, well-being, the mind-body connection, yoga and meditation”.

Reg. No. 3500370 for CHOPRA CENTER covering "Health spa services for health and wellness of the body and spirit offered at a health resort; Health spa services, namely, cosmetic body care services; Massage; Massage and therapeutic shiatsu massage; Skin care salons."

Reg. No. 3503247 for CHOPRA CENTER covering "Education services, namely, providing classes, seminars and workshops in the fields of stress management, ayurvedic and holistic healing, health, well-being, the mind-body connection, yoga, meditation, prenatal care and child birthing, and astrology."

Reg. No. 3173576 for CHOPRA CENTER and design covering "Catalog ordering service featuring nutritional supplements, vitamins, candles, incense, clothing, books, journals, jewelry, home decor, DVDs, CDs, VHS tapes, audio tapes, cosmetics, beverages, food and herbs; Computerized on-line ordering services in the field of nutritional supplements, vitamins, candles, incense, clothing, books, journals, jewelry, home decor, DVDs, CDs, VHS tapes, audio tapes, cosmetics, beverages, food and herbs; Retail store services in the field of nutritional supplements, vitamins, candles, incense, clothing, books, journals, jewelry, home decor, DVDs, CDs, VHS tapes, audio tapes, cosmetics, beverages, food and herbs featuring a bonus incentive program for customers."

The Sec. 2(d) refusal is withdrawn with respect to previously cited Reg. Nos. 3493494, 3493493, 3493492 and 3502539.

For the reasons previously set forth, the marks and goods/services are confusingly similar. Additional evidence is attached further indicating the relatedness of applicant's printed goods with the registrants' educational services, health and beauty services, and retail services. As indicated, CDs/DVDs, books and other media are routinely offered under the same mark as the service presenting them for sale. Likewise, evidence indicates that such media products are commonly offered in conjunction with educational services and health and beauty services in the applicant's field.

Applicant thus far has provided no arguments or evidence regarding a comparison of the marks and goods/services. Instead, applicant relies solely on an alleged relationship between the parties as precluding consumer confusion. However, applicant has rejected or ignored requests for formal clarification of this relationship in a manner sufficient to address the refusal. Applicant's request for reconsideration also is silent as to the Sec. 2(d) refusal. Therefore, final Sec. 2(d) refusal is continued with respect to the above referenced registrations.

SECTION 2(e)(4) REFUSAL CONTINUED – PRIMARILY MERELY A SURNAME

Registration also was refused because the applied-for mark is primarily merely a surname. Trademark Act Section 2(e)(4), 15 U.S.C. §1052(e)(4); see TMEP §1211. Applicant's request for reconsideration contains no arguments or evidence regarding the surname refusal. For the reasons previously set forth, the final refusal is continued.

/SMP/

Steven M. Perez

Trademark Attorney

Law Office 101

(571) 272-5888

steven.perez@uspto.gov



Sarah Powers



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Sarah Powers Books, DVDs & CDs

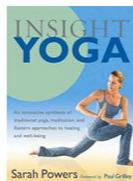


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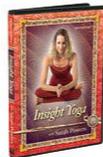
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5-day Yin/Insight Yoga
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July in New York

8-day Yin/Insight Yoga
Teacher Training
August in New York



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September in France

5-day Yin/Insight Yoga
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October in Thailand

10-day Yin/Insight Yoga
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November in Thailand



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CERTIFIED TEACHERS

ACTIVISM

CORE PHILOSOPHY

Bhakti

Acknowledgment that God/Self-realization is the goal of all yoga practices; can be expressed through chanting, the setting of a high intention for the practice or other devotional practices.



GURUS

Sharon Gannon & David Life

The gurus and founders of the Jivamukti Yoga method are



NEW YORK, NY

CERTIFIED TEACHERS

Jules Febre

Jules Febre, nephew of Sharon Gannon and David Life, has been practicing Jivamukti Yoga since the age of 6 and is an



Jivamukti Yoga is a path to enlightenment through compassion for all



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Spiritual Warrior

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ACTIVISM

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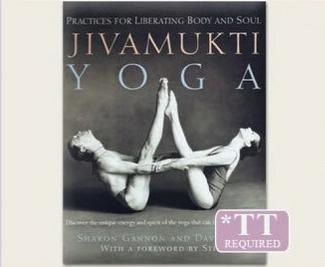
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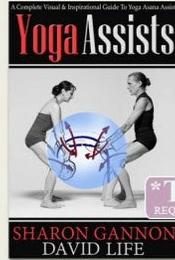


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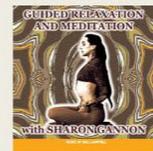
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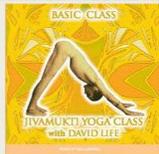
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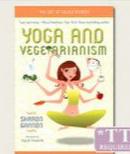
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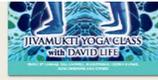
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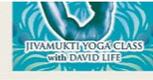
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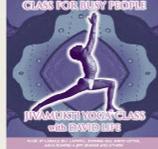
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