

Petition To Revive Abandoned Application - Failure To Respond Timely To Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85864264
LAW OFFICE ASSIGNED	LAW OFFICE 110
DATE OF NOTICE OF ABANDONMENT	08/19/2014
PETITION	
PETITION STATEMENT	Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional, and requests the USPTO to revive the abandoned application.
RESPONSE TO OFFICE ACTION	
MARK SECTION (no change)	
ARGUMENT(S)	
See argument in PDF with evidence.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_68986121-20140912181945159134_.2014-09-12_-_Request_for_Reconsideration_13_626.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\858\642\85864264\xml10\POA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\858\642\85864264\xml10\POA0003.JPG
DESCRIPTION OF EVIDENCE FILE	argument
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	025
DESCRIPTION	

Hats; Jackets; Pants; Rash guards; Shirts; Shorts; Sleepwear; Sports bra; Sweat pants; Sweat shirts; Swim wear; T-shirts; Tops; Underwear; Yoga pants	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	
Hats; Jackets; Pants; Rash guards; Shirts; Shorts; Sleepwear; Sports bra; Sweat pants; Sweat shirts; Swim wear; T-shirts; Tops; Underwear; Yoga pants <u>Hats; Clothing sold only through owner's online store, namely, hats, jackets, pants, rash guards, shirts, shorts, sleepwear, sports bra, sweat pants, sweat shirts, swim wear, t-shirts, tops, underwear, and yoga pants;</u>	
FINAL DESCRIPTION	
Clothing sold only through owner's online store, namely, hats, jackets, pants, rash guards, shirts, shorts, sleepwear, sports bra, sweat pants, sweat shirts, swim wear, t-shirts, tops, underwear, and yoga pants	
FILING BASIS	Section 1(b)
PAYMENT SECTION	
TOTAL AMOUNT	100
TOTAL FEES DUE	100
SIGNATURE SECTION	
PETITION SIGNATURE	/Andrew P Lahser/
SIGNATORY'S NAME	Andrew P Lahser
SIGNATORY'S POSITION	Attorney of record, AZ bar member
SIGNATORY'S PHONE NUMBER	480-816-9383
DATE SIGNED	09/12/2014
RESPONSE SIGNATURE	/Andrew P Lahser/
SIGNATORY'S NAME	Andrew P Lahser
SIGNATORY'S POSITION	Attorney of record, Arizona bar member
SIGNATORY'S PHONE NUMBER	(480) 816-9383
DATE SIGNED	09/12/2014
AUTHORIZED SIGNATORY	YES

FILING INFORMATION SECTION

SUBMIT DATE	Fri Sep 12 18:27:32 EDT 2014
TEAS STAMP	USPTO/POA-68.98.6.121-201 40912182732236206-8586426 4-50070fd9ae03862b7e573a0 53ee1ad48dc1416b14729e431 afaed7d54706a8c275-CC-481 0-20140912181945159134

PTO Form 2194 (Rev 9/2005)
OMB No. 0651-0054 (Exp. 10/31/2017)

Petition To Revive Abandoned Application - Failure To Respond Timely To Office Action

To the Commissioner for Trademarks:

Application serial no. **85864264** has been amended as follows:

PETITION

Petition Statement

Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional, and requests the USPTO to revive the abandoned application.

RESPONSE TO OFFICE ACTION

ARGUMENT(S)

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

See argument in PDF with evidence.

EVIDENCE

Evidence in the nature of argument has been attached.

Original PDF file:

[evi_68986121-20140912181945159134_2014-09-12_-_Request_for_Reconsideration_13_626.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 025 for Hats; Jackets; Pants; Rash guards; Shirts; Shorts; Sleepwear; Sports bra; Sweat pants; Sweat shirts; Swim wear; T-shirts; Tops; Underwear; Yoga pants

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use

through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Proposed:

Tracked Text Description: ~~Hats; Clothing sold only through owner's online store, namely, hats, jackets, pants, rash guards, shirts, shorts, sleepwear, sports bra, sweat pants, sweat shirts, swim wear, t-shirts, tops, underwear, and yoga pants; Jackets; Pants; Rash-guards; Shirts; Shorts; Sleepwear; Sports-bra; Sweat-pants; Sweat-shirts; Swim-wear; T-shirts; Tops; Underwear; Yoga pants~~

Class 025 for Clothing sold only through owner's online store, namely, hats, jackets, pants, rash guards, shirts, shorts, sleepwear, sports bra, sweat pants, sweat shirts, swim wear, t-shirts, tops, underwear, and yoga pants

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

FEE(S)

Fee(s) in the amount of \$ 100 is being submitted.

SIGNATURE(S)

Signature: /Andrew P Lahser/ Date: 09/12/2014
Signatory's Name: Andrew P Lahser
Signatory's Position: Attorney of record, AZ bar member
Signatory's Phone Number: 480-816-9383

Response Signature

Signature: /Andrew P Lahser/ Date: 09/12/2014
Signatory's Name: Andrew P Lahser
Signatory's Position: Attorney of record, Arizona bar member

Signatory's Phone Number: (480) 816-9383

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.

RAM Sale Number: 85864264
RAM Accounting Date: 09/15/2014

Serial Number: 85864264

Internet Transmission Date: Fri Sep 12 18:27:32 EDT 2014
TEAS Stamp: USPTO/POA-68.98.6.121-201409121827322362
06-85864264-50070fd9ae03862b7e573a053ee1
ad48dc1416b14729e431afaed7d54706a8c275-C
C-4810-20140912181945159134

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: **GET CENSORED [plus design]**

Applicant: **Shanon Preston**

Serial No.: **85/864,264**

Filing Date: **Mar. 1, 2013**

Examining Attorney: **Wendell S. Phillips III**

Law Office No.: **110**

Attorney Docket No.: **13#626**

Request for Reconsideration

1. Examiner's Likelihood of Confusion Refusal

Applicant has submitted a "Notice of Appeal" with this response. Applicant respectfully requests reconsideration of the Examiner's refusal of registration of Applicant's mark **GET CENSORED [plus design]**. Examiner rejected Applicant's mark by presenting the trademark **CENSORED**. Examiner asserted that Applicant's mark was likely to be confused with this mark by presenting arguments about the likelihood of confusion. In particular, Examiner found overlap between the goods specified in Registrant's mark and the goods specified in Applicant's mark.

2. Amendment to Goods and Services Description

Applicant has submitted herewith an amendment to the Goods and Services Description to indicate that Applicant's goods are only offered through Applicant's online retail stores.

When the identification of services is restricted to certain narrow channels of trade, it can avoid a finding of likelihood of confusion. See *In re Shoe Works, Inc.*, 6 U.S.P.Q.2d 1890 (T.T.A.B. 1988). Likelihood of confusion was not found between the mark **PALM BAY** for women's shoes and **PALM BAY** for shorts and pants where applicant amended the description of goods and services to limit the channels of trade to only Applicant's retail stores. Here, Applicant has similarly restricted the channels of trade to only Applicant's online retail stores. Applicant only sells Applicant's goods at its online retail stores, thus, this amendment prevents overlap between the marks, due to the distinct and

separate trade channels. Said another way, a likelihood of confusion is prevented because Applicant's online retail stores do not (and will not) sell Registrant's goods with Registrant's mark

3. Conclusion

The Applicant hereby respectfully requests that the Examiner carefully consider the facts, arguments and amendment presented herein. Applicant believes Applicant has overcome Examiner's previous refusal presented in the Examiner's Office Action.

Accordingly, Applicant's mark is not descriptive of the goods. The Applicant's mark does not immediately convey any impression of Applicant's goods. For all the above reasons, the Applicant respectfully requests that the Examiner allow Applicant's application for the mark, GET CENSORED [plus design], to register.

Yours truly,
LAW OFFICE OF ANDREW P. LAHSER, PLC
/Andrew P. Lahser/
Andrew P. Lahser
Attorney for Applicant
16824 E. Ave. of the Fountains, Suite 14
Fountain Hills, AZ 85268
(480) 816-9383 Office
(480) 837-5378 Fax

RAM SALE NUMBER: 85864264
RAM ACCOUNTING DATE: 20140915

INTERNET TRANSMISSION DATE:
2014/09/12

SERIAL NUMBER:
85/864264

Description	Fee Code	Transaction	Total Fees Paid
POA	7005	2014/09/12	100