

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

| Input Field  | Entered   |
|--|---|
| <b>SERIAL NUMBER</b>   | 86071288  |
| <b>LAW OFFICE ASSIGNED</b>   | LAW OFFICE 117  |
| <b>MARK SECTION (no change)</b>  |   |
| <b>ARGUMENT(S)</b>   |   |
| <p>In response to the FINAL Office action dated July 22, 2014, please amend the application as follows:</p> <p><b><u>In the Statement:</u></b></p> <p>Applicant requests the words "Principal Register" be changed to "Supplemental Register."</p> <p><b><u>Remarks:</u></b></p> <p>In addition to the Amendment to Allege Use filed contemporaneously herewith, Applicant amends its application to the Supplemental Register. A copy of the Amendment to Allege Use with the appropriate specimen and Declaration is attached to this response.</p> <p><b><u>Conclusion:</u></b></p> <p>Based on the foregoing, Applicant respectfully requests that this Application be accepted for registration on the Supplemental Register.</p> |   |
| <b>EVIDENCE SECTION</b>  |   |
| <b>EVIDENCE FILE NAME(S)</b>   |   |
| <b>ORIGINAL PDF FILE</b>   | <a href="#">evi_6628235122-20150116145331281262_.Attachment_to_OAR.pdf</a>    |
| <b>CONVERTED PDF FILE(S)<br/>(5 pages)</b>   | <a href="#">\\TICRS\EXPORT16\IMAGEOUT16\860\712\86071288\xml9\RFR0002.JPG</a> |
|  | <a href="#">\\TICRS\EXPORT16\IMAGEOUT16\860\712\86071288\xml9\RFR0003.JPG</a> |
|  | <a href="#">\\TICRS\EXPORT16\IMAGEOUT16\860\712\86071288\xml9\RFR0004.JPG</a> |
|  | <a href="#">\\TICRS\EXPORT16\IMAGEOUT16\860\712\86071288\xml9\RFR0005.JPG</a> |

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| <b>DESCRIPTION OF EVIDENCE FILE</b>   | Amendment to Allege Use filed January 16, 2015.  |
| <b>ADDITIONAL STATEMENTS SECTION</b>  |  |
| <b>SUPPLEMENTAL REGISTER</b>          | The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register').<br>NOTE: The applicant has separately filed an Allegation of Use, to change the basis of this application from Section 1(b), intent-to-use, to Section 1(a), use in commerce. |
| <b>SIGNATURE SECTION</b>              |  |
| <b>RESPONSE SIGNATURE</b>             | /s/ Christopher L. McArdle   |
| <b>SIGNATORY'S NAME</b>               | Christopher L. McArdle   |
| <b>SIGNATORY'S POSITION</b>           | Attorney of Record, Member of the New York State Bar   |
| <b>SIGNATORY'S PHONE NUMBER</b>       | 212-210-9542   |
| <b>DATE SIGNED</b>                    | 01/16/2015   |
| <b>AUTHORIZED SIGNATORY</b>           | YES  |
| <b>CONCURRENT APPEAL NOTICE FILED</b> | NO   |
| <b>FILING INFORMATION SECTION</b>     |  |
| <b>SUBMIT DATE</b>                    | Fri Jan 16 15:21:57 EST 2015   |
| <b>TEAS STAMP</b>                     | USPTO/RFR-66.28.235.122-2<br>0150116152157198433-86071<br>288-500f58c781f7e75335f85<br>c9a89df4ce866b58a37ce45ea<br>1da1587cecb48125921-N/A-N<br>/A-20150116145331281262   |

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

Application serial no. **86071288** has been amended as follows:

## **ARGUMENT(S)**

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

In response to the FINAL Office action dated July 22, 2014, please amend the application as follows:

### **In the Statement:**

Applicant requests the words "Principal Register" be changed to "Supplemental Register."

### **Remarks:**

In addition to the Amendment to Allege Use filed contemporaneously herewith, Applicant amends its application to the Supplemental Register. A copy of the Amendment to Allege Use with the appropriate specimen and Declaration is attached to this response.

### **Conclusion:**

Based on the foregoing, Applicant respectfully requests that this Application be accepted for registration on the Supplemental Register.

## **EVIDENCE**

Evidence in the nature of Amendment to Allege Use filed January 16, 2015. has been attached.

### **Original PDF file:**

[evi\\_6628235122-20150116145331281262\\_. Attachment to OAR.pdf](#)

### **Converted PDF file(s) ( 5 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

## **ADDITIONAL STATEMENTS**

### **Supplemental Register**

The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register'). NOTE: The applicant has separately filed an Allegation of Use, to change the basis of this application from Section 1(b), intent-to-use, to Section 1(a), use in commerce.

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /s/ Christopher L. McArdle Date: 01/16/2015

Signatory's Name: Christopher L. McArdle

Signatory's Position: Attorney of Record, Member of the New York State Bar

Signatory's Phone Number: 212-210-9542

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: 86071288

Internet Transmission Date: Fri Jan 16 15:21:57 EST 2015

TEAS Stamp: USPTO/RFR-66.28.235.122-2015011615215719

8433-86071288-500f58c781f7e75335f85c9a89

df4ce866b58a37ce45ea1da1587cecb48125921-

N/A-N/A-20150116145331281262

## Your Trademark/Service Mark Allegation of Use Was Submitted Successfully

**Success!**

[View/Save E-Receipt as PDF file](#)

We have received your form for serial number **86071288**. You can open and save a PDF version of the filing receipt by clicking on the button, above, and this will serve as your official confirmation copy. We will also separately send an e-mail summary of the form to "**ipnyc@alston.com**". For electronically submitted forms, the USPTO will not mail an additional paper confirmation.

**NOTE:** Do **NOT** send a duplicate paper copy of this filing to the USPTO, as it will interfere with the proper processing of the electronic submission.

Thank you.

TEAS Support Team

**STAMP:** USPTO/AAU-66.28.235.122-20150116144448505586-86071288-500c7e78471b673f3b0ceea6ce3ff75a947a0393f387efec1cd8180393a9ed33dec-DA-1029-20150116143552523084



Trademark Electronic Application System (TEAS) service

U.S. Patent and Trademark Office

Please refer questions or comments to: [teas@USPTO.gov](mailto:teas@USPTO.gov)

**Sanchez, Linda**

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**From:** TEAS@uspto.gov  
**Sent:** Friday, January 16, 2015 2:45 PM  
**To:** IPNYC  
**Subject:** 442618 Serial number 86071288: Received Your Trademark/Service Mark Allegation of Use

We have received your Trademark/Service Mark Amendment to Allege Use form below.

To the Commissioner for Trademarks:

**MARK:** SPONSORED MUSIC  
**SERIAL NUMBER:** 86071288

The applicant, IZEA, Inc, having an address of  
480 N. Orlando Avenue, Suite 200  
Winter Park, Florida 32789  
United States

is submitting the following allegation of use information:

For International Class 035:

Current identification: Dissemination of advertisements; Dissemination of advertising for others via public and private wireless networks for display on mobile devices; Dissemination of advertising for others via the Internet

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 12/31/2014, and first used in commerce at least as early as 12/31/2014, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) mark as used on website for services.

1 [SPN0-6628235122-20150116143552523084\_.\_Spec\_SM.pdf ]

The applicant is not filing a Request to Divide with this Allegation of Use form.

**MISCELLANEOUS STATEMENTS**

In response to the FINAL office action dated July 22, 2014, Applicant submits this Amendment to Allege Use and the attached Declaration under 37 C.F.R. Section 2.20. Applicant will also file its Response to the Final Office contemporaneously herewith, under separate cover.

1 [MISC-6628235122-20150116143552523084\_.\_Declaration.pdf ]

A fee payment in the amount of \$100 has been submitted with the form, representing payment for the allegation of use for 1 class.

**Declaration Signature**

Signature: /s/ Christopher McArdle Date: 01/16/2015

Signatory's Name: Christopher L. McArdle

Signatory's Position: Attorney of Record, Member of the New York State Bar

Signatory's Phone: 212-210-9542

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Thank you,

The TEAS support team

Fri Jan 16 14:44:48 EST 2015

STAMP: USPTO/AAU-66.28.235.122-20150116144448505586-86071288-  
500c7e78471b673f3b0ceea6ce3ff75a947a0393f387efec1cd8180393a9ed33dec-DA-1029-  
20150116143552523084

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

----- :  
Applicant: Izea, Inc. :  
Mark: SPONSORED MUSIC : Law Office 117  
Application No.: 86/071,288 : Examiner Andrew Leaser  
Filing Date: 09/22/2013 :  
----- :

**DECLARATION UNDER 37 C.F.R. § 2.20**

I, Christopher L. McArdle, am the authorized attorney of record for Izea, Inc., the applicant corporation in the above-identified application, and authorized to execute this Declaration on behalf of the applicant corporation. This Declaration is submitted in support of Applicant's Amendment to Allege Use being filed with the U.S. Patent and Trademark Office.

1. Applicant is believed to be the owner of the **SPONSORED MUSIC** trademark and the mark is now in use in commerce.

2. The specimen attached to the Amendment to Allege Use is a screenshot of Applicant's website showing the mark in use in connection with the services listed in Class 35 of this application.

3. The mark was first used in connection with the services in Class 35 at least as early as December 31, 2014.

4. The mark and was first used in commerce in connection with the services in Class 35 at least as early as December 31, 2014.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration therefrom.

DATED this 16 day of January, 2015.

By:   
\_\_\_\_\_  
Christopher L. McArdle  
Attorney for Applicant, Izea, Inc.

ALSTON & BIRD LLP  
90 PARK AVENUE  
NEW YORK, NY 10016  
TEL: (212) 210-9542



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