From: Hsu, Fong

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To: TTAB EFiling

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Subject: U.S. TRADEMARK APPLICATION NO. 86323185 - INSTANTCAROFFER.COM - N/A - Request for Reconsideration Denied - Return to TTAB

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Attachment Information:

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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. 86323185

MARK: INSTANTCAROFFER.COM

CORRESPONDENT ADDRESS:

MATTHEW H SWYERS

THE TRADEMARK COMPANY PLLC

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VIENNA, VA 22180

GENERAL TRADEMARK INFORMATION:

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

VIEW YOUR APPLICATION FILE

APPLICANT: American Motor Company, LLC

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

mswyers@thetrademarkcompany.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 5/9/2016

The following requirement(s) and/or refusal(s) made final in the Office action dated 09/08/2015 are **maintained and continue to be final**:

DISCLAIMER of "INSTANTCAROFFER".

See TMEP §§715.03(a)(ii)(B), 715.04(a).

The trademark examining attorney has carefully reviewed applicant's request for remand of March 28, 2016 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).

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. The question of whether INSANT is descriptive depends on the other wording in the mark, and the relation to the goods and services. The examining attorney maintains that the mark as a whole is descriptive because "instant" describes car offers that are delivered immediately and without delay. The 10 additional registrations put forth by applicant as evidence of the inherent distinctiveness of "INSTANTCAROFFER.COM" are not analogous to the case at hand, and fail by reasons such as suggestiveness, incongruity, or unitary with distinctive matter:

> INSTANT CELEBRITY STATUS: "celebrity status" is an amorphous concept that cannot be easily determined to have happened, whereas a tangible "car offer" is what the applicant delivers to the consumer, immediately and without delay.
>
> INSTANT FIGURE: The mark is not descriptive, and is clearly suggestive of, the clothing goods or retail clothing services.
>
> INSTANT VACATION GRATIFICATION: "vacation gratification" is an amorphous concept that cannot be easily determined to have happened, whereas a tangible "car offer" is what the applicant delivers to the consumer, immediately and without delay.
>
> INSTANT AUTO: As used in connection with retail automobile store services, and given the lengthy transaction time to deal with the complexities and liabilities of purchasing an automobile, the mark is suggestive of somewhat compressing the sales transaction. However it does not actually describe that an automobile would be delivered immediately, without the signing of paperwork and contractual formalities to consummate a big ticket purchase. In applicant's case, a "car offer" is a simple application of facts to determine a value, and their customers receive the offer "instantly," "with no obligation and nothing to sign up for!" Applicant is merely describing that it delivers car offers to the consumer, immediately and without delay.

INSTANT ESTORE: Similar to the case above, the mark is suggestive of helping customers create e-commerce stores in a faster or more efficient manner, but it does not inherently describe the computer software goods and services, because the user will have to invest their own time to design and create the stores. After submitting details of their car, Applicant's consumer receives their car offer, immediately and without delay.

INSTANT OUTSOURCING: Similar to the cases above, the mark is suggestive of helping customers outsource in a faster or more efficient manner, and consumers understand that outsourcing cannot conceivably done instantly. In contrast, after submitting details of their car, Applicant's consumer receives their car offer, immediately and without delay.

INSTANT INVENTORY: Similar to the cases above, the mark is suggestive of helping customers manage inventory in a faster or more efficient manner, and it does not inherently describe that the tangible inventory itself is delivered instantly. After submitting details of their car, Applicant's consumer receives their car offer, immediately and without delay.

INSTANT NURTURING: "nurturing" is not descriptive of the advertising and marketing services.

INSTANT AUTOGRAPHS FOR EVERY FAN: "instant autographs," although descriptive, is combined with distinctive wording such that the overall commercial impression is that of a unitary slogan.

INSTANT DATIFICATION: "instant datafication" is distinctive because it suggests a play on the common phrase "instant gratification."

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).

/Fong Hsu/

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