

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86242025
LAW OFFICE ASSIGNED	LAW OFFICE 113
MARK SECTION (no change)	
ARGUMENT(S)	
<p>This Request for Reconsideration is filed in response to the Final Office Action issued on November 20, 2014.</p> <p>I. Translation of Foreign Wording</p> <p>In the Office Action, the Examining Attorney made final the request to submit a foreign translation of the word "COZI." In compliance with this request, Applicant has amended the application to submit the following statement: The English translation of "COZI" in the mark is "TAILS."</p> <p>II. Refusal Based on the Likelihood of Confusion Under Section 2(d) of the Trademark Act</p> <p>The Examining Attorney also made final the refusal to register Applicant's COZI and Design mark because of three prior registrations, namely, Reg. Nos. 2531351, 3542050 and 3796655. Applicant respectfully disagrees with the Examining Attorney's conclusion and hereby submits additional evidence supporting its position.</p> <p>A. Several Companies Use the Mark COSI for Services Similar to Registrants' Goods and Services</p> <p>In the final Office Action, the Examining Attorney indicated that Applicant's evidence of third party registrations was not persuasive because it did not demonstrate actual use in the marketplace. Attached to this Request for Reconsideration is evidence of three third party users of the mark COSI in connection with identical or very similar services to the cited marks. This evidence supports the notion that the public considers COSI and COZI to be distinct marks that are not confusingly similar.</p> <p>The first mark is owned by the Center of Science and Industry (COSI). COSI is a science museum directed to families, children and educators. The website for COSI is very well developed and includes a page filled with "Online Activities." The games there help families and educators develop management skills and make good planning decisions. Applicant submits that these COSI applications fall under the same category of goods and services as Registrant Cozi Inc.'s computer software for managing and planning activities. In addition, the target audience is the same. The fact this COSI and Registrant Cozi Inc.'s COZI co-exist in the marketplace supports Applicant's position that its COZI TV</p>	

and Design mark should also be allowed to register.

Second, COSI Consulting provides a suite of software solutions to assist its customers with enterprise content management. Specifically this COSI allows its users to easily organize and manage its documents. Registrant Cozi Inc.'s goods and services also include software for managing content, including lists, schedules, tasks, photos, data, text, etc. Moreover, Registrant Infocrossing, Inc.'s services involve "business management supervision," "data processing services," and "data warehousing services," services that are identical or nearly identical to COSI Consulting's services. This is another instance where the public is sophisticated enough to distinguish between similar marks with similar goods and services.

Third, Cosi Productions is a computer application design company. This Cosi specializes in designing game apps and other applications that have highly visual aesthetics. The fact that the app design company COSI PRODUCTIONS can co-exist with an app called COZI is further evidence that the public considers these terms to be distinct and not likely to be confused.

B. Registrants' Marks are Weak and Should Not Bar Applicant's Registration

The attached evidence of the three third party COSI users supports the notion that Registrants Infocrossing, Inc. and Cozi Inc. do not have broad trademark rights such that they can prevent Applicant's mark from registering. Infocrossing, Inc.'s use of COSI for "Business management supervision," "data processing services," and "data warehousing services" is very similar to the goods and services offered under the mark COSI CONSULTING, as discussed above. If COSI and COSI CONSULTING may co-exist under these circumstances, so should COSI and COZI TV and Design.

Similarly, Cozi Inc.'s COZI mark currently co-exists in the marketplace with the Center of Science and Industry's COSI mark, offering various online games in connection with management and planning. It also co-exists with a computer application design company that operates under the trademark COSI PRODUCTIONS. One must conclude that Registrant's COZI mark is entitled to only a small scope of protection, such that it should not be able to exclude Applicant's COZI TV and Design mark from the Register.

In view of the above and the attached, Applicant respectfully requests the Examining Attorney to remove the final rejections in connection with the translation statement and the Section 2(d) citations. If the Examining Attorney has any questions or would like to issue an Examiner's Amendment, the Examining Attorney is encouraged to contact the undersigned attorney.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
JPG FILE(S)	\\TICRS\EXPORT16\IMAGEOUT 16\862\420\86242025\xml7\RFR0003.JPG
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ORIGINAL PDF FILE	evi_21617810989-20150519001229595155_._cosi1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\862\420\86242025\xml7\RFR0002.JPG
DESCRIPTION OF	Evidence of Third Party Use: 1) COSI 2) COSI Consulting; and 3) Cosi

EVIDENCE FILE	Productions
ADDITIONAL STATEMENTS SECTION	
TRANSLATION	The English translation of COZI in the mark is TAILS.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/tirzah lowe/
SIGNATORY'S NAME	Tirzah Lowe
SIGNATORY'S POSITION	Attorney of record, CA bar member
SIGNATORY'S PHONE NUMBER	(818) 777-1516
DATE SIGNED	05/18/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue May 19 02:20:45 EDT 2015
TEAS STAMP	USPTO/RFR-216.178.109.89- 20150519022045848546-8624 2025-5302bdd346492c5169ec 866789c5e788d37c7ec3b846b e5b77e3ba9ac88df20e764-N/ A-N/A-2015051900122959515 5

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

Application serial no. **86242025** has been amended as follows:

ARGUMENT(S)

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

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2014.

I. Translation of Foreign Wording

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A. Several Companies Use the Mark COSI for Services Similar to Registrants' Goods and Services

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EVIDENCE

Evidence in the nature of Evidence of Third Party Use: 1) COSI 2) COSI Consulting; and 3) Cosi Productions has been attached.

JPG file(s):

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_21617810989-20150519001229595155_.cosi1.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

ADDITIONAL STATEMENTS

Translation

The English translation of COZI in the mark is TAILS.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /tirzah lowe/ Date: 05/18/2015

Signatory's Name: Tirzah Lowe

Signatory's Position: Attorney of record, CA bar member

Signatory's Phone Number: (818) 777-1516

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 filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86242025

Internet Transmission Date: Tue May 19 02:20:45 EDT 2015

TEAS Stamp: USPTO/RFR-216.178.109.89-201505190220458

48546-86242025-5302bdd346492c5169ec86678

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64-N/A-N/A-20150519001229595155

Browser address bar: <http://www.cosi.org/online-activities>

Page Title: COSI - Online Activities

Today's Hours: 10am to 5pm

Navigation: Buy Tickets Online | Calendar of Events | Membership | Volunteer & Employment | COSI Blog | ScienceZOO!

Center of Science and Industry

Menu: VISIT COSI | EXHIBITS & LIVE SHOWS | FOR FAMILIES | FOR EDUCATORS | FOR SCOUTS

Online Activities

Home > Online Activities

members save

- Movies
- Adventure
- Camps
- Workshops
- Parking

+ more!

Online Activities for Families & Educators

COSI's Online Activities are an extension of the great fun and educational experiences you can find in our building and with our educational outreach programs.

If you need help integrating COSI's activities within your lesson plans or would like additional COSI classroom activities, email us.



Plan It Green: The Big Switch!

"Plan It Green: The Big Switch!" is a web-based, light-hearted city simulator that is easy and fun to play! Gameplay consists of city-building and management in accordance with energy-saving sources of power.

[Play the game!](#)



Simple Machines

Learn about simple machines and the forces that make them work.

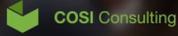
[Play Simple Machines](#)



Bet the Farm

Make all the key decisions as you run a farm for a year.

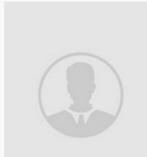
[Play Bet the Farm](#)



About COSI Consulting

COSI Consulting started its life as a full service consulting firm in the world of enterprise content management. Through our work with numerous fortune 500 firms we continually encountered clients who struggled with user adoption issues and complicated systems that didn't deliver the value they planned for. We set out to design and deliver a solution that would delight our client's users but still deliver the compliance, security, and control that our clients demanded. Insight was the result of this work and at its heart is a beautifully simple and intuitive interface for accessing critical business content in an enterprise content platform.

LEADERSHIP TEAM





Who We Are

The application industry has become the fastest growing digital market place. Consumers are eager to engage with their preferred sources of gaming, so imagine how eager they become when a game they typically enjoy now depicts their all-time favorite athlete and/or celebrity. Cosi Productions effectively optimizes any pre-existing fan base into the launch platform of each game. Cutting through most of the initial marketing and PR hindrances gives us the competitive edge against other unofficial apps. Since the games are produced based on the legends' actual life, the user becomes more involved with the legends him/herself through in-game stories, career paths, background information, and exclusive video clips. This motive aims to enhance the legends' publicity, while combining and synchronizing PR and marketing. Cosi Productions' Goal is to produce applications with extremely high-visual aesthetics that focus on fan engagement and monetization .

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Are You Looking to Build A Mobile Application? Look No Further!

[Contact Us](#)