

ESTTA Tracking number: **ESTTA568333**

Filing date: **10/31/2013**

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

Proceeding	85492095
Applicant	Small Business Research Institute
Applied for Mark	CERTIFIED ENTREPRENEURIAL ADVISOR
Correspondence Address	ARTHUR SHAFFER INTELLECTUAL PROPERTY CENTER LLC 7101 COLLEGE BLVD, SUITE 1520 OVERLAND PARK, KS 66210 UNITED STATES ashaffer@theipcenter.com
Submission	Appeal Brief
Attachments	AppealBrief.pdf(59373 bytes) exhibitA.pdf(1114952 bytes)
Filer's Name	Arthur K. Shaffer
Filer's e-mail	ashaffer@theipcenter.com
Signature	/Arthur K. Shaffer/
Date	10/31/2013

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

In the matter of application)	October 31, 2013
Serial No.: 85492095)	
)	
Small Business Research Institute)	
Filed: December 9, 2011)	
)	
Applicant: Small Business Research Institute)	
)	
Mark: CERTIFIED ENTREPRENEURIAL)	Examining Attorney:
ADVISOR)	Janet Lee, Law Office 102
_____)	(571) 272-1053

Commissioner for Trademarks
P. O. Box 1451
Alexandria, Virginia 22313-1451

Attention: Trademark Trial and Appeal Board

Sir or Madam:

APPEAL BRIEF

Applicant hereby appeals to the Trademark Trial and Appeal Board from the decision dated October 23, 2013 of the Trademark Examining Attorney denying Applicant's Request for Reconsideration.

AMENDMENT

In the Office Action dated April 1, 2013, the Examiner rejected the application because of a likelihood of confusion with U.S. Registration No. 3801403. In addition, the examining attorney refused registration under Trademark Act Section 2(e)(1) based upon a claim that the Mark is merely descriptive, that the Mark lacked acquired distinctiveness under Section 2(f) and the specimen submitted was unverified. In Applicant's Request for Reconsideration,

Applicant has requested amendment of the Application to the Supplemental Register in response to the Examiner's 2(e) and 2(f) refusals. In response to the Examiner's rejection based upon the identified goods and services, Applicant has cancelled Class A and has signed the verification to support the substitute specimen. In response, to the Examiner's Likelihood of Confusion argument under 2(d), Applicant has obtained the cited registrant's consent that the marks are not confusing, and the Agreement reflecting that consent is attached as Exhibit A. Since Applicant has fully responded to the Examiner's rejections, Applicant believes it has overcome all bases for refusal of rejection.

This amendment addresses the Examiner's denial of Applicant's Request for Reconsideration under Section 2(d) in light of the mark CERTIFIED ENTREPRENEUR, registration no. 3801403. The application is now in condition for allowance and applicant respectfully requests that the examining attorney reconsider the final refusal and allow the mark to pass to publication.

Dated: October 31, 2013

Respectfully submitted,

s /Arthur Shaffer/
USPTO Reg. No. 50, 257
Intellectual Property Center, LLC
7101 College Blvd, Ste 1520
Overland Park, Kansas 66210
(913) 345-0900
ashaffer@theipcenter.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served on the USPTO via its Electronic Filing System on October 31, 2013 at the address below:

s /Arthur Shaffer/
Attorney for Appellant

Exhibit A

CONSENT AGREEMENT

COMES NOW Small Business Research Institute ("SBRI") a California Corporation with its principal place of business at 6017 Snell Avenue #404, San Jose, California 95123-4127 and Erik Bowman ("Bowman"), an individual with an address of 808 North Maria Avenue, Redondo Beach, California 90277 and pursuant to § 1207.01(d)(viii) of the TMEP submit the following consent agreement concerning the registration of SBRI's trademark application before the United States Patent & Trademark Office (hereinafter "USPTO") stating as follows:

1. SBRI is the owner of Federal Trademark Application Serial Number: 85492095 for the mark "CERTIFIED ENTREPRENEURIAL ADVISOR" ("the SBRI Mark"), for use in connection with the following goods and services:

Class B: Business management consulting and advisory service for small and entrepreneurial businesses.

2. Bowman is the owner of Federal Trademark Registration No. 3801403, for the mark CERTIFIED ENTREPRENEUR ("the Bowman Mark"), for use in connection with the following goods and services:

Class 41: Preparing, administering and scoring tests of the skills and knowledge of others in the field of business and entrepreneurship.

3. SBRI and Bowman represent that they are the entities most familiar with use in the marketplace of the above-referenced marks and are the parties most interested in precluding confusion as to source of their respective services by use of the SBRI Mark and Bowman Mark or phonetic equivalents thereof and similar marks thereto, in conjunction with services offered by others.

4. Moreover, SBRI and Bowman are in the best position to evaluate the potential for likelihood of confusion by and through any actual instances of consumer confusion which have occurred. SBRI and Bowman represent that they know of no actual instances of consumer confusion as to the source of their respective services as identified by the marks hereinabove.

5. Based upon the foregoing, SBRI and Bowman do not believe that a likelihood of confusion would exist between SBRI Mark and Bowman Mark as identified above should they all be permitted to co-exist on the Supplemental and if permitted in time, the Principal Register of the USPTO.

6. In order to avoid any confusion or conflict with the SBRI Mark, Bowman agrees to use its mark exclusively for Bowman Services, namely, preparing, administering and scoring tests of the skills and knowledge of others in the field of business and entrepreneurship, and Bowman agrees to only use the Bowman Mark in

connection with said services and will use such mark in a manner to avoid any confusion, mistake or deception between the SBRI Mark and the Bowman Mark and between SBRI and Bowman and to avoid any indication of affiliation or sponsorship between SBRI and Bowman. If any issues arise in the use of the Bowman Mark, Bowman agrees to work with SBRI to amicably resolve the issue.

7. In order to avoid any confusion or conflict with the Bowman Mark, SBRI agrees to use its mark exclusively for SBRI Services, namely, business management consulting and advisory service for small and entrepreneurial businesses, and SBRI agrees to only use the SBRI Mark in connection with said services and will use such mark in a manner to avoid any confusion, mistake or deception between the Bowman Mark and the SBRI Mark and between SBRI and Bowman and to avoid any indication of affiliation or sponsorship between SBRI and Bowman. If any issues arise in the use of the Bowman Mark, SBRI agrees to work with Bowman to amicably resolve the issue.

8. Bowman agrees to consent to the registration of the SBRI Mark, more fully identified in Federal Trademark Application Serial No. 85492095.

WHEREFORE Bowman does hereby CONSENT to the registrations of the following mark:

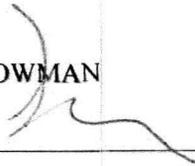
SBRI, as more fully identified in Serial No. 85492095.

Respectfully submitted,

SMALL BUSINESS RESEARCH INSTITUTE

ERIK BOWMAN

By: Carl Heintz

By: 

Name: CARL HEINTZ

Name: Erik Bowman

Title: DIRECTOR

Title: Owner

Date: 10/21/2013

Date: 10/9/2013