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

Proceeding	92061955
Party	Plaintiff DFASS Brands Holdings, LLC
Correspondence Address	DAVID EVERETT MARKO MARKO & MAGOLNICK PA 3001 SW 3RD AVE MIAMI, FL 33129 UNITED STATES friedman@mm-pa.com, marko@mm-pa.com
Submission	Motion to Amend Pleading/Amended Pleading
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Date	11/29/2015
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

DFASS Brand Holdings, LLC, a Florida
limited liability company,

Petitioner,

and

Reginald Williams, an individual,

Registrant.

In the matter of Registration No.
4313253

For the mark TIME TRAVEL ACADEMY

Registered on April 2, 2013

Cancellation No. 92061955

**AMENDED PETITION TO CANCEL THE
TRADEMARK “TIME TRAVEL ACADEMY”**

Petitioner, DFASS Brand Holdings, LLC, a Florida limited liability company (hereinafter “Petitioner”), by and through the undersigned counsel, files this Amended Petition to Cancel the Trademark TIME TRAVEL ACADEMY. Petitioner hereby petitions the United States Patent and Trademark Office (the “USPTO”) Trademark Trial and Appeal Board (“TTAB”) to cancel the Registration pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

I. Introduction

1. Petitioner is a Florida company, which utilizes and seeks to utilize its mark “Time Travel” in connection with duty-free stores in airports throughout North America, Latin America, and the Caribbean. Petitioner’s mark identifies a retail store of luxury watches, clocks, jewelry, and travel related goods. An aeronautical theme is present throughout Time Travel stores; polished aircraft jet engine fairings and fuselage panels have been repurposed to serve as display cases and décor that are an integral part of the Time Travel shopping experience. Petitioner has invested significant financial resources to create the brand and market this luxury shopping experience.

2. Petitioner seeks to register TIME TRAVEL for trademark protection to (i) prevent competitors from capitalizing on Petitioner's investment and (ii) prevent damage to Petitioner's goodwill associated with the TIME TRAVEL brand. The mark TIME TRAVEL is intended to be suggestive of the fact that the store sells, among other things, timepieces, and that the store is travel related, given its airport location.

3. TIME TRAVEL is not descriptive of Petitioner's service of luxury retail sales.

4. Petitioner has been using the TIME TRAVEL mark in commerce since September 2015. Accordingly, Petitioner is entitled to registration of the TIME TRAVEL mark.

5. Registrant is an individual living in Arlington, Texas. He maintains an online academy selling time travel themed educational books and videos, and more recently, branded promotional items.

6. On April 5, 2008, Registrant applied to register the mark TIME TRAVEL ACADEMY (the "Mark") on an intent-to-use basis. On April 2, 2013, the Mark was registered in International Class 035, under U.S. Registration No. 4313253 (the "Registration").

7. In his Statement of Use, Registrant alleges to have used the Mark in connection with his services since August 8, 2005 (although he did not file the Statement of Use until February 2013), and identified those services in International Class 035 as "Provision of space on websites for advertising goods and services; Promotion, advertising and marketing of online web sites; Operating an online shopping site in the field of Movies, books, clothing, interactive videos, time pieces, hand bags, purses, video courses, toys; Producing promotional videotapes, video discs, and audio visual recordings; Providing a website featuring audio and video interviews, transcripts and other educational materials all concerning business topics."

II. Procedural Posture

8. On July 31, 2015, Petitioner filed a Petition to Cancel the Mark with the TTAB, arguing that Registrant was not legally entitled to registration of the Mark, and that Petitioner was, and continues to be damaged by the Registration.

9. On September 14, 2015, Registrant filed a Motion to Dismiss for Lack of Standing; this motion was granted by the TTAB on November 9, 2015.

III. Elements of a Claim for Cancellation of a Trademark Registration

10. Petitioner has satisfied the elements to bring a claim to cancel the Registration. To succeed on a claim to cancel the registration of a mark, Petitioner must demonstrate (1) a real commercial interest in the cancellation (standing), and (2) valid ground for the cancellation. *Gucci America, Inc. v. Guess?, Inc.*, 868 F. Supp. 2d 207, 242 (S.D.N.Y. 2012).

11. Petitioner has a real interest in this cancellation, and has been and will continue to be damaged by the Registration of the Mark. The Mark, as used by Registrant, does not qualify for trademark registration under the Lanham Act.

IV. Standing

A. Real Interest in the Outcome of the Claim

12. “A petition to cancel a registration of a mark . . . may . . . be filed . . . by any person who believes that he is or will be damaged . . . by the registration of a mark . . .” Lanham Act, 15 U.S.C. § 1064 (2006). To establish standing, a plaintiff must “show that it has a ‘real interest’ in the proceeding, by alleging, and thereafter proving at trial, that it has a real commercial interest in [the Mark], plus a reasonable basis for its belief that it would be damaged by the registration in question.” *Chemical New York Co. v. Conmar Forms Systems, Inc.*, 1 U.S.P.Q.2d 1139, *3 (T.T.A.B. 1986); *see also Lipton Inds. Inc. v. Ralston Purina, Co.*, 670 F.2d

1024, 1028 (C.C.P.A. 1982) (discussing the wide variety of interests that can equate to *real interest* and thus, standing in a trademark cancellation proceeding). USPTO refusal to register an intent-to-use trademark alone creates adequate ‘real interest’ for the applicant to establish standing to bring a cancellation action. *Empresa Cubana Del Tabaco v. General Cigar Co., Inc.*, 753 F.3d 1270, 1274 (Fed. Cir. 2014).

13. Petitioner has standing because it applied for, and has been refused registration based on a likelihood of confusion with the Registrant’s Mark. *See Empresa Cubana Del Tabaco*, 753 F.3d at 1274. Petitioner applied for trademark protection for the mark TIME TRAVEL on May 26, 2014, under application Serial No. 86291603, attached as Exhibit “A”, in ten classes, including International Class 035.

14. On November 4, 2014, USPTO issued an Office Action, attached as Exhibit “B”, refusing registration of TIME TRAVEL in International Class 035 due to likelihood of confusion under the Lanham Act.¹ The Office Action discussed similarities between the Mark and TIME TRAVEL, and similarities in the business model alleged by Registrant and the business model employed by Petitioner. The Office Action listed no alternate theory for refusal to register TIME TRAVEL.

B. Registrant’s Infringement Suit Confers Standing

15. “[B]eing sued for infringement . . . is sufficient to support standing for a counterclaim for cancellation.” *Petroliam Nasional Berhad v. Godaddy.com, Inc.*, 897 F. Supp. 2d 856, 870 (N.D. Cal. Jan. 3, 2012) (quoting *Roxbury Entm’t v. Penthouse Media Group, Inc.*, 2009 WL 2950324, at *3 (C.D. Cal. Apr. 3, 2009)); *see also Aerogroup Intern., Inc. v. Marlboro*

¹ 15 U.S.C. §1052(d). Petitioner continues in its efforts to have the USPTO accept its mark, but such efforts have not been availing to date due to Registrant’s Mark.

Footworks, Ltd., 977 F. Supp. 264, 267 (S.D.N.Y. Feb. 11, 1997) (holding that having been sued for trademark infringement, the defendant had the requisite injury to confer standing to bring a cancellation action).

16. Petitioner has standing to bring a cancellation claim against Registrant because, upon information and belief, Registrant filed a trademark infringement against Petitioner in the Northern District of Texas. *See* Complaint, *Williams v. DFASS Brand Holdings, LLC*, Case No. 15-CV-00837-O (N.D. Tex., Nov. 2, 2015).² This lawsuit alleges that Petitioner’s use of TIME TRAVEL, and its operation of the store described hereinabove infringes on the Mark that is the subject of this cancellation action, and seeks injunctive relief and damages. *See id.* As a party to litigation brought by Registrant, Petitioner will necessarily be damaged if the Mark is not cancelled. *See Quality Service Group v. LJMJR Corp.*, 831 F. Supp. 2d 705, 713 (S.D.N.Y. Nov. 16, 2011).

V. Valid Grounds for Cancellation

A. *TIME TRAVEL is a Descriptive Term as to Registrant’s Mark.*

17. A descriptive term is one that “conveys an immediate idea of the . . . characteristics’ to which they are attached.” *Boston Duck Tours, LP v. Super Duck Tours, LLC*, 531 F.3d 1, 13 (1st Cir. 2008) (quoting *Equine Tech. Inc. v. Equitechnology, Inc.*, 68 F.3d 542, 544 (1st Cir. 1995)). Descriptive terms cannot become trademarks because they “are not inherently capable of service as source-identifiers.” *Id.* at 13. Unless a descriptive term is inherently distinctive or acquires a secondary meaning, it does not qualify for trademark protection. *See Borinquen Biscuit Corp. v. M.V. Trading Corp.*, 443 F.3d 112, 116-17 (1st Cir. 2006).

² Petitioner has not yet been served with this lawsuit.

18. The “Time Travel” portion of the Mark is descriptive of the Registrant’s Services because Registrant’s Services all involve an underlying time travel theme. In an April 14, 2009 Office Action, the USPTO requested that Registrant disclaim the term TIME TRAVEL because “it merely describes the subject matter of the video courses, movies and books the applicant publishes and sells online, as well as the audio/video it produces and features on its website. Also the wording describes the field of courses it provides on-line registration for.” *See* Exhibit “C”. Registrant accordingly disclaimed TIME TRAVEL in his October 2, 2009 Response to Office Action, without objection or dispute. *See id.* The term TIME TRAVEL, when used to describe the nature of the Registrant’s Services, cannot become a protected trademark because it is descriptive of Registrant’s product, does not identify the source, and has been disclaimed by Registrant at the request of the USPTO.

B. *The Term ACADEMY is Generic and/or Descriptive of Registrant’s Mark.*

19. A generic term is one that identifies a class of goods. *Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 9 (1975). Generic terms cannot become trademarks because they describe a class of product, and not its source. *Park ‘N Fly, Inc. v Dollar Park and Fly, Inc.*, 469 U.S. 189, 193-94 (1984). Academy is defined as “a school that provides training in special subjects or skills.” Academy, Merriam-Webster (Mar. 30, 2015), <http://www.merriam-webster.com/dictionary/academy>.

20. Registrant’s Services indicate that the Registrant provides educational services. Registrant’s use of the word ACADEMY in the Mark is a generic reference to the educational services provided by the products sold through his website. Therefore, the term ACADEMY cannot be afforded trademark protection because it is a generic term being used in a generic manner.

21. In the alternative, the term ACADEMY is descriptive of the academy that constitutes Registrant's business. In fact, the photograph on Registrant's website appears to be a photograph of the Naval *Academy*, thus creating an impression to a visitor of the website that the Registrant is analogously holding itself out as a type of academy focused on a science fiction time travel theme.

C. *The Mark Has No Registrable Parts and is Therefore Not Properly Registrable.*

22. In the case of the Registrant's mark, the term TIME TRAVEL has been expressly disclaimed. The purpose of a disclaimer is to permit the registration of a mark that is registrable as a whole but contains matter that would not be registrable standing alone, without creating a false impression of the extent of the registrant's right with respect to certain elements in the mark. The significance of a disclaimer is conveyed in the following statement:

As used in trade mark registrations, a disclaimer of a component of a composite mark amounts merely to a statement that, in so far as that particular registration is concerned, **no rights are being asserted in the disclaimed component standing alone, but rights are asserted in the composite; and the particular registration represents only such rights as flow from the use of the composite mark.**

Sprague Electric Co. v. Erie Resistor Corp., 101 USPQ 486, 486-87 (Comm'r Pats. 1954)

(emphasis added).

23. Marks that must be entirely disclaimed, or have no otherwise registrable parts, do not qualify as composite marks for which trademark protection can be afforded. *See Dena Corp. v. Belvedere Int'l Inc.*, 950 F.2d 1555, 1558-60 (Fed. Cir. 1991):

[U]nder traditional disclaimer practice, an applicant could not disclaim all elements of a composite mark. Section 1056(a) codified this policy. A mark which must be entirely disclaimed has no 'unregistrable component,' but is instead entirely nonregistrable. In other words, a mark which must be entirely disclaimed has no 'otherwise registrable' parts. Therefore, such

marks do not qualify as composite marks for which the Commissioner may require a disclaimer.

24. “[T]he practice of refusing to register composite marks made entirely of nonregistrable sub-parts predates the Lanham Act of 1946 and its more modern successors.” *Pilates, Inc. v. Georgetown Bodyworks Deep Muscle Massage Ctrs., Inc.*, 157 F. Supp. 2d 75, 81 (D.D.C. 2001). “Under traditional disclaimer practice an applicant could not disclaim all elements of a composite mark. Section 1056(a) codified this policy. A mark which must be entirely disclaimed has no ‘unregistrable component,’ *but is instead entirely unregistrable.*” *Id.* at 81 (emphasis added).

25. A composite mark is a mark containing registrable and nonregistrable matter. *See Estate of P.D. Beckwith, Inc. v. Commissioner of Patents*, 40 S. Ct. 414, 415 (1920).

26. Trademark Manual of Examining Procedure, § 1213 (Oct. 2015). Section 1213.06 provides:

An entire mark may not be disclaimed. If a mark is not registrable as a whole, a disclaimer will not make it registrable. There must be something in the combination of elements in the mark, or something of sufficient substance or distinctiveness over and above the matter being disclaimed, that would make the composite registrable. *See In re Sadoru Group, Ltd.*, 105 USPQ2d 1484 (TTAB 2012) (finding the stylization of SADORU does not create a separate and inherently distinctive commercial impression apart from the word itself); *In re Carlson*, 91 USPQ2d 1198, 1203 (TTAB 2009); *In re Anchor Hocking Corp.*, 223 USPQ 85, 86 (TTAB 1984) (citing *In re Carolyn’s Candies, Inc.*, 206 USPQ 356, 360 (TTAB 1980)); *Ex parte Ste. Pierre Smirnoff Fls, Inc.*, 102 USPQ 415, 416 (Comm’r Pats. 1954). This includes marks that are comprised entirely of generic wording, and either the entire mark or some of the terms are the phonetic equivalent of the generic wording. Such marks cannot be disclaimed, even in the proper spelling, and approved for registration on the Supplemental Register. See TMEP §1209.01(c).

27. The Mark consists solely of the descriptive term and disclaimed term TIME

TRAVEL and the generic or descriptive term ACADEMY. The USPTO instructed Registrant to disclaim the TIME TRAVEL portion of the mark because it is descriptive of the subject matter of the Registrant Services. *See* Exhibit “C”.

28. Registrant explicitly stated in the October 2, 2009 Response to Office Action that he made “no claim to the exclusive right to use ‘Time Travel’ apart from the [M]ark. . .” *See* Exhibit “D”.

29. The term ACADEMY is generic or descriptive, must be disclaimed and is effectively disclaimed in the Registration of the Mark.

30. Because TIME TRAVEL is descriptive and disclaimed, and ACADEMY is generic and disclaimed, the Mark TIME TRAVEL ACADEMY is not a properly registrable composite mark, but is instead *entirely unregistrable*.

D. Taken as a Whole, TIME TRAVEL ACADEMY is Descriptive and Not Registrable.

31. If descriptive words, when combined, remain a description of the product or service, the words remain unregistrable. *See In re Equity Ladder*, 2014 WL 1827026, at *5 (T.T.A.B. 2014) (affirming refusal to register EQUITY LADDER because the phrase is descriptive and “immediately describes a significant feature of the services”); *and In re Phoseon Tech. Inc.*, 103 U.S.P.Q.2d 1822, at *7 (T.T.A.B. 2012) (affirming refusal to register SEMICONDUCTOR LIGHT MATRIX because mark was used to identify the product). “A critical element in determining whether the matter sought to be registered as a trademark is the impression the matter makes on the relevant public.” *In re Aerospace Optics, Inc.*, 78 U.S.P.Q.2d 1861, at *2 (T.T.A.B. 2006). If the asserted mark would not be perceived by the public as the source of a product or service, as opposed to a mere description, the mark is not registrable. *See id.*

32. TIME TRAVEL ACADEMY is not registrable, and its registration was therefore erroneous, because it “immediately describes a significant feature of the services” provided by Registrant, and not the source of the service. *See In re Equity Ladder*, 2014 WL 1827026, at *5.

33. Further, unlike SUGAR & SPICE, which separately are perceived as ingredients, but together allude to a nursery rhyme, TIME TRAVEL ACADEMY, when the disclaimed portions are used together has no alternate meaning that could suggest that the public would perceive it as anything more than an academy relating to time travel, which is precisely what Registrant claims his academy is. *See Exhibits “E” and “F”*. TIME TRAVEL ACADEMY is merely descriptive of the product that one would expect to receive from Registrant.

E. *The Mark TIME TRAVEL ACADEMY is not Inherently Distinctive.*

34. An otherwise unprotectable descriptive term may qualify for trademark protection if it is found to be inherently distinctive. *See Wal-Mart Stores, Inc. v. Samara Bros. Inc.*, 529 U.S. 205, 210-11 (2000). A descriptive term is inherently distinctive when “its intrinsic nature serves to identify a particular source.” *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992). Where a descriptive word is paired with a product, “inherent distinctiveness will not be found.” *Wal-mart Stores, Inc.*, 529 U.S. at 213 (discussing marks such as “Tasty” bread or “Georgia” peaches, which contain only descriptive terms paired with the underlying goods, and therefore are not inherently distinctive).

35. The Mark contains the words TIME TRAVEL and ACADEMY, which is a descriptive term paired with the generic term for the underlying goods or services. Accordingly, the Mark is not inherently distinctive, and does not qualify for trademark protection under that classification.

F. *The Mark TIME TRAVEL ACADEMY Has Not Acquired a Secondary Meaning.*

36. An otherwise unprotectable descriptive term may qualify for trademark protection if it acquires a secondary meaning in the marketplace. *See Wal-mart Stores, Inc.*, 529 U.S. at 211. A descriptive term has acquired secondary meaning when “the primary significance of the term in the minds of the consuming public is not the product but the producer.” *See Welding Services, Inc. v. Forman*, 509 F.3d 1351, 1358 (11th Cir. 2011).

37. Registrant has the burden of sustaining a high degree of proof in establishing a secondary meaning for a descriptive term.” *Investacorp Inc. v. Arabian Inv. Banking Corp. (Investcorp) E.C.*, 931 F. 2d 1519, 1526 (11th Cir. 1991). In the Registration application, Registrant made no assertion that the Mark has acquired a secondary meaning.

38. TIME TRAVEL ACADEMY is a descriptive mark that is not inherently distinctive, and has not acquired secondary meaning, and is therefore precluded from trademark protection. Continued registration of the Mark for Registrant’s Services is a source of injury to Petitioner, who is entitled to use and register the term TIME TRAVEL, as it confers upon Registrant the presumptions that the Mark is distinctive for Registrant’s Services (for which it is *not* descriptive), and that Registrant enjoys the exclusive right to use the Mark in association with such Services.

WHEREFORE, Petitioner respectfully requests that the Registration be cancelled, and that this tribunal grant such other and further relief as may be just and proper.

Respectfully submitted,

DATED: November 29, 2015

MARKO & MAGOLNICK, P.A.

By: _____
David Everett Marko, Esq.
3001 S.W. 3rd Avenue
Miami, Florida 33129
Phone: 305-285-2000
Fax: 305-285-5555

Amended Petition to Cancel the Trademark TIME TRAVEL ACADEMY
Cancellation No. 92061955
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Email: marko@mm-pa.com

Attorney for Petitioner

Exhibit “A”

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86291603

Filing Date: 05/26/2014

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	TIME TRAVEL
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	TIME TRAVEL
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	DFASS Brand Holdings, LLC
INTERNAL ADDRESS	Suite 201
*STREET	555 N.E. 185th Street
*CITY	Miami
*STATE (Required for U.S. applicants)	Florida
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	33179
PHONE	(305)285-2000

EMAIL ADDRESS	marco.arilli@dfass.com
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Florida
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	001
*IDENTIFICATION	Unexposed photographic film
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	006
*IDENTIFICATION	Rings of metal for keys
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	009
*IDENTIFICATION	Batteries; Binoculars; Cameras; Digital media, namely, pre-recorded DVDs, downloadable audio and video recordings, and CDs featuring and promoting various subjects ; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring various subjects ; Eyewear, namely, sunglasses
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	014
*IDENTIFICATION	Watches, clocks, jewelry and imitation jewelry
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	016
*IDENTIFICATION	Writing implements
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	018
*IDENTIFICATION	Handbags; Key cases; Leather key chains; Luggage
*FILING BASIS	SECTION 1(b)

*INTERNATIONAL CLASS	020
*IDENTIFICATION	Plastic key rings
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	025
*IDENTIFICATION	Gloves as clothing; Scarves
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	028
*IDENTIFICATION	Handheld game consoles
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	035
*IDENTIFICATION	Retail store services featuring film, key rings, eyewear, cameras, watches, timepieces, jewelry, handbags, luggage, and related accessories
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	David Everett Marko
ATTORNEY DOCKET NUMBER	Fla. Bar. No. 939633
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ZIP/POSTAL CODE	33129

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EMAIL ADDRESS	marko@mm-pa.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
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*CITY	Miami
*STATE (Required for U.S. applicants)	Florida
*COUNTRY	United States
*ZIP/POSTAL CODE	33129
PHONE	(305) 285-2000
FAX	(305) 285-5555
*EMAIL ADDRESS	marko@mm-pa.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	10
FEE PER CLASS	275
*TOTAL FEE PAID	2750
SIGNATURE INFORMATION	
* SIGNATURE	/David E. Marko/
* SIGNATORY'S NAME	David Everett Marko
* SIGNATORY'S POSITION	Attorney for Owner
SIGNATORY'S PHONE NUMBER	(305) 285-2000
* DATE SIGNED	05/26/2014

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86291603

Filing Date: 05/26/2014

To the Commissioner for Trademarks:

MARK: TIME TRAVEL (Standard Characters, see [mark](#))

The literal element of the mark consists of TIME TRAVEL.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, DFASS Brand Holdings, LLC, a limited liability company legally organized under the laws of Florida, having an address of

Suite 201,
555 N.E. 185th Street
Miami, Florida 33179
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 001: Unexposed photographic film

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 006: Rings of metal for keys

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 009: Batteries; Binoculars; Cameras; Digital media, namely, pre-recorded DVDs, downloadable audio and video recordings, and CDs featuring and promoting various subjects; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring various subjects; Eyewear, namely, sunglasses

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 014: Watches, clocks, jewelry and imitation jewelry

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 016: Writing implements

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 018: Handbags; Key cases; Leather key chains; Luggage

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 020: Plastic key rings

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Gloves as clothing; Scarves

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 028: Handheld game consoles

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 035: Retail store services featuring film, key rings, eyewear, cameras, watches, timepieces, jewelry, handbags, luggage, and related accessories

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

David Everett Marko of Marko & Magolnick, P.A.

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Miami, Florida 33129
United States

The attorney docket/reference number is Fla. Bar. No. 939633.

The applicant's current Correspondence Information:

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A fee payment in the amount of \$2750 has been submitted with the application, representing payment for 10 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /David E. Marko/ Date Signed: 05/26/2014
Signatory's Name: David Everett Marko
Signatory's Position: Attorney for Owner

RAM Sale Number: 86291603
RAM Accounting Date: 05/27/2014

Serial Number: 86291603
Internet Transmission Date: Mon May 26 14:59:45 EDT 2014
TEAS Stamp: USPTO/FTK-XXX.XXX.XXX.XXX-20140526145945

069101-86291603-5006b047b5598bd85e2a6753
da8cac5fc9785f24818665b2d39bfafae9fe3131
c-CC-8370-20140526141136537039

TIME TRAVEL

Exhibit “B”

To: DFASS Brand Holdings, LLC (marko@mm-pa.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86291603 - TIME TRAVEL - Fla. Bar. No
Sent: 11/4/2014 4:49:14 PM
Sent As: ECOM114@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)

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

U.S. APPLICATION SERIAL NO. 86291603 MARK: TIME TRAVEL	*86291603*
CORRESPONDENT ADDRESS: DAVID EVERETT MARKO MARKO & MAGOLNICK, P.A. 3001 SW 3RD AVE MIAMI, FL 33129-2709	CLICK HERE TO RESPOND TO THIS LETTER: http://www.uspto.gov/trademarks/teas/response_forms.jsp VIEW YOUR APPLICATION FILE
APPLICANT: DFASS Brand Holdings, LLC	
CORRESPONDENT'S REFERENCE/DOCKET NO: Fla. Bar. No CORRESPONDENT E-MAIL ADDRESS: marko@mm-pa.com	

SUPPLEMENTAL 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: 11/4/2014

The Office of the Deputy Commissioner for Trademark Examination Policy accepted a Letter of Protest received in connection with this application. The evidence presented in the letter was forwarded to the trademark examining attorney for consideration. See TMEP §1715.

Based upon this evidence, the trademark examining attorney is taking further action, as specified below. *See* TMEP §1715.02(b).

In addition to the refusal in this Office action, all refusals and requirements in the Office action dated September 11, 2014, are herein incorporated by reference. Specifically the likelihood of confusion for the goods in class the pending application reference and requirement for an acceptable identification of goods in class 9. Therefore, a proper response to this Office action must address each issue raised in the preceding Office action as well as in this Office action.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION: THIS REFUSAL APPLIES TO CLASS 35 ONLY

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 4313253. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

Marks are compared in their entirety for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

The applicant applied to register the mark 'TIME TRAVEL' for "retail store services featuring film, key rings, eyewear, cameras, watches, timepieces, jewelry, handbags, luggage, and related accessories." The registered mark is 'TIME TRAVEL ACADEMY' for "operating an online shopping site in the field of Movies, books, clothing, interactive videos, time pieces, hand bags, purses, video courses, toys." In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. *Syndicat Des Proprietaires Viticulteurs De Chateaufneuf-Du-Pape v. Pasquier DesVignes*, 107 USPQ2d 1930, 1938 (TTAB 2013) (citing *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976)); *In re Lolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); see TMEP §1207.01. That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

Applicant's mark is highly similar to the registered mark. Applicant's mark is merely the registered mark with the one wording 'ACADEMY' deleted. The mere deletion of wording from a registered mark may not be sufficient to overcome a likelihood of confusion. See *In re Mighty Leaf Tea*, 601 F.3d 1342, 94 USPQ2d 1257 (Fed. Cir. 2010); *In re Optica Int'l*, 196 USPQ 775, 778 (TTAB 1977); TMEP §1207.01(b)(ii)-(iii). Applicant's mark does not create a distinct commercial impression because it contains the same common wording as the registered mark, and there is no other wording to distinguish it from the registered mark. Applicant's mark creates a commercial impression highly similar to the commercial impression created by the registered mark. Thus applicant's mark is confusingly similar to the registered mark.

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

However, in this instance, the applicant's services are highly similar to the registrant's services. Applicant's services and registrant's services are both retail services for similar items such as movies, time pieces and bags. Hence applicant's services are in the same channels of trade as the registrant's services.

Therefore the examining attorney refuses registration of the applicant's mark under Section 2(d), 15 U.S.C. 1052 (d), because the mark is highly similar to a registered mark and the services are also highly

similar.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

TEAS PLUS APPLICANTS – TO MAINTAIN REDUCED FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:

Applicants who filed their application online using the lower-fee TEAS Plus application form must (1) continue to submit certain documents online using TEAS, including responses to Office actions (see TMEP §819.02(b) for a complete list of these documents); (2) accept correspondence from the USPTO via e-mail throughout the examination process; and (3) maintain a valid e-mail address. See 37 C.F.R. §2.23(a)(1), (a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these three 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. However, in certain situations, authorizing an examiner's amendment by telephone will not incur this additional fee.

/Won T. Oh/
Law Office 114
(571)272-9204
won.oh@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or 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/trademarks/teas/correspondence.jsp>.

DESIGN MARK

Serial Number

77440967

Status

REGISTERED

Word Mark

TIME TRAVEL ACADEMY

Standard Character Mark

Yes

Registration Number

4313253

Date Registered

2013/04/02

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Williams, Reginald INDIVIDUAL UNITED STATES P.O. Box 202738 Arlington
TEXAS 76006

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Provision
of space on websites for advertising goods and services; Promotion,
advertising and marketing of on-line web sites; Operating an online
shopping site in the field of Movies, books, clothing, interactive
videos, time pieces, hand bags, purses, video courses, toys; Producing
promotional videotapes, video discs, and audio visual recordings;
Providing a website featuring audio and video interviews, transcripts
and other educational materials all concerning business topics. First
Use: 2005/08/01. First Use In Commerce: 2005/08/01.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TIME TRAVEL" APART
FROM THE MARK AS SHOWN.

Filing Date

2008/04/05

Print: Nov 4, 2014

77440967

Examining Attorney
BLANDU, FLORENTINA

Attorney of Record
JungJin Lee

Time Travel Academy

To: DFASS Brand Holdings, LLC (marko@mm-pa.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86291603 - TIME TRAVEL - Fla. Bar. No
Sent: 11/4/2014 4:49:15 PM
Sent As: ECOM114@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **11/4/2014** FOR U.S. APPLICATION SERIAL NO. 86291603

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **11/4/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the

ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

Exhibit “C”

To: Williams, Reginald (dallas10102@aol.com)
Subject: TRADEMARK APPLICATION NO. 77440967 - TIME TRAVEL
ACADEMY - N/A
Sent: 4/14/2009 9:44:49 PM
Sent As: ECOM117@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/440967

MARK: TIME TRAVEL ACADEMY

77440967

CORRESPONDENT ADDRESS:

REGINALD WILLIAMS
PO BOX 202738
ARLINGTON, TX 76006-8738

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Williams, Reginald

CORRESPONDENT'S

REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

dallas10102@aol.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 4/14/2009

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: TEAS Plus applicants should submit the following documents using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>: (1) written responses to Office actions; (2) preliminary amendments; (3) changes of correspondence address; (4) changes of owner's address; (5) appointments and revocations of attorney; (6) amendments to allege use; (7) statements of use; (8) requests for extension of time to file a statement of use, and (9) requests to delete a §1(b) basis. If any of these documents are filed on paper, they must be accompanied by a \$50 per class fee. 37 C.F.R. §§2.6(a)(1)(iv) and 2.23(a)(i). Telephone responses will not incur an additional fee. NOTE: In addition

to the above, applicant must also continue to accept correspondence from the Office via e-mail throughout the examination process in order to avoid the additional fee. 37 C.F.R. §2.23(a)(2).

This application was withdrawn from publication for the reasons listed below. Upon further consideration, the additional requirements are issued below. The trademark attorney apologizes for any inconvenience to applicant caused by the Office's failure to raise the issue in the earlier office action.

DISCLAIMER

The applicant should withdraw the disclaimer of ACADEMY and should submit the following disclaimer instead. Applicant must disclaim the descriptive wording "TIME TRAVEL" apart from the mark as shown because it merely describes the subject matter of the video courses, movies and books the applicant publishes and sells online, as well as the audio/video it produces and features on its website. Also the wording describes the field of courses it provides on-line registration for. See 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The computerized printing format for the Office's *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

No claim is made to the exclusive right to use "TIME TRAVEL" apart from the mark as shown.

TMEP §1213.08(a)(i); see *In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

A disclaimer does not physically remove the disclaimed matter from the mark, but rather is a written statement that applicant does not claim exclusive rights to the disclaimed wording and/or design separate and apart from the mark as shown in the drawing. TMEP §§1213, 1213.10.

The following cases further explain the disclaimer requirement: *Dena Corp. v. Belvedere Int'l Inc.*, 950 F.2d 1555, 21 USPQ2d 1047 (Fed. Cir. 1991); *In re Brown-Forman Corp.*, 81 USPQ2d 1284 (TTAB 2006); *In re Kraft, Inc.*, 218 USPQ 571 (TTAB 1983).

Applicant is encouraged to telephone or e-mail the assigned trademark examining attorney to resolve the issue raised in this Office action.

F BLANDU
/f blandu/
l.o.117
tel 571 272-9128
fax 571 273-9128
e-mail (for informal communications only)
florentina.blandu@uspto.gov

RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail

TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

To: Williams, Reginald (dallas10102@aol.com)
Subject: TRADEMARK APPLICATION NO. 77440967 - TIME TRAVEL
ACADEMY - N/A
Sent: 4/14/2009 9:44:54 PM
Sent As: ECOM117@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 4/14/2009 FOR
APPLICATION SERIAL NO. 77440967

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77440967&doc_type=OOA&
(or copy and paste this URL into the address field of your browser), or visit
<http://tportal.uspto.gov/external/portal/tow> and enter the application serial number to **access**
the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable **response time period**. Your response deadline will be calculated from **4/14/2009**.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**

Exhibit “D”

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77440967
LAW OFFICE ASSIGNED	LAW OFFICE 117
MARK SECTION (no change)	
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use TIME TRAVEL apart from the mark as shown.
MISCELLANEOUS STATEMENT	I would like to withdraw the disclaimer of ACADEMY and disclaim TIME TRAVEL
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Reginald Williams/
SIGNATORY'S NAME	/Reginald Williams/
SIGNATORY'S POSITION	Owner
DATE SIGNED	10/02/2009
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Oct 02 10:31:52 EDT 2009
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.XXX- 20091002103152067282-7744 0967-460a63cfb347548de682 3f01cd0cab838ed-N/A-N/A-2 0091002102814808540

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77440967** has been amended as follows:

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use TIME TRAVEL apart from the mark as shown.

I would like to withdraw the disclaimer of ACADEMY and disclaim TIME TRAVEL

SIGNATURE(S)

Response Signature

Signature: /Reginald Williams/ Date: 10/02/2009

Signatory's Name: /Reginald Williams/

Signatory's Position: Owner

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

Serial Number: 77440967

Internet Transmission Date: Fri Oct 02 10:31:52 EDT 2009

TEAS Stamp: USPTO/ROA-XX.XXX.XXX.XXX-200910021031520

67282-77440967-460a63cfb347548de6823f01c

d0cab838ed-N/A-N/A-20091002102814808540

Exhibit “E”

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77440967

Filing Date: 04/05/2008

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	Time Travel Academy
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Time Travel Academy
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Reginald Williams
*STREET	P.O. Box 202738
*CITY	Arlington
*STATE (Required for U.S. applicants)	Texas
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	76006
PHONE	972-111-3698
EMAIL ADDRESS	dallas10102@aol.com

AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	035
*IDENTIFICATION	Provision of space on websites for advertising goods and services; Promotion, advertising and marketing of on-line web sites; Providing a web-based service that enables individuals to manage the production and publication of electronic books (e-books) and related digital content and offer them for sale to the general public; Online retail consignment stores featuring Movies, books, clothing, interactive videos, time pieces, hand bags, purses, video courses, toys; Operating an online shopping site in the field of Movies, books, clothing, interactive videos, time pieces, hand bags, purses, video courses, toys; Producing promotional videotapes, video discs, and audio visual recordings; Providing a website featuring audio and video interviews, transcripts and other educational materials all concerning business topics; Providing academic course administration services for other academic institutions, namely, on-line course registration
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	

*NAME	Reginald Williams
*STREET	P.O. Box 202738
*CITY	Arlington
*STATE (Required for U.S. applicants)	Texas
*COUNTRY	United States
*ZIP/POSTAL CODE	76006
PHONE	972-111-3698
*EMAIL ADDRESS	dallas10102@aol.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Reginald Williams/
* SIGNATORY'S NAME	/Reginald Williams/
* SIGNATORY'S POSITION	owner
* DATE SIGNED	04/06/2008

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77440967

Filing Date: 04/05/2008

To the Commissioner for Trademarks:

MARK: Time Travel Academy (Standard Characters, see [mark](#))

The literal element of the mark consists of Time Travel Academy.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Reginald Williams, a citizen of United States, having an address of

P.O. Box 202738

Arlington, Texas 76006

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 035: Provision of space on websites for advertising goods and services; Promotion, advertising and marketing of on-line web sites; Providing a web-based service that enables individuals to manage the production and publication of electronic books (e-books) and related digital content and offer them for sale to the general public; Online retail consignment stores featuring Movies, books, clothing, interactive videos, time pieces, hand bags, purses, video courses, toys,; Operating an online shopping site in the field of Movies, books, clothing, interactive videos, time pieces, hand bags, purses, video courses, toys,; Producing promotional videotapes, video discs, and audio visual recordings; Providing a website featuring audio and video interviews, transcripts and other educational materials all concerning business topics; Providing academic course administration services for other academic institutions, namely, on-line course registration

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

Correspondence Information: Reginald Williams

P.O. Box 202738

Arlington, Texas 76006

972-111-3698(phone)

dallas10102@aol.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Reginald Williams/ Date Signed: 04/06/2008

Signatory's Name: /Reginald Williams/

Signatory's Position: owner

RAM Sale Number: 4483

RAM Accounting Date: 04/07/2008

Serial Number: 77440967

Internet Transmission Date: Sat Apr 05 21:57:18 EDT 2008

TEAS Stamp: USPTO/FTK-XXX.XXX.XX.XXX-200804052157183

56530-77440967-400c651de8672bc614012f29d

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Time Travel Academy

Exhibit “F”

The Time Travel Academy

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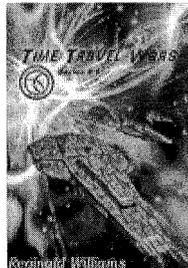
Time Travel Academy

Time Travel Academy children learning video series

Time Travel Academy toys

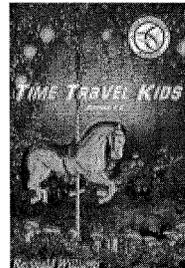
Time Travel Academy Baseball Caps

Time Travel Academy school book bags, backpacks, duffel



Time Travel Wars ®

\$4.99



Time Travel Kids ™

\$4.99



Time Travel Games ™

\$4.99

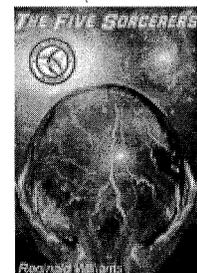


An American Storm ™



Time Travelers Academy ® car window sticker 3" x 3"

\$5.00



The Five Sorcerers ™



Time Travel Wars ™ baseball cap

\$15.00



Time Travel Academy ® animated learning video series; featuring "Randy" the time traveling teddy bear.



Time Travel Academy ® Trademarked Pigment Direct-Dyed Twill Cap Item

Time Travel Academy clothing

Time Travel Academy Time Pieces, Watches

\$15.99

40001

\$15.00



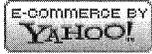
Time Travel Academy®
Trademarked Baseball Cap
item 600340

Time Travel Academy®

Time Travel Kids™ baseball
cap (khaki)

\$20.00

\$15.00



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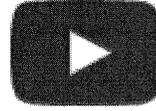
Welcome to the best entertainment time travel site on the internet.

Interested in Film, Movie or TV rights to the "Time Travel Academy" book series? Please use this email address:

sales@timetravelacademy.com

Time Travel Kids...

Tagline: Four teenage kids with magical time travel abilities are needed for an intergalactic mission.

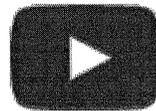


Product Description:

Fifteen-year-old James Simmons lives with his parents in Dallas, Texas. James is an Internet artist sensation. He sells pictures on the Internet of mystical and magical worlds and creatures, but what many people don't realize is that these photos are real. James is a Time Travel Kid. He was born with the ability to open and enlarge subatomic wormholes in a place called the quantum foam. When James discovers that his parents, his girlfriend, and her parents have been taken into custody by the Time Travel Academy, he sets out to rescue them, only to discover that he is needed for an intergalactic mission. Time Travel Kids™ © 2012 all rights reserved.

Time Travel Wars...

Tagline: Diverting a prehistoric asteroid changes Mars history for the better and the unexpected worse...



Product Description:

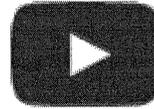
When former time traveler John Richards is given draft orders to attend a top-secret mission at the Time Travel Academy, he has no idea that his actions will change the history of Earth as he knows it.

The mission's objective—to travel three billion years into the past and terraform Mars by diverting a prehistoric asteroid—is successful; Mars develops into an Earthlike planet. Yet no one anticipates Mars developing an advanced civilization of its own in three billion years.

This warlike civilization is bent on destroying Earth to preserve its own existence in this time paradox. John Richards must somehow correct this current timeline, yet there are forces at work in his former timeline to stop him. (Time Travel Wars® © 2009 all rights reserved.)

Time Travel Games...

Tagline: It started out as fun and games...it soon turned into a game of survival.

**Product Description:**

Fifteen-year-old Zackary Taylor is a student attending the Time Travel Academy whom is about to graduate with honors from the summer program for kids when an accident involving the time machine sends his girlfriend, three friends and three opposing students to the worst disasters in history.

With time running out Zachary sets out to save everyone... to win he must play and beat the Time Travel Games.

Time Travel Games. Copyright 2012 © All rights reserved.



Movies, books, videos, toys and clothing.

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The Time Travel Academy

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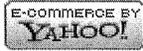
[Time Travel Academy Time Pieces, Watches](#)

When former time traveler John Richards is given draft orders to attend a top-secret mission at the Time Travel Academy, he has no idea that his actions will change the history of Earth as he knows it. The mission's objective—to travel three billion years into the past and terraform Mars by diverting a prehistoric asteroid—is successful; Mars develops into an Earthlike planet. Yet no one anticipates Mars developing an advanced civilization of its own in three billion years. This warlike civilization is bent on destroying Earth to preserve its own existence in this time paradox. John Richards must somehow correct this current timeline, yet there are forces at work in his former timeline to stop him. (Copyright 2009 © All rights reserved)



Time Travel Wars™ baseball cap

\$15.00



Time Travel Wars®

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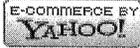
[Time Travel Academy clothing](#)

[Time Travel Academy Time Pieces, Watches](#)



Zachary Taylor is a 15 year old student attending the Time Travel Academy whom is about to graduate with honors from the summer program for kids when an accident involving the time machine sends his girlfriend, three friends and three opposing students back in time to the worst disasters in history.

With time running out and no one to save them, Zachary volunteers to go back in time to each disaster in time to try to save everyone; to win he must play and beat the "Time Travel Games". (Copyright 2012 © All rights reserved)



**Time Travel Academy 5
"Time Travel Games"**



**Time Travel Games™
baseball cap (blue)**

\$20.00



Time Travel Games™

\$4.99

Movies, books, videos, toys and clothing.

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