

From: Shanoski, Joanna

Sent: 11/12/2014 1:59:28 PM

To: TTAB E filing

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85973494 - PRIVATE BUSINESS CAPITAL - N/A - Request for Reconsideration Denied - Return to TTAB - Message 1 of 2

Attachment Information:

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Files: WG.jpg, biz-1.jpg, biz-2.jpg, biz-3.jpg, realclear-1.jpg, realclear-2.jpg, realclear-3.jpg, realclear-4.jpg, china-1.jpg, china-2.jpg, china-3.jpg, 85973494.doc

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

U.S. APPLICATION SERIAL NO. 85973494 MARK: PRIVATE BUSINESS CAPITAL	
CORRESPONDENT ADDRESS: MARIA JOHNSON DE NOVO LEGAL PC 2244 FARADAY AVE STE 103 CARLSBAD, CA 92008-7208	GENERAL TRADEMARK INFORMATION: http://www.uspto.gov/trademarks/index.jsp VIEW YOUR APPLICATION FILE
APPLICANT: San Diego Private Bank	
CORRESPONDENT'S REFERENCE/DOCKET NO: N/A CORRESPONDENT E-MAIL ADDRESS: maria@denovopc.com	

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 11/12/2014

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 04/25/14 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.

Particularly, applicant argues the mark is distinctive with respect to a meaning of wealth and investment. However, this ignores the common meaning of the mark, PRIVATE BUSINESS CAPITAL (which was previously discussed in the first Office action of 10/09/2013) with respect to applicant's services. In the context of the services, the wording PRIVATE BUSINESS CAPITAL would be understood to describe lending by a private bank for business capital. See additional, attached website evidence at:

<http://www.wgfinancing.com/private-business-capital/>

<http://www.businessdictionary.com/definition/gross-private-domestic-investment-GPDI.html>

http://www.realclearpolitics.com/articles/2014/07/04/under_the_good_jobs-report_hood_123215.html

<http://www.scmp.com/property/hong-kong-china/article/1346792/good-times-and-easy-cash-long-gone-wenzhou>

<http://www.fitzandcompany.com/resources.html>

Determining the descriptiveness of a mark is done in relation to an applicant's goods and/or services, the context in which the mark is being used, and the possible significance the mark would have to the average purchaser because of the manner of its use or intended use. See *In re The Chamber of*

Commerce of the U.S., 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (citing *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963-64, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); TMEP §1209.01(b). Descriptiveness of a mark is not considered in the abstract. *In re Bayer Aktiengesellschaft*, 488 F.3d at 963-64, 82 USPQ2d at 1831.

Moreover, as noted above, applicant's alternative request to disclaim descriptive portions of the mark cannot be granted because there are no distinctive portions of the mark. Further, an amendment to disclaim the entire mark is unacceptable because an entire mark may not be disclaimed and as such, this argument in the alternative does not raise a new issue. See TMEP §§ 714.05(a) and 1213.06.

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).

Procedural Issue

It is further noted that applicant asserts that the final refusal was procedurally improper because it raised a new issue of the mark possibly being Generic. However, the issue of the mark possibly being Generic was not raised as a refusal. Rather, it was included as part of an advisory statement, simply letting applicant know that it could be an issue, if raised. However, since the applicant has not attempted to amend the application to the Supplemental Register and/or file an amendment to allege use (AAU), a Generic refusal has not in fact been issued in this case, and the issue has not otherwise been raised for consideration. See TMEP §714.05(a)(i). Thus, the final refusal was issued under proper Office procedure in this case.

It is also noted that applicant's response to the first Office action submitted 04/09/2014 only addressed the identification requirement, **and did not include any arguments against the Descriptiveness Refusal** Under Trademark Action Section 2(e)(1). This would have been the procedurally appropriate time to argue against the Descriptiveness Refusal in application prosecution. See TMEP See TMEP §§714.05 - 714.05 (f).

For the foregoing reasons, the request for reconsideration is denied.

/Joanna M. Shanoski/

Examining Attorney

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☆ gross private domestic investment (GPDI)



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The amount of private business capital which is invested in domestic production either through the purchase of fixed property or inventory. These expenditures account for approximately 15% to 18% of the gross domestic product (GDP) in the US.

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- gross national ...
- gross negligenc...
- gross parity
- gross pay
- gross premium
- gross price
- gross private d...
- gross productio...
- gross profit
- gross profit ma...
- gross profit me...
- gross profits t...
- gross rate of r...
- gross rating po...
- gross receipts

Popular 'Economics, Politics, & Society' Terms 

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Under the Good Jobs-Report Hood

By **Larry Kudlow** - July 4, 2014

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Good news for the American worker: Employment in June surged 288,000, with a 262,000 gain in the private sector, easily beating the consensus forecast of 215,000 new payrolls. This marks the fifth consecutive monthly increase of 200,000 or more jobs, the best five-month stretch since early 2006. As for the unemployment rate, it dropped from 6.3 to 6.1 percent.

Stocks surged on the news, with the Dow closing above 17,000 for a record high.

And the good news doesn't end there: The small-business household survey gained a big 407,000 while the number of unemployed fell by 325,000. These job gains were spread wide across the economy, as the diffusion index jumped from 62.9 to 64.8 percent. And although lower-paying retailers counted for a big 40,000 jump, higher-paying professional and business services increased 67,000.

But there were some important glitches in this good-news report.

For one, worker wages remained soft, rising only 2 percent over the past 12 months. And total hours

Larry Kudlow

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percent over the past 12 months. And total hours worked are 2.1 percent ahead of a year ago, suggesting that overall income and nominal GDP are growing at a relatively slow 4 percent rate.

Meanwhile, the U6 unemployment rate, which includes part-time workers who want better full-time jobs or folks who have given up, dropped only slightly to 12.1 percent. That's still a historically high rate. And the labor-force participation rate was unchanged at 62.8 percent, a 30-year low.

Wall Street Journal editor Phil Izzo makes a disconcerting point: The good way for unemployment to fall is for more people to find jobs. But the bad way is for more people to give up looking for work altogether.

Unfortunately, Izzo notes that while 2.15 million people gained employment in June, 2.35 million dropped out of the labor force. "In all but two months since December 2008, more unemployed have dropped out than found jobs," writes Izzo.

So underneath the hood of the strong June jobs report we still find big problems with the U.S. jobs situation.

Representative Kevin Brady, chairman of the congressional Joint Economic Committee, points out that compared to the average of post-1960 recoveries, this one still has a private-sector jobs gap of 5.8 million. To get back on track, the economy needs to add 374,000 private-sector jobs every month through the end of 2016.

This has always been a rather lopsided economic expansion. For example, auto sales surged to 16.9 million in June, a very good number. And the energy sector has been strong for many years. But consumer spending actually fell in April and May. And long-term business investment — a huge job creator — remains in the doldrums.

The latest Business Roundtable survey shows a slowdown in capex spending plans. The National Association for Business Economics predicts only a bit more than 3 percent business-investment growth. And the National Federation of Independent Business (NFIB) says only 24 percent of small-business owners plan capital outlays in the next three to six months.

The paradox is, while companies seem more willing to hire, they are not willing to make long-term investments in the economy. It's not hard to guess that this corporate caution stems in large part from tax and regulatory uncertainties, and frankly, a White House that is anti-business.

A recent Wall Street Journal op-ed by UCLA economics professor Lee Ohanian and Nobelist Edward C. Prescott points to the large decline in the creation of new start-up businesses as a major factor in the lack of business fixed investment. The authors argue that policies hampering entrepreneurs need to be changed. They point to immigration reform that increases the pool of skilled workers, tax reform that reduces the corporate income tax, and changing Dodd-Frank financial regulations to make it easier and cheaper for small businesses to get loans.

I continue to believe that slashing business tax rates (and ultimately abolishing the corporate tax) would be the single most important economic growth policy right now. And I'm especially bullish on small business

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be the single most important economic-growth policy right now. And importantly, small business S-corps must be allowed to take advantage of any lower C-corp tax rate.

A recent study from the Tax Foundation, using a dynamic simulation model, argues that cutting the federal corporate tax rate from 35 to 25 percent would over ten years raise real GDP by more than 2 percent, increase private business-capital investment by more than 6 percent, boost worker wages by 2 percent, and increase total federal revenues by nearly 1 percent.

I would add to this the need to repatriate U.S. profits lodged overseas, which are taking advantage of lower foreign tax rates. A small penalty rate of 5 percent could bring back \$1 trillion.

Let's bring American companies back home. There will be more growth, more investment, more jobs, and much higher wages.

Lawrence Kudlow is host of CNBC's The Kudlow Report and co-host of The Call. He is also a former Reagan economic advisor and a syndicated columnist. Visit his blog, [Kudlow's Money Politics](#).

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Good times and easy cash long gone in Wenzhou

End of underground banking spells doom for property market that once rivalled Shanghai's

Daniel Ren in Shanghai
ren.wei@scmp.com

PUBLISHED : Monday, 04 November, 2013, 5:53am
UPDATED : Monday, 04 November, 2013, 5:53am



A luxury project in Wenzhou, the only major mainland city where property prices dropped in a September survey. Photo: Ricky Wong

The credit crisis arising from a flood of loans advanced by underground banking services looms over Wenzhou, the mainland's private business capital.

It has wrecked the city's property sector, driving some speculators to suicide.

The official figures tell the story: in September, Wenzhou was the only one of 70 major cities that reported a year-on-year drop in property prices, with

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Two major cities that reported a year-on-year drop in property prices, with average new home prices declining by an annualised 1.8 per cent, according to the National Bureau of Statistics.

Wang Ye, a businessman in his early 30s, is choked up with emotion when he talks about the roller-coaster ride taken by the housing market, which cost him more than 1 million yuan (HK\$1.27 million).

"I borrowed money and bought two flats in 2010, when everybody was upbeat about the property market," Wang said. "Now I am debt-ridden and I have paid a high price for those stupid decisions."

Wenzhou, buoyed by an ample capital inflow from the underground banking system, saw housing prices soar in the past decade as investors went on a buying rage, speculating on flats in the belief that prices would only go upwards.

"You could never imagine how active the market was when the times were good," said Luo Ruzhao, a vice-president at Wenzhou Yijiyi Real Estate Agency. "People rushed to buy properties regardless of the high prices."

A single apartment could change hands more than 10 times within a month, Luo said. Speculators did not buy for their own use. Instead, they played "pass the parcel" in the belief that everyone could keep making profits.

In 2010, Wenzhou, a third-tier city, reported property prices higher than any second-tier city, thanks to the home-buying euphoria.

High-end flats in the city sported price tags of up to 100,000 yuan per square metre, on par with Shanghai, the country's commercial capital.

The speculative fever was fuelled by underground banks, where operators collected massive funds from "depositors" before relending them to borrowers at lofty interest rates.

Some bullish housing speculators borrowed millions of yuan from loan sharks to buy properties, punting on further price increases. A single buyer could own more than 10 flats in the city, according to Luo.

But the credit crisis resulting from the collapse of illegal private lending has led to a plunge in home prices of about 40 per cent since the first half of last year.

Falling victim to weakening external demand and a slowing domestic economy, most of the underground banks failed as borrowers could not repay loans, while dozens of major operators either fled the country or committed suicide.

Some borrowers had to dump their properties to repay the loans.

At the same time, the property market ran out of steam as liquidity was drained from the market by failing lenders.

"It was no surprise to see a collapse of the Wenzhou property market," said Joe Zhou, the head of research in Shanghai at property brokerage Jones Lang LaSalle. "After all, the housing prices there were artificially high, and the

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LaSalle. "After all, the housing prices there were artificially high, and the fundamentals couldn't support those lofty levels."

Underground banks, which are illegal, have effectively bolstered the economy for years, providing finance for mom-and-pop shops. The lenders made a killing by tapping into the country's export boom and the city's renowned entrepreneurial flair.

"Wenzhou people have a deep-rooted habit of speculating," said Zhang Wei, an entrepreneur. "They are quick to buy and invest in any product whose price has the potential to rise in future."

Unfortunately, those bold Wenzhou residents inflated property prices into a bubble that burst with tragic consequences.

Even at commercial banks, mortgage defaults are on the rise as the ripple effects of the property debacle spread through the financial system.

A loan officer at the Industrial and Commercial Bank in Wenzhou said dozens of mortgage defaults occurred at his branch every month.

"The game is over. No chances for us to cut losses in this round of property investments," Wang said. "Nobody is bold enough now to borrow or buy anything in Wenzhou."

This article appeared in the South China Morning Post print edition as Good times and easy cash long gone in Wenzhou



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