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Filing date: **01/15/2016**

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

Proceeding	85882685
Applicant	Schmittty Says, LLC
Applied for Mark	WEATHER DOG
Correspondence Address	AUDRA KEMP COLLEN IP 80 S HIGHLAND AVENUE OSSINING, NY 10562-5615 UNITED STATES trademark@collenip.com, mradin@collenip.com
Submission	Applicants Request for Remand and Amendment
Attachments	P406_Request Remand_Amendment_160115.PDF(109428 bytes )
Filer's Name	Audra Kemp
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Signature	/audra kemp/
Date	01/15/2016

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

(THIS IS ATTORNEY DOCKET NO: P406)

Applicant : Schmittty Says, LLC  
Serial No. : 85882685  
Filed : March 27, 2013  
Mark : WEATHER DOG

**TO THE TRADEMARK TRIAL AND APPEAL BOARD**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**REQUEST TO REMAND APPLICATION FILE TO EXAMINER**  
**FILED WITH AMENDMENT TO TRADEMARK APPLICATION**

Applicant hereby respectfully requests that the Trademark Trial and Appeal Board remand the above-referenced trademark application file to the Examiner for further prosecution.

According to the Examiner's latest communication dated November 20, 2015, the following requirements/refusals are maintained and continue to be final:

1) The merely descriptive refusal with respect to the goods in Class 9 under Trademark Act Section 2(e)(1) and 2) The Request for Further Information which would appear to be continued in order to address the mere descriptiveness refusal, which pertains only to goods in Class 9.

Applicant has deleted Class 9 from the application, thereby resolving both the refusal under Trademark Act Section 2(e)(1) and the request for further information.

Although not explicitly continued, Applicant has amended the disclaimer for the record of the application, as the disclaimer statement was inadvertently deleted from the record in its entirety.

Applicant confirms that the Amendment, filed together with this Request, complies completely with the Examiner's requirements. This application is now in proper condition for allowance. Further and favorable action is respectfully requested.

Respectfully submitted,  
COLLEN IP



By: \_\_\_\_\_

Mitchell E. Radin  
Audra Kemp  
Telephone: (914) 941 5668  
The Applicant's attorneys

MER/AK

Dated: January 15, 2016

Attachment: Amendment

COLLEN *IP*  
Intellectual Property Law, P.C.  
The Holyoke-Manhattan Building  
80 South Highland Avenue  
Town of Ossining  
Westchester County, New York 10562

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY.  
COLLEN *IP* INTELLECTUAL PROPERTY LAW, P.C.

By:  \_\_\_\_\_ Date: January 15, 2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**TRADEMARK EXAMINING OPERATION**

(THIS IS ATTORNEY DOCKET NO: P406)

Applicant : Schmittty Says, LLC  
Serial No. : 85882685  
Filed : March 27, 2013  
Mark : WEATHER DOG

**TO:**

Commissioner for Trademarks  
Box: Responses - No Fee  
P.O. Box 1451  
Alexandria, Virginia 22313-1451  
ATTENTION: JILLIAN R. CANTOR

**AMENDMENT TO TRADEMARK APPLICATION FILED WITH**  
**REQUEST TO REMAND**

Applicant acknowledges receipt of the Request for Reconsideration Denied, issued on November 20, 2015 in association with the trademark application captioned above.

**AMENDMENT TO IDENTIFICATION OF GOODS**

Applicant acknowledges, with thanks, the withdrawal of the descriptiveness refusal with respect to goods in Classes 12, 18 and 25. Accordingly, no further changes to the identification of goods in Classes 12, 18 and 25 are required.

Applicant respectfully requests that the goods in Class 9 be deleted from the application in their entirety.

## **INFORMATION REQUIREMENT**

The Examiner has continued the request for further information about the mark, as explained in the latest communication dated November 20, 2015, because “[t]his application has been refused registration on the ground that the applied-for mark is merely descriptive of the goods...” Since the descriptiveness refusal is withdrawn with respect to all classes except Class 9, and Applicant has deleted Class 9 from the Application, Applicant believes this request has been satisfied.

## **DISCLAIMER REQUIREMENT**

Applicant submits that the limited disclaimer of the term “DOG” has been inadvertently omitted or deleted from the application.

In its response dated December 27, 2013, Applicant submitted the following statement regarding the disclaimer: “No claim is made to the exclusive right to use DOG for those products and services specifically involving dogs or animals apart from the mark as shown.”

In its response dated March 18, 2015, Applicant clarified the disclaimer statement for the record of the application, as follows: “No claim is made to the exclusive right to use DOG in connection with *pet clothing* apart from the mark as shown.”

In Applicant’s request for reconsideration dated October 26, 2015, the following statement was entered for the record of the application: “Applicant

respectfully requests that the disclaimer of the term DOG *with respect to goods in Class 9* be withdrawn.” [Emphasis added.]

The communication from the Examiner dated November 20, 2015 states: “The amended disclaimer is also not acceptable because the word ‘dog’ is descriptive for the goods in Class 18.”

Accordingly, Applicant deletes the following disclaimer entered into the application record:

-- WEATHER IN CLASS 009 ONLY --

and submits the following disclaimer for the record of the application:

-- DOG for “pet clothing” in Class 18 only --

In submitting this disclaimer, Applicant does not waive any of the common law rights accrued in the term through its use in commerce.

By deleting Class 9 from the application and submitting a proper disclaimer, Applicant has complied completely with the Examiner’s requirements made FINAL.

Accordingly, Applicant submits that this application is now in proper condition for allowance, and respectfully requests that the mark be passed to publication in the Official Gazette of the United States Patent and Trademark Office.

Respectfully submitted,  
COLLEN *IP*



By: \_\_\_\_\_

Mitchell E. Radin  
Audra Kemp  
Telephone: (914) 941 5668  
The Applicant's attorneys

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Dated: January 15, 2016

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