

ESTTA Tracking number: **ESTTA762404**

Filing date: **08/04/2016**

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

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Robert Mintz		
Entity	Individual	Citizenship	UNITED STATES
Address	1868 Sabal Palm Drive Boca Raton, FL 33432 UNITED STATES		

Attorney information	Scott W Petersen, S Jeffries, D Neustadt Holland & Knight LLP 800 17th Street NW Suite 1100 Washington, DC 20006 UNITED STATES dan.neustadt@hklaw.com, scott.petersen@hklaw.com, stephen.jeffries@hklaw.com, ptdocketing@hklaw.com, laurie.milton@hklaw.com Phone:2024695163
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**Registration Subject to Cancellation**

Registration No	4411956	Registration date	10/01/2013
Registrant	Brooks, Nicholas 5 ROSE AVE Venice, CA 90291 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 030. First Use: 2013/01/00 First Use In Commerce: 2013/01/00 All goods and services in the class are cancelled, namely: Hot sauce; Salsa
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**Grounds for Cancellation**

No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Abandonment	Trademark Act Section 14(3)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Attachments	Petition for Cancellation of RN 4411956 -- TAPICHULA -- with Exhibits.pdf(382065 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Daniel C. Neustadt/
Name	Daniel C. Neustadt
Date	08/04/2016

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

ROBERT MINTZ,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation. No. _____
	)	
NICHOLAS BROOKS,	)	(Reg. No. 4,411,956)
	)	
Defendant.	)	
	)	
	)	

**PETITION FOR CANCELLATION**

Robert Mintz (“Petitioner”), an individual with an address at 1868 Sabal Palm Drive, Boca Raton, Florida, 33432, believes that it will be damaged by the continued registration of the mark TAPICHULÁ (the “Mark”) subject of Registration No. 4,411,956 (the “Registration”), owned by Nicholas Brooks, an individual with a record address of 5 Rose Avenue, #9, Venice, California, 90291, (“Defendant”), and hereby petitions for cancellation of the Registration.<sup>1</sup>

As grounds for opposition, Petitioner alleges the following:

1. On June 19, 2012, Defendant filed his application to register the Mark, for “Hot sauce; Salsa” (the “Application”).
2. The Application was based upon a bona fide intent to use the Mark in Commerce.
3. Upon information and belief, Defendant has never used the Mark in Commerce in relation to the bona fide sale or distribution of the goods claimed in the Application.

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<sup>11</sup> Attached hereto as Exhibit A please find information downloaded from the U.S. Patent and Trademark Office’s Trademark Status and Document Retrieval database reflecting the current status of the Registration.

4. Upon information and belief, Defendant at the time of his Application did not possess a bona fide intent to use the Mark in Commerce in relation to the bona fide sale or distribution of the goods claimed in the Application.

5. On or about July 8, 2013, Defendant submitted a Statement of Use in support of the Application, declaring that he was owner of the Mark and that, since January, 2013, he had been using the mark in commerce on or in connection with the goods identified in the Application.

6. As his alleged specimen of use submitted with the Statement of Use, Defendant submitted the following image of alleged product (the “Specimen”):



7. Upon information and belief, and based on the results of investigation, the pictured product and label – if even authentic, and not the result of digital manipulation – has never been used by Defendant in commerce in the United States in the bona fide sale or distribution of the goods claimed in the Application.

8. Upon information and belief, if Defendant ever made bona fide use of the Mark in connection with the goods, it discontinued all such use at least as early as August 3, 2013, with no intent to resume use.

9. In his Application, Defendant claims that his TAPICHULÁ Mark “has no meaning in a foreign language.”

10. In his Application, Defendant omitted any other information regarding the significance of the Mark.

11. Upon information and belief, the Mark is a misspelling of Tapachula, the capital of the Mexican state of Chiapas and one of the main ports of trade between Mexico and Central America.

12. On March 23, 2016, Petitioner filed a U.S. trademark application, Ser. No. 86950631, for its TAPACHULA mark, for use in connection with goods classified in Classes 29 and 30, including sauces (“Petitioner’s Application”).

13. The U.S. Patent & Trademark Office (“USPTO”), on July 7, 2016, issued an Office Action in connection with Petitioner’s Application, provisionally refusing registration due to an alleged likelihood of confusion with the Registration. A copy of the Office Action is attached hereto as Exhibit B.

14. The provisional refusal of Petitioner's legitimate application for registration of its TAPACHULA mark reflects and represents the significant damage to Petitioner caused by Defendant's Registration.

## COUNT I

### **Mark Not Used in Commerce Prior to Registration**

15. Petitioner realleges and incorporates by reference the allegations contained in paragraphs 1 through 14, above, as if set forth in their entirety herein.

16. In support of his Statement of Use, Defendant submitted therewith a specimen bearing the Mark (the "Specimen") and represented that the Specimen had been used in commerce at least as early as January 31, 2013.

17. Upon information and belief, and based on the results of investigation, that representation was false.

18. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce as reflected in the Specimen in relation to the goods claimed in the Application by the claimed date of first use in commerce, January 31, 2013.

19. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce as reflected in the Specimen in relation to the goods claimed in the Application by the date of Defendant's Statement of Use, July 8, 2013.

20. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce as reflected in the Specimen in relation to the goods claimed in the Application by the date the Registration issued, October 1, 2013 ("Registration Date").

21. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce in relation to the goods claimed in the Application by the claimed date of first use in commerce, January 31, 2013.

22. Upon information and belief, and based on the results of investigation, Defendant had not the Mark in commerce in relation to the goods claimed in the Application by the date of Defendant's Statement of Use, July 8, 2013.

23. Upon information and belief, and based on the results of investigation, Defendant had not the Mark in commerce in relation to the goods claimed in the Application by the Registration Date.

24. Registration of the Mark would therefore violate 15 U.S.C. §1051(d).

## **COUNT II**

### **Fraud on the USPTO – Mark Not Used in Commerce Prior to Registration**

25. Petitioner realleges and incorporates by reference the allegations contained in paragraphs 1 through 24, above, as if set forth in their entirety herein.

26. In his Statement of Use, Defendant represented that he had used the Mark in commerce for the goods claimed in the Application since at least as early as January 31, 2013, *i.e.*, prior to the Registration Date.

27. Upon information and belief, and based on the results of investigation, that representation was false.

28. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce by its claimed date of first use in commerce, January 31, 2013.

29. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce by the date Defendant submitted his Statement of Use, July 8, 2013.

30. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce prior to the Registration Date.

31. Defendant's false representation regarding the date of first use of the Mark is material to the registrability of the Mark because if Defendant had not used the Mark prior to the Registration Date, then registration would violate Section 15 U.S.C. §1051(d).

32. Upon information and belief, Defendant knew of the falsity of his representation.

33. Upon information and belief, Defendant represented himself as having used the Mark to deceive the USPTO into allowing the Application to proceed to registration.

34. Upon information and belief, the United States Patent and Office ("USPTO") relied upon Defendant's false representation in its determination to issue the Registration.

35. Defendant's fraudulent representation and the consequent Registration have denied Petitioner the rights to which he is entitled by virtue of his valid application, resulting in cognizable damage and injury to Petitioner.

36. Based upon the foregoing, the Registration is void.

**COUNT III**  
**Fraud on the USPTO – Specimen**

37. Petitioner realleges and incorporates by reference the allegations contained in paragraphs 1 through 36, above, as if set forth in their entirety herein.

38. In Defendant's Statement of Use, Defendant submitted the Specimen and represented that the Specimen had been used in commerce at least as early as the January 31, 2013, *i.e.*, prior to the Registration Date.

39. Upon information and belief, and based on the results of investigation, that representation was false.

40. Upon information and belief, and based on the results of investigation, Defendant had not used the Mark in commerce as reflected in the Specimen in relation to the goods claimed in the Application by the claimed date of first use in commerce, nor by the date of the Statement of Use, nor prior to the Registration Date.

41. Defendant's false representation as to the Specimen, as aforesaid, is material to the registrability of the mark because if Defendant had not used the Specimen prior to the Registration Date, then registration would violate Section 15 U.S.C. §1051(d).

42. Upon information and belief, Defendant knew of the falsity of his representation.

43. Upon information and belief, Defendant represented himself as having used the Mark as reflected in the Specimen to deceive the USPTO into allowing the Application to proceed to registration.

44. Upon information and belief, the USPTO relied upon Defendant's false representation in its determination to issue the Registration.

45. Defendant's fraudulent representation and the consequent Registration have denied Petitioner the rights to which he is entitled by virtue of its valid application, resulting in cognizable damage and injury to Petitioner.

46. Based upon the foregoing, the Registration is void.

**COUNT IV**  
**Fraud on the USPTO – Significance of the Mark**

47. Petitioner realleges and incorporates by reference the allegations contained in paragraphs 1 through 46, above, as if set forth in their entirety herein.

48. In support of his Application, Defendant actively represented that the Mark had no meaning in a foreign language and omitted material information concerning the significance of the Mark, namely that it is (upon information and belief) a misspelling of Tapachula, a prominent Mexican city.

49. Defendant's representation and omission concerning the significance of the Mark are material to the registrability of the mark because if Defendant had fully and truthfully represented the significance of the Mark, the USPTO likely would have refused registration either on the ground that the Mark is primarily geographically descriptive, in violation of 15 U.S.C. § 1052(e)(2), or else on the ground that the mark is primarily geographically deceptively misdescriptive, in violation of 15 U.S.C. §§ 1052(a) and 1052(e)(3).

50. Upon information and belief, Defendant knew of the falsity of his representation and omission.

51. Upon information and belief, Defendant represented that the Mark had no meaning in a foreign language and omitted the material information concerning the significance of the Mark to deceive the USPTO into allowing the Application to proceed to registration.

52. Upon information and belief, the USPTO relied upon Defendant's false representation and omission in its determination to issue the Registration.

53. Defendant's fraudulent representation and omission and the consequent Registration have denied Petitioner the rights to which he is entitled by virtue of its valid application, resulting in cognizable damage and injury to Petitioner.

54. Based upon the foregoing, the Registration is void.

**COUNT V**  
**Abandonment**

55. Petitioner realleges and incorporates by reference the allegations contained in paragraphs 1 through 54, above, as if set forth in their entirety herein.

56. On information and belief, if Defendant ever used the Mark in commerce, Defendant discontinued such use at least as early as August 3, 2013, with no intent to resume use.

The required fee has been provided.

WHEREFORE, Petitioner prays that this cancellation be sustained and that the Registration be cancelled.

ROBERT MINTZ

Date: August 4, 2016

By: s/Daniel C. Neustadt  
Scott W. Petersen  
Stephen J. Jeffries  
Daniel C. Neustadt  
HOLLAND & KNIGHT LLP  
800 17<sup>th</sup> Street, N.W., Suite 1100  
Washington, D.C. 20006  
202.469.5163  
dan.neustadt@hklaw.com

*Attorneys for Petitioner*

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true copy of the foregoing PETITION FOR CANCELLATION was sent by first class mail, postage pre-paid on this 4th day of August, 2016, to the following:

Nicholas Brooks  
5 Rose Ave, #9  
Venice, California 90291

*Owner of Registration*

and to:

MATTHEW H. SWYERS  
344 MAPLE AVE W STE 151  
VIENNA, VIRGINIA UNITED STATES 22180-5612  
[mswyers@thetrademarkcompany.com](mailto:mswyers@thetrademarkcompany.com)

*Attorney of Record for Defendant*

s/Daniel C. Neustadt

# **EXHIBIT A**

Generated on: This page was generated by TSDR on 2016-08-03 22:02:10 EDT

Mark: TAPICHULÁ

# Tapichulá

US Serial Number: 85655717

Application Filing Date: Jun. 19, 2012

US Registration Number: 4411956

Registration Date: Oct. 01, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Oct. 01, 2013

Publication Date: Nov. 13, 2012

Notice of Allowance Date: Jan. 08, 2013

## Mark Information

Mark Literal Elements: TAPICHULÁ

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Translation: The wording "Tapichulá" has no meaning in a foreign language.

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Hot sauce; Salsa

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 2013

Use in Commerce: Jan. 2013

## Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: Brooks, Nicholas

Owner Address: 5 ROSE AVE

#9  
Venice, CALIFORNIA 90291  
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Matthew H. Swyers

Attorney Primary Email Address: [mswyers@thetrademarkcompany.com](mailto:mswyers@thetrademarkcompany.com)

Attorney Email Authorized: Yes

### Correspondent

Correspondent Name/Address: MATTHEW H. SWYERS  
344 MAPLE AVE W STE 151  
VIENNA, VIRGINIA 22180-5612  
UNITED STATES

Phone: (800) 906-8626 x100

Fax: (270) 477-4574

Correspondent e-mail: [mswyers@thetrademarkcompany.com](mailto:mswyers@thetrademarkcompany.com)

Correspondent e-mail Authorized: Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Oct. 01, 2013	REGISTERED-PRINCIPAL REGISTER	
Aug. 24, 2013	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Aug. 23, 2013	LAW OFFICE REGISTRATION REVIEW COMPLETED	69712
Aug. 23, 2013	ASSIGNED TO LIE	69712
Aug. 14, 2013	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 02, 2013	STATEMENT OF USE PROCESSING COMPLETE	66530
Jul. 08, 2013	USE AMENDMENT FILED	66530
Jul. 26, 2013	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66530
Jul. 08, 2013	TEAS STATEMENT OF USE RECEIVED	
Jan. 08, 2013	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Nov. 13, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Nov. 13, 2012	PUBLISHED FOR OPPOSITION	
Oct. 24, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Oct. 03, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 03, 2012	ASSIGNED TO EXAMINER	76520
Jul. 31, 2012	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jul. 31, 2012	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jun. 27, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 22, 2012	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Aug. 23, 2013

# **EXHIBIT B**

**To:** Robert Mintz ([scott.petersen@hkllaw.com](mailto:scott.petersen@hkllaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86950631 - TAPACHULA - tapachula  
**Sent:** 7/7/2016 2:07:54 PM  
**Sent As:** ECOM101@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

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

U.S. APPLICATION SERIAL NO. 86950631

MARK: TAPACHULA

**\*86950631\***

**CORRESPONDENT ADDRESS:**

SCOTT W. PETERSEN  
HOLLAND & KNIGHT LLP  
131 SOUTH DEARBORN STREET  
30TH FLOOR  
CHICAGO, IL 60603

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** Robert Mintz

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

tapachula

**CORRESPONDENT E-MAIL ADDRESS:**

[scott.petersen@hkllaw.com](mailto:scott.petersen@hkllaw.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: 7/7/2016**

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.

**SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 4411956. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 et seq. See the enclosed registration.

Registration No. 4411956 is for the mark TAPICHULÁ for use on hot sauce and salsa. Applicant's proposed mark is TAPACHULA for use on Fresh and frozen pork, beef and poultry and Fresh and frozen food sauces; shelf stable sauces and protein fillers; Fresh and frozen burritos, tortillas and taquitos. The marks are very similar and the goods are similar if not identical. Consumers are likely to be confused as to the source of the goods.

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.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. See *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; see also *In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). 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).

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

If applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

#### ENGLISH TRANSLATION REQUIRED

Applicant must submit an English translation of all foreign wording in the mark. 37 C.F.R. §2.32(a)(9); see TMEP §809. In the present case, the wording "TAPACHULA" requires translation.

The following translation statement is suggested:

The English translation of the word "TAPACHULA" in the mark is "\_\_\_\_\_".

TMEP §809.03.

If there is no English translation, applicant must then state, that there is no English translation of the word or phrase.

/Jacqueline W. Abrams/  
Examining Attorney, Law Office 101  
571-272-9185  
jacky.abrams@uspto.gov INFORMAL ONLY

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](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](mailto: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](mailto: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>.

Print: Jul 7, 2016

85655717

**DESIGN MARK**

**Serial Number**

85655717

**Status**

REGISTERED

**Word Mark**

TAPICHULÁ

**Standard Character Mark**

Yes

**Registration Number**

4411956

**Date Registered**

2013/10/01

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Brooks, Nicholas INDIVIDUAL UNITED STATES 5 ROSE AVE #9 Venice  
CALIFORNIA 90291

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Hot sauce; Salsa.  
First Use: 2013/01/00. First Use In Commerce: 2013/01/00.

**Translation Statement**

The wording "Tapichulá" has no meaning in a foreign language.

**Filing Date**

2012/06/19

**Examining Attorney**

THOMAS, AMY

**Attorney of Record**

Matthew H. Swyers

Tapichulá

**To:** Robert Mintz ([scott.petersen@hklaw.com](mailto:scott.petersen@hklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86950631 - TAPACHULA - tapachula  
**Sent:** 7/7/2016 2:07:55 PM  
**Sent As:** ECOM101@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 **7/7/2016** FOR U.S. APPLICATION SERIAL NO. 86950631

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 **7/7/2016** (*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](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

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