

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85942402
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Dear Examiner, Applicant respectfully request for reconsideration due to the following facts: 1. The examiner states that "the mark raised by applicant as evidence of dilution (CARNAVAL DIABOLIQUE), and a mark for automobile cleaning preparations. Clearly, the last mark is irrelevant to this case as automobile cleaning preparations are vastly different from applicant?s mark, leaving the mark CARNAVAL DIABOLIQUE as the only other mark other than the parties? marks containing the same term or a phonetic equivalent of it. This is evidence that the term CARNAVAL is not diluted or weak." However, Reg. 3572689 is in fact for "perfume oils" which is virtually identical to the cited registrations cologne and perfume products. Applicant do not understand where the product description 'Automobile cleaning preparations" came from. Thus, this cited third party registration is in fact relevant. 2. In light of the above, Applicant respectfully request the examiner to reconsider the final refusal and allowed Applicant application to proceed to publication and registration. 3. Applicant respectfully submits another copy of the Exhibit 1 for the examiner's review.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_7110414713-20141006220120478854_ . Exhibit1_carnaval_diabolique.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\859\424\85942402\xml7\RFR0002.JPG
DESCRIPTION OF EVIDENCE FILE	exhibit 1
SIGNATURE SECTION	
RESPONSE SIGNATURE	/victorwu/
SIGNATORY'S NAME	Victor Wu
SIGNATORY'S POSITION	Attorney of record

DATE SIGNED	10/06/2014
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Oct 06 22:10:58 EDT 2014
TEAS STAMP	USPTO/RFR-71.104.147.13-2 0141006221058023390-85942 402-500409b19b0a11e2ddae7 3d3d466e17220d6384a65a689 c813c7aebe5a3457eb6f-N/A- N/A-20141006220120478854

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

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

Application serial no. **85942402** has been amended as follows:

ARGUMENT(S)

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

Dear Examiner, Applicant respectfully request for reconsideration due to the following facts: 1. The examiner states that "the mark raised by applicant as evidence of dilution (CARNAVAL DIABOLIQUE), and a mark for automobile cleaning preparations. Clearly, the last mark is irrelevant to this case as automobile cleaning preparations are vastly different from applicant's mark, leaving the mark CARNAVAL DIABOLIQUE as the only other mark other than the parties' marks containing the same term or a phonetic equivalent of it. This is evidence that the term CARNAVAL is not diluted or weak." However, Reg. 3572689 is in fact for "perfume oils" which is virtually identical to the cited registrations cologne and perfume products. Applicant do not understand where the product description 'Automobile cleaning preparations' came from. Thus, this cited third party registration is in fact relevant. 2. In light of the above, Applicant respectfully request the examiner to reconsider the final refusal and allowed Applicant application to proceed to publication and registration. 3. Applicant respectfully submits another copy of the Exhibit 1 for the examiner's review.

EVIDENCE

Evidence in the nature of exhibit 1 has been attached.

Original PDF file:

[evi_7110414713-20141006220120478854_ . Exhibit1_carnaval_diabolique.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /victorwu/ Date: 10/06/2014

Signatory's Name: Victor Wu

Signatory's Position: Attorney of record

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: 85942402

Internet Transmission Date: Mon Oct 06 22:10:58 EDT 2014

TEAS Stamp: USPTO/RFR-71.104.147.13-2014100622105802

3390-85942402-500409b19b0a11e2ddae73d3d4

66e17220d6384a65a689c813c7aebe5a3457eb6f

-N/A-N/A-20141006220120478854

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,572,689

Registered Feb. 10, 2009

**TRADEMARK
PRINCIPAL REGISTER**

CARNAVAL DIABOLIQUE

BLACK PHOENIX PARTNERSHIP (NEVADA
PARTNERSHIP)

12120 SHERMAN WAY

NORTH HOLLYWOOD, CA 91605

FOR: PERFUME OILS, IN CLASS 3 (U.S. CLS. 1, 4,
6, 50, 51 AND 52).

FIRST USE 5-0-2006; IN COMMERCE 8-2-2006.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

THE FOREIGN WORDING IN THE MARK
TRANSLATES INTO ENGLISH AS DIABOLICAL
CARNIVAL.

SER. NO. 78-962,092, FILED 8-28-2006.

CAROLYN CATALDO, EXAMINING ATTORNEY