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Filing date: **04/03/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058315
Party	Plaintiff State of Michigan
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Signature	/JS/
Date	04/03/2015
Attachments	Supplement to Petitioner's Motion.pdf(66276 bytes ) Ex. A.pdf(63803 bytes ) Ex. B.pdf(44946 bytes ) Ex. C.pdf(12419 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

State of Michigan	)	
	)	
Petitioner,	)	Reg. Nos.: 3992159
	)	3348635
	)	
v.	)	
	)	
M22, LLC,	)	Proceeding: 92058315
	)	
	)	
Registrant.	)	
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SUPPLEMENT TO PETITIONER’S MOTION FOR JUDGMENT ON THE  
PLEADINGS

Petitioner State of Michigan wishes to inform the Board of additional authority pertinent to this Board’s consideration of the State’s motion for judgment on the pleadings. The State discovered this pertinent authority after the filing of that motion.

In its motion for judgment on the pleadings, the State asked this Board pursuant to TBMP §§ 504.02 and 704.12 to take judicial notice that the Marks in Registrant’s M22 registrations are identical to Petitioner’s M22 State Route Sign. Dkt. No. 22 at 2; Dkt. No. 25 at 10. As further support for that conclusion, the State directs this Board to the administrative record for Registrant’s M22 Mark (Reg. No. 3992159)—specifically to an August 30, 2010 Official Letter from the United States Patent and Trademark Office, in which the USPTO concluded that Registrant’s M22 Mark is indistinguishable from Michigan’s State Route Sign. In that letter, which evaluated Registrant’s application to register the Mark, the USPTO

concluded that Registrant’s “usage of the mark in a design consisting of a white diamond on a black square with the ‘M’ in black above the ‘22’ *is exactly the way the Michigan Department of Transportation uses ‘M22’ in its road signs for this highway.*” See attached Ex. A (Aug. 30, 2010 Official Ltr.) (emphasis added). While the Office agreed to amend the registration, on the authorization of Registrant, to allow for registration upon a 2(f), or “acquired distinctiveness” basis, *see attached Exs. B (Feb. 26, 2011 Response) & C (Mar. 2, 2011 Examiner’s Amendment)*, it did not change its finding that the Mark is identical to the State’s route sign.

By /s/ Kathryn M. Dalzell

Date: April 3, 2015

BILL SCHUETTE, Attorney General  
Kathryn M. Dalzell, Assistant Solicitor General  
James D. Gallagher, Assistant Attorney General  
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**CERTIFICATE OF SERVICE**

I certify that Petitioner's Supplement to Petitioner's Motion for Judgment on the Pleadings is being served upon John Di Giacomo, counsel for Registrant, via email at john@revisionlegal.com, as the parties have agreed, on April 3, 2015.

/s/ Kathryn M. Dalzell



**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

<b>APPLICATION SERIAL NO.</b> 85041051  <b>MARK:</b> M22	<b>*85041051*</b>
<b>CORRESPONDENT ADDRESS:</b>  BRIAN A. HALL  810 COTTAGE VIEW DR STE G20  TRAVERSE CITY MI 49684-2606	<b>CLICK HERE TO RESPOND TO THIS LETTER:</b>  <a href="http://www.uspto.gov/teas/eTEASpageD.htm">http://www.uspto.gov/teas/eTEASpageD.htm</a>
<b>APPLICANT:</b> Broneah, Inc.	
<b>CORRESPONDENT'S REFERENCE/DOCKET NO:</b>  N/A  <b>CORRESPONDENT E-MAIL ADDRESS:</b>  brianhall@traverselegal.com	

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 8/30/2010**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

### **Search Results**

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

However, registration is refused, as discussed below.

### **REFUSAL – Geographically Descriptive**

Registration is refused because the applied-for mark is primarily geographically descriptive of the origin of applicant's services. Trademark Act Section 2(e)(2), 15 U.S.C. §1052(e)(2); *see* TMEP §§1210, 1210.01(a).

#### **Legal Standard**

A mark is primarily geographically descriptive when the following is demonstrated:

- (1) The primary significance of the mark is a generally known geographic place or location;
- (2) The goods and/or services for which applicant seeks registration originate in the geographic place identified in the mark; and
- (3) Purchasers would be likely to make a goods-place or services-place association; that is, purchasers would be likely to believe that the goods and/or services originate in the geographic place identified in the mark.

TMEP §1210.01(a); *see In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 959, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987); *In re Joint-Stock Co. "Baik"*, 80 USPQ2d 1305, 1309 (TTAB 2006).

Commonly used nicknames for geographic locations are generally treated as equivalent to the proper geographic name of the place identified. TMEP §1210.02(a); *see, e.g., In re Carolina Apparel*, 48 USPQ2d 1542, 1543 (TTAB 1998) (holding CAROLINA APPAREL primarily geographically descriptive of retail clothing store services where evidence showed that "Carolina" is used to indicate either the state of North Carolina or South Carolina); *In re Charles*

*S. Loeb Pipes, Inc.*, 190 USPQ 238, 245 (TTAB 1976) (holding OLD DOMINION is “the accepted nickname for the State of Virginia”).

A term can be considered geographic even if it does not have exact geographic boundaries, i.e., if it refers to a “subdivision[] of the earth – regions, nations, counties, town[s], rivers, lakes, and other natural and artificial geographical units.” *Burke-Parsons-Bowlby v. Appalachian Log Homes, Inc.*, 871 F.2d 590, 594, 10 USPQ2d 1443, 1445 (6th Cir. 1989) (quoting *World Carpets, Inc. v. Dick Littrell’s New World Carpets*, 438 F.2d 482, 485, 168 USPQ 609, 612 (5th Cir. 1971)) (finding the wording APPALACHIAN is a geographic term); see *In re Pan-O-Gold Baking Co.*, 20 USPQ2d 1761, 1764 (TTAB 1991) (finding primary significance of the wording “New England” is geographic); TMEP §1210.02(a).

When there is no genuine issue that the geographical significance of a term is its primary significance, and the geographical place is neither obscure nor remote, a public association of the goods and/or services with the place is presumed if an applicant’s goods and/or services originate in the place named in the mark. TMEP §1210.04; see, e.g., *In re Cal. Pizza Kitchen Inc.*, 10 USPQ2d 1704, 1706 (TTAB 1988) (holding CALIFORNIA PIZZA KITCHEN primarily geographically descriptive of restaurant services rendered in California); *In re Handler Fenton Ws., Inc.*, 214 USPQ 848, 849-50 (TTAB 1982) (holding DENVER WESTERNS primarily geographically descriptive of western-style shirts originating in Denver).

### Analysis

Here, applicant’s mark is “M22” with the black “M” appearing above the black “22” in a white diamond shape against a black square background for retail shops featuring clothing, sporting goods, and novelty items. Applicant is located in Michigan.

Attached evidence shows that “M22” refers to a highway in Michigan. This attached evidence shows that applicant’s usage of the mark in a design consisting of a white diamond on a black square with the “M” in black above the “22” is exactly the way the Michigan Department of Transportation uses “M22” in its road signs for this highway. The attached evidence shows that the area of this highway is known for its beautiful landscape as it circles around the southern portion of the lake.

Additional evidence from applicant’s website shows that applicant’s usage of the mark depicting the highway sign is not an accident; the website states “M22 is not just a road; it is a way of life.” Additionally, the website states that the applicant was “founded to express a common passion for Northern Michigan” and that the company started with “M22” road signs as stickers used by “local kiteboarders.”

This evidence clearly establishes that applicant is using the mark specifically to indicate the location of the applicant’s stores and to inspire a local pride in the area and its beauty and offerings for outdoor sports. As such, the mark is geographically descriptive and is refused registration.

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration.

### Supplemental Register Suggested

The applied-for mark has been refused registration on the Principal Register. Applicant may respond to the refusal by submitting evidence and arguments in support of registration and/or by amending the application to seek registration on the Supplemental Register. *See* 15 U.S.C. §1091; 37 C.F.R. §§2.47, 2.75(a); TMEP §§801.02(b), 816. Amending to the Supplemental Register does not preclude applicant from submitting evidence and arguments against the refusal(s). TMEP §816.04.

Although registration on the Supplemental Register does not afford all the benefits of registration on the Principal Register, it does provide the following advantages:

- The registrant may use the registration symbol ®;
- The registration is protected against registration of a confusingly similar mark under Trademark Act Section 2(d);
- The registrant may bring suit for infringement in federal court; and
- The registration may serve as the basis for a filing in a foreign country under the Paris Convention and other international agreements.

*See* 15 U.S.C. §§1052(d), 1091, 1094; TMEP §815.

Applicant must respond to the requirements set forth below.

### **Requirement – Claim of Ownership**

If applicant is the owner of U.S. Registration Nos. 3348635 and 3427900, then applicant must submit a claim of ownership. *See* 37 C.F.R. §2.36; TMEP §812. The following standard format is suggested:

**Applicant is the owner of U.S. Registration Nos. 3348635 and 3427900.**

### **Requirement – Mark Description**

The description of the mark is accurate but incomplete because it does not describe all the significant aspects of the applied-for mark. Applications for marks not in standard characters must include an accurate and concise description of the entire mark that identifies literal elements as well as any design elements. *See* 37 C.F.R. §2.37; TMEP §§808 *et seq.*

Specifically, applicant has described a black background, but has not indicated the shape of this background.

Therefore, applicant must provide a more complete description of the applied-for mark. The following is suggested:

**The mark consists of a small, black, stylized letter M above a large, black number 22, within a white diamond, on a black square background.**

### **Response Guidelines**

Applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the trademark examining attorney, (2) the serial number and filing date of the application, (3) the date of issuance of this Office action, (4) applicant's name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

Applicant should also set forth a current business address in its response. 37 C.F.R. §2.32(a)(4); TMEP §803.05.

If applicant has questions about the application or this Office action, please contact the assigned trademark examining attorney at the telephone number below. Applicant is encouraged to contact the examining attorney via email or telephone to expedite the processing of this application through an examiner's amendment.

To expedite prosecution of the application, applicant is encouraged to file its response to this Office action online via the Trademark Electronic Application System (TEAS), which is available at <http://www.uspto.gov/teas/index.html>. If applicant has technical questions about the TEAS response to Office action form, applicant can review the electronic filing tips available online at <http://www.uspto.gov/teas/eFilingTips.htm> and email technical questions to [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

/AndreaRHack/

Andrea R. Hack

Trademark Examining Attorney

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**TO RESPOND TO THIS LETTER:** Use the Trademark Electronic Application System (TEAS) response form at <http://teasroa.uspto.gov/roa/>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

## **Response to Office Action**

### **To the Commissioner for Trademarks:**

Application serial no. **85041051** has been amended as follows:

#### **ARGUMENT(S)**

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

Applicant hereby responds to Examining Attorney's Office Action issued on August 30, 2010, which refused the registration of Applicant's M22 mark (Serial No. 85041051) (hereinafter "Mark") under § 2(e) (2) of the Lanham Act upon the basis that Applicant's Mark is primarily geographically descriptive. Applicant contends that the M22 Mark is not primarily geographically descriptive because the primary significance of Applicant's mark is the M22 brand and its associated retail goods and, as such, Applicant's application should proceed to registration on the Principal Register. Applicant is the owner of the M22 family of marks, which includes, without limitation, US Patent and Trademark Office registrations for M22 for use in association with wine (Registration No. 3427900) and M22 for use in association with hats, t-shirts, long sleeve shirts, sweat shirts, pants, shorts, underwear, and tank tops (Registration No. 3348635), none of which have been registered upon a 2(f), or acquired distinctiveness, basis. Applicant is also the owner of pending applications for both the M22 design plus words mark and the M22 character mark for use in association with retail store services (Serial Nos. 85040494 and 85041051), as well as THE M-22 CHALLENGE mark, which is used in association with competitive sporting events. By virtue of this family of registrations, Applicant's M22 marks have become widely and favorably known as a designator of the origin of Applicant's brand, which includes Applicant's retail store services, wine, and clothing. Under Trademark Trial and Appeal Board precedent, A mark is primarily geographically descriptive within the meaning of Section 2(e)(2) if the goods or services at issue are rendered in the geographic area which the mark names and if there is a public association of those goods or services with that geographic area. If the geographic area is neither remote nor obscure, a public association of the goods/services with the place is presumed from the fact that the services are rendered there. In re Jim Crockett Promotions, Inc., 5 U.S.P.Q.2d 1455 (TTAB 1987). Restated, the test requires the examining attorney to determine whether (1) the M22 mark primarily denotes a geographical place to reasonable purchasers, (2) the retail services that the mark seeks registration in association with originate in the geographic place identified in the mark, and (3) customers would associate the goods and/or services with the geographic place named. See In re Societe Generale des Eaux Minerales de Vittel S.A., 824 F.2d 957, 959 (Fed. Cir. 1987). It is worth noting at the outset that the M22 retail store is not located on M-22 but, instead, is located at 121 E. Front Street in Traverse City, Michigan. Traverse City, Michigan, in turn, is located in Grand Traverse County, Michigan. In contrast, M-22 originates on the outskirts of Traverse City, Michigan and Grand Traverse County, and, as such, a mere hundreds of highway feet are located within Grand Traverse County. The majority of the highway is located in Leelanau and Benzie Counties, and M-22 ultimately terminates in Manistee County, approximately 116 miles from its meager origin in Grand Traverse

County. See [http://en.wikipedia.org/wiki/M-22\\_\(Michigan\\_highway\)](http://en.wikipedia.org/wiki/M-22_(Michigan_highway))). Thus, the goods and services rendered under Applicant's M22 marks are not rendered on or near M-22, but are rather rendered on Front Street, which serves as Traverse City, Michigan's commercial thoroughfare (See <http://www.downtowntc.com/>), as well as over the Internet through the <http://www.m22online.com> web store and through the M22 catalog. Applicant contends that the M22 mark does not primarily denote a geographical place to reasonable purchasers. "The mere fact that a term may be the name of a place that has a physical location does not necessarily make that term primarily geographically descriptive under Section 2(e)(2). If that were so, the name of literally every retail store or restaurant would be primarily geographically descriptive, since the public would associate the name with the physical place where the services were rendered or the goods sold." In re Pebble Beach Co., 19 U.S.P.Q.2d 1687 (TTAB April 29, 1991). As cited by the Examining Attorney, the <http://www.m22online.com> website states that M22 "is not just a road; it is a way of life." The primary significance of the M22 mark is not the geographical region associated with the M22 highway, but rather the M22 brand, which evokes the "simplicity and appreciation for natural wonders, such as bays, beaches and bonfires, dunes and vineyards, cottages, friends and family everywhere." See Exhibit A. Customers from around the world recognize Applicant's mark as primarily a designator of Applicant's M22 brand, which includes Applicant's wine, Applicant's stickers, Applicant's coffee, Applicant's clothing line, and Applicant's retail store, which sells the aforementioned items. Customers also primarily recognize Applicant's mark as the designator of a shared ideology: one that values a relaxed lifestyle and a beach-oriented life that emphasizes friends, family, and ecology. While this ethos is characteristic of northern Michiganders, it is not exclusively representative of northern Michiganders and has been adopted by individuals around the world that have never visited or heard of northern Michigan or the M22 highway. The M22 Facebook page, which currently has 3,723 fans, evidences this fact. On that page, M22 fans have uploaded photographs from, or noted sightings of Applicant's distinctive M22 mark, around the world, including Iraq, Italy, Argentina, Ft. Lauderdale, Florida, Budapest, Hungary, Denver, Colorado, Nashville, Tennessee, and St. Johns, US Virgin Islands. See Exhibit B. Forty percent (40%) of M22 customers are from states other than Michigan. See Exhibit C, Affidavit of Keegan Myers. Only twenty percent (20%) of M22's customer base is located in the northern Michigan region. See Exhibit C, Affidavit of Keegan Myers. Fifty-eight percent (58%) of 2010 M22 Challenge participants were from outside of the local region of Leelanau, Benzie, and Grand Traverse Counties. Forty-four percent (44%) of M22's online orders come from states other than Michigan. See Exhibit C, Affidavit of Keegan Myers. Over 1000 catalogs were mailed to customers in 2010, and thirty-six (36%) of these were sent to addresses outside of the State of Michigan. See Exhibit C, Affidavit of Keegan Myers. The confidential raw data underlying these numbers is available upon request by Examining Attorney. Consequently, consumers encountering Applicant's M22 mark in the marketplace understand that the M22 mark is primarily denotative of Applicant's brand, and not primarily geographically descriptive of the M22 highway or northern Michigan. The evidence is inadequate to show that the bulk of purchasers of Applicant's retail store services, or even a significant portion of them, would "conclude that [M22] is a place name and that the [retail store services] came from there, rather than simply a trademark or trade name of a manufacturer like Chanel, Bougois, or Vuitton." In re Societe Generale Des Eaux Minerales De Vittel S.A., 824 F.2d 957, 959 (Fed. Cir. 1987). Even assuming, arguendo, that Applicant's mark is primarily geographically descriptive, Applicant's mark has acquired secondary meaning through its longstanding use in commerce in association with Applicant's

retail store services. "Secondary meaning is the connection in the consumer's mind between the mark and the provider of the product or service. [citation omitted]. To prove secondary meaning, the plaintiff must demonstrate that 'the primary significance of the term in the minds of the consuming public is not the product but the producer.'" *Atlanta Allergy & Asthma Clinic, P.A. v. Allergy & Asthma of Atlanta, LLC*, 685 F. Supp. 2d 1360, 1368 (N.D. Ga. 2010). The following factors are relevant to the question of whether a mark has acquired secondary meaning: (1) the length and manner of use; (2) the nature and extent of advertising or promotion; (3) the efforts made by plaintiff to promote a conscious connection with the public's mind between the name and plaintiff's product; and (4) the extent to which the public actually identifies the name with plaintiff's product. *Id.* The M22 family of marks has been in use since as early as 2004 (See Reg. No. 3348635). Additionally, the retail M22 store has been open since 2007 (See first use in commerce date of Applicant's Mark). As such, Applicant's M22 mark has served primarily as a designator of origin for Applicant's brand and its associated goods and services for over six years. Applicant's M22 mark, and its accompanying retail store services, have been widely advertised and featured around the world, including in *Kiteboarding Magazine*, which implores its readers to "Shop M-22 and Broneah Kiteboarding." See Exhibit D. Applicant's M22 mark, and Applicant's partnership with T. Hanson Motorsports, a rally racing team, has also been featured in *Rally Buzz*, a popular on-line rally sport magazine. See Exhibit E. Applicant's mark, and its associated retail store services, has been advertised through *Traverse Magazine*, which reaches 30,000 subscribers across the world. See Exhibit F. Applicant's M22 Challenge, a historically sold-out sporting event that draws participants from around the country, had 300 participants in 2010. This event drew extensive media attention for Applicant's M22 brand. In the recap video located at the following link, Applicant's founders Matt and Keegan Myers discuss the event and note, "I am Keegan Myers, this is Matt Myers, we have the M22 brand." See <http://www.mynorth.com/My-North/Video/?vid=3387>; see also <http://m22challenge.com/>. Throughout the video, Examining Attorney will notice the prominent display of the registered M22 mark, which is often featured next to the M22 Challenge's notable sponsors, such as Merrell shoes. Applicant's M22 mark has also been featured in *Coastal Living Magazine*, which is distributed to readers across the world. See Exhibit G. A simple Google search for "m22" shows that Applicant's website is the number one result for that term out of almost 9 million possible results, further evidencing Applicant's mark's popularity and the extent of that mark's advertising. See Exhibit H. Through its extensive advertising and use of the M22 mark across the United States in association with its brand, including retail store services, clothing, sporting events, coffee, wine, and other items, Applicant has acquired secondary meaning in the M22 mark. The public has come to know M22 as a designator of source for Applicant's retail store services and, as such, Applicant's mark should proceed to registration. In the event Examining Attorney finds that Applicant's M22 mark is primarily geographically descriptive and has not acquired secondary meaning, Applicant respectfully requests that the M22 mark be moved to the Supplemental Register. Applicant is the owner of Registration Numbers 3348635 and 3427900.

## **EVIDENCE**

Evidence in the nature of Exhibits to Applicant's arguments has been attached.

**Original PDF file:**

[evi\\_68188157172-110159507 . Exhibits Part1.pdf](#)

**Converted PDF file(s)** (29 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

[Evidence-13](#)

[Evidence-14](#)

[Evidence-15](#)

[Evidence-16](#)

[Evidence-17](#)

[Evidence-18](#)

[Evidence-19](#)

[Evidence-20](#)

[Evidence-21](#)

[Evidence-22](#)

[Evidence-23](#)

[Evidence-24](#)

[Evidence-25](#)

[Evidence-26](#)

[Evidence-27](#)

[Evidence-28](#)

[Evidence-29](#)

**Original PDF file:**

[evi\\_68188157172-110159507 . Exhibits Part2.pdf](#)

**Converted PDF file(s)** (20 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)  
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[Evidence-13](#)  
[Evidence-14](#)  
[Evidence-15](#)  
[Evidence-16](#)  
[Evidence-17](#)  
[Evidence-18](#)  
[Evidence-19](#)  
[Evidence-20](#)

## **ADDITIONAL STATEMENTS**

### **Description of mark**

The mark consists of a small, black, stylized letter M above a large, black number 22, within a white diamond, on a black square background.

## **SIGNATURE(S)**

### **Response Signature**

Signature: /BAH/ Date: 02/26/2011

Signatory's Name: Brian A. Hall

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

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.

Serial Number: 85041051

Internet Transmission Date: Sat Feb 26 11:11:59 EST 2011

TEAS Stamp: USPTO/ROA-68.188.157.172-201102261111598  
14116-85041051-480ecb03b74acbdb4ee7fb707  
425cbafd-N/A-N/A-20110226110159507167

**To:** Broneah, Inc. ([brianhall@traverselegal.com](mailto:brianhall@traverselegal.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85041051 - M22 - N/A  
**Sent:** 3/2/2011 3:18:50 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

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

**APPLICATION SERIAL NO.** 85041051

**MARK:** M22

**\*85041051\***

**CORRESPONDENT ADDRESS:**

BRIAN A. HALL  
810 COTTAGE VIEW DR STE G20  
TRAVERSE CITY MI 49684-2606

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Broneah, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:** N/A

**CORRESPONDENT E-MAIL ADDRESS:**  
[brianhall@traverselegal.com](mailto:brianhall@traverselegal.com)

**EXAMINER'S AMENDMENT**

**ISSUE/MAILING DATE:** 3/2/2011

**APPLICATION HAS BEEN AMENDED:** In accordance with the authorization granted by Brian Hall on March 2, 2011, the trademark examining attorney has amended the application as indicated below. Please advise the undersigned immediately of any objections. Otherwise, no response is necessary. TMEP §707. Any amendments to the identification of goods and/or services may clarify or limit the goods and/or services, but may not add to or broaden the scope of the goods and/or services. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*

The application is amended to seek registration on the Principal Register under Trademark Act Section 2(f) by claiming acquired distinctiveness through ownership of U.S. Registration No(s). 3348635 and 3427900. *See* 15 U.S.C. §1052(f); TMEP §§1212.04 *et seq.*

TMEP §1212.04(e); *see* 37 C.F.R. §2.41(b).

/AndreaRHack/  
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**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

**To:** Broneah, Inc. ([brianhall@traverselegal.com](mailto:brianhall@traverselegal.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85041051 - M22 - N/A  
**Sent:** 3/2/2011 3:18:52 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

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