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Sent: 10/22/2015 9:51:46 AM

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Subject: U.S. TRADEMARK APPLICATION NO. 86278858 - IN - C356432.0367 - Request for
Reconsideration Denied - Return to TTAB - Message 1 of 2

Attachment Information:

Count: 48

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

U.S. APPLICATION SERIAL NO. 86278858

MARK: IN



CORRESPONDENT ADDRESS:

JILL J CHALMERS

BRYAN CAVE LLP

90 S CASCADE AVE STE 1300

COLORADO SPRINGS, CO 80903-1679

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Inspirato, LLC

CORRESPONDENT'S REFERENCE/DOCKET NO:

C356432.0367

CORRESPONDENT E-MAIL ADDRESS:

jill.chalmers@bryancave.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 10/22/2015

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. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement(s) and/or refusal(s) made final in the Office action dated 3/19/2015 are maintained and continue to be final: Trademark Action Section 2(d). See TMEP §§715.03(a)(ii)(B), 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.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); see 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); see TMEP §§715.03, 715.03(a)(ii)(B), (c).

Applicant claims that the services private luxury vacation/resident club services are unrelated to registrant's bed and breakfast services. The examining attorney notes that registrant's services are not limited to bed and breakfast services and in fact include the very broadly worded "temporary lodging accommodations" services. Consequently, registrant's services could include any type of temporary lodging accommodations including resort and private residence lodging.

Further, the attached evidence shows that many operators listed below of B&B or hotel lodgings also offer exclusive club offerings and/or private residences such as condos.

- The Collee Club of Boston
<http://thecollegeclubofboston.com/>
- Raddison®
<https://www.radisson.com/secure/whittier-hotel-ca-90602/cawhitti/club-carlson> and
<http://www.radisson.com/offers/6679641/>
- Lookout Point Lakeside Inn

<http://lookoutpointinn.com/guest-rooms/>

- Poipu Bed & Breakfast

<http://www.poipubedandbreakfastinn.com/koloa-landing-condos/>

- Club Continental

<http://clubcontinental.com/>

- The Lindenmere

<http://thelindenmere.com/>

- PrairieSide Suites Luxury Bed & Breakfast

<http://www.prairieside.com/>

With regard to the evidence associated with applicant's services and registrant's services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. *See In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

Also, the trademark examining attorney has attached evidence from the USPTO’s X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and/or services as those of both applicant and registrant in this case. This evidence shows that the goods and/or services listed therein, namely bed and breakfast and resort services, are of a kind that

may emanate from a single source under a single mark. See *In re Anderson*, 101 USPQ2d 1912, 1919 (TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

Applicant argues that its customers are sophisticated because they are required to pay club fees and that both applicant's and registrant's customers put careful thought and consideration into their purchasing decisions. The fact that purchasers are sophisticated or knowledgeable in a particular field does not necessarily mean that they are sophisticated or knowledgeable in the field of trademarks or immune from source confusion. TMEP §1207.01(d)(vii); see, e.g., *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d. 1317, 1325, 110 USPQ2d 1157, 1163-64 (Fed. Cir. 2014); *Top Tobacco LP v. N. Atl. Operating Co.*, 101 USPQ2d 1163, 1170 (TTAB 2011).

/Q Queen/

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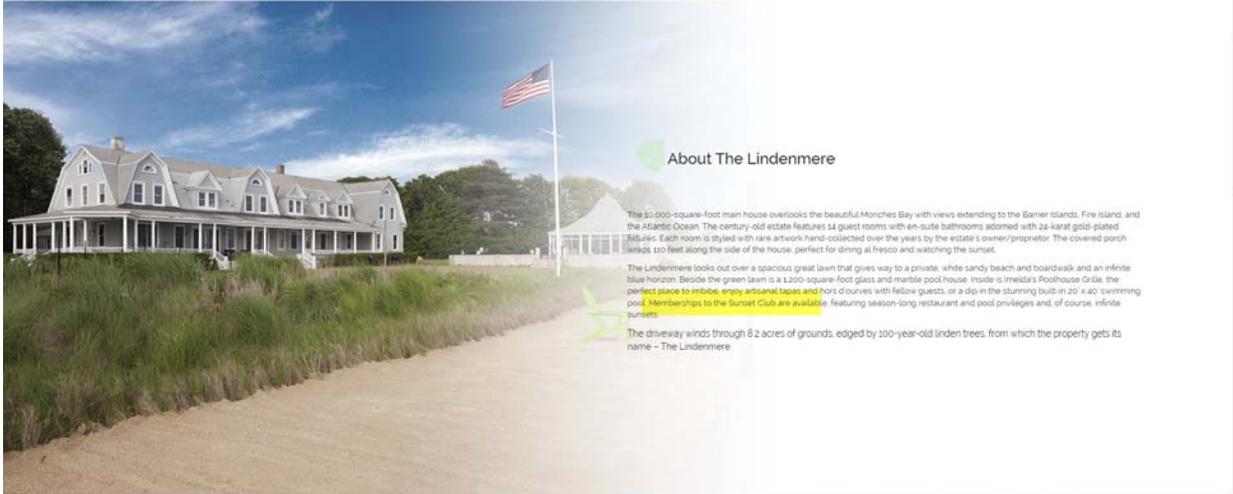
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The Lindenmere
LUXURY BED AND BREAKFAST





About The Lindenmere

The 30,000-square-foot main house overlooks the beautiful Monches Bay with views extending to the Barrier Islands, Fire Island, and the Atlantic Ocean. The century-old estate features 14 guest rooms with en-suite bathrooms adorned with 24-karat gold-plated fixtures. Each room is styled with rare artwork hand-collected over the years by the estate's owner/proprietor. The covered porch wraps 110 feet along the side of the house, perfect for dining al fresco and watching the sunset.

The Lindenmere looks out over a spacious great lawn that gives way to a private, white sandy beach and boardwalk and an infinite blue horizon. Beside the green lawn is a 1,200-square-foot glass and marble pool house. Inside is Imelda's Poolhouse Grille, the perfect place to nibble, enjoy artisanal tapas and hors d'ouevres with fellow guests, or a dip in the stunning built-in 20' x 40' swimming pool. [Memberships to the Sunset Club are available](#), featuring season-long restaurant and pool privileges and, of course, infinite sunsets.

The driveway winds through 8.2 acres of grounds, edged by 100-year-old linden trees, from which the property gets its name - The Lindenmere.



About the Sunset Club

The Sunset Club is The Lindenmere's private social club featuring exclusive perks for all of its cherished members.

Opening Friday, July 31 at 4 p.m., Imelda's Poolhouse Grille is the go-to spot for waterfront drinks, hors d'ouevres, tapas, and classic grilled favorites just feet away from the bed and breakfast. The premier alternative to the bustle of the Hamptons is Imelda's Poolhouse Grille. The Sunset Club invites you to partner with us on a one-of-a-kind private club with a sunset serving as the backdrop for all of your. All it takes is one sip, one snack, and one sunset to get you hooked. When your friends and family are looking for you in the evenings this summer, they'll know where to find you. Imelda's Poolhouse Grille.

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