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

Proceeding	85969016
Applicant	Michael Starr
Applied for Mark	VAPOR CUP
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Submission	Appeal Brief
Attachments	HDL Brief.pdf(85941 bytes) Exhibit A - Arizer Solo Stealth Adapter - Weedist.pdf(417595 bytes) Exhibit B -Vapocup Trademark Application.pdf(26092 bytes) Exhibit C - Vapocup Notice of Pseudo Mark.pdf(3056 bytes) Exhibit D - VapoCup Office Action.pdf(250552 bytes)
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Serial Nos. 85969016 and 85971474

Marks: VAPOR CUP and WEVAPS VAPOR CUP

Applicant: Michael Starr

Examining Attorney: Brian Pino

Law Office 114

EX PARTE APPEAL

APPLICANT'S BRIEF

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Applicant's Brief - Ex Parte Appeal: SN 85969016

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COMES NOW the Applicant, Michael Starr, by Counsel, and hereby respectfully appeals the Examining Attorney's refusal to register the marks VAPOR CUP and WEVAPS VAPOR CUP in standard characters.

DESCRIPTION OF RECORD

A. PROSECUTION HISTORY

On or about June 25, 2014, Applicant, acting without counsel, filed Applications No. 85969016 and 85971474 for "Vapor Cup" and "WeVaps Vapor Cup," respectively, in connection with electrically-powered handheld vaporizers for vaporizing vaporizable constituents of herbal and plant matter for creating an aroma. The goods are completely lawful and allowed for import and sale in all fifty states.

The examiner initially refused registration of "Vapor Cup" as merely descriptive and required a disclaimer of "Vapor Cup" in connection with "WeVaps Vapor Cup" on October 10, 2013, in a non-final office action. Applicant's counsel contacted the examiner following the initial office action in an effort to limit issues and find areas of agreement. In that conversation, the examiner stated that the only issue he had any uncertainty about was whether the mark at issue was generic or merely descriptive. The examiner advised Applicant's counsel not to even raise the issue that the mark was only suggestive, as he would not consider it.

The examiner's warning not withstanding, Applicant filed a response to the office action on April 4, 2014. In that response, Applicant sought to demonstrate that the objections raised by the examiner were not in keeping with past conduct of the Trademark Office and that the mark was only suggestive, not descriptive.

On April 24, 2014, the examining attorney issued a Final Refusal of Registration for the

marks VAPOR CUP and WEVAPS VAPOR CUP "Vapor Cup" merely descriptive[1].

In view of examiner's statements to Applicant's counsel, it was determined that a further effort to convince the examiner to reconsider his determination would be fruitless. Applicant's Notice of Appeal was timely filed on October 22, 2014.

Subsequent to the filing of Applicant's response to the first office action and the examiner's final refusal, an office action was issued in connection with application 86226640 for mark "Vapocup" Pursuant to a Psuedomark notice issued April 4, 2014, the mark "Vapocup" is functionally identical to the mark "Vapor Cup." The goods identified in connection with application 86226640, while not identical to those applied for by Applicant, are extremely similar. The goods are so similar, in fact, that the examiner in that matter, Tina Brown, suspended the examination process for application 86226640 pending the prosecution of Applicant's applications. In the office action concerning application 86226640, no objection is raised concerning the mark being either generic or merely descriptive.

B. EXAMINING ATTORNEY'S EVIDENCE

The evidence attached to the October 10, 2013 Office Action ("First Office Action") consists of

1. Yahoo Dictionary Definition of "vapor" page 1

2 Yahoo Dictionary Definition of "vapor" page 2

3. Yahoo Dictionary Definition of "cup" page 1

4. Yahoo Dictionary Definition of "cup" page 1

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[1] The examiner also stated that the applications were refused for the requirement of information, but all information requested in both the First and Second Office actions were responded to by Applicant in his response to the First Office Action and all documentation then available had already been supplied to the examiner.

5. Yahoo Dictionary Definition of “vaporizer”

6. Everybodydoesit.com selling “Vapor Herbal and Aromatherapy Vaporizers” part 1

7. Everybodydoesit.com selling “Vapor Herbal and Aromatherapy Vaporizers” part 2

8. Everybodydoesit.com selling “Vapor Herbal and Aromatherapy Vaporizers” part 3

9. Everybodydoesit.com selling “Vapor Herbal and Aromatherapy Vaporizers” part 4

10. Everybodydoesit.com page discussing vaporizers and vaporization part 1

11. Everybodydoesit.com page discussing vaporizers and vaporization part 2

12. Everybodydoesit.com page discussing vaporizers and vaporization part 3

13. Everybodydoesit.com page discussing vaporizers and vaporization part 4

14. Everybodydoesit.com page discussing vaporizers and vaporization part 5

15. Page from TheVaporShop.com selling herbal vaporizers part 1

16. Page from TheVaporShop.com selling herbal vaporizers part 2

17. Wikipedia.com entry for “Vaporizing (inhalation device)” part 1

18. Wikipedia.com entry for “Vaporizing (inhalation device)” part 2

19. Wikipedia.com entry for “Vaporizing (inhalation device)” part 3

20. Wikipedia.com entry for “Vaporizing (inhalation device)” part 4

21. Wikipedia.com entry for “Vaporizing (inhalation device)” part 5

22. Trademark Registration for mark “Gentle Vapors” part 1

23. Trademark Registration for mark “Gentle Vapors” part 2

24. Trademark Registration for mark “Gentle Vapors” part 3

25. Trademark Registration for mark “Eureka Vapor” part 1

26. Trademark Registration for mark “Eureka Vapor” part 2

27. Homepage from Vaporcup.com as of 9/9/13 part 1

28. Homepage from Vaporcup.com as of 9/9/13 part 2

29. Instructions page from Vaporcup.com as of 9/3/13 part 1

30. Instructions page from Vaporcup.com as of 9/3/13 part

The evidence attached to the April 24, 2014 Office Action ("Second Office Action") consists of

1. Image of an Arizer Solo vaporizer that has been placed into a beverage container.

2. VaporBros.com web page that uses both words vapor and vaporizer part 1

3. VaporBros.com web page that uses both words vapor and vaporizer part 2

4. Vapornation.com web page showing vaporizers and vaporizer parts for sale.

5. Vaporgiant.com web page selling vaporizers part 1

6. Vaporgiant.com web page selling vaporizers part 2

7. Vaporgiant.com web page selling vaporizers part 3

8. VaporX.com web page

9. Vaporshop.com web page selling vaporizers part 1

10. Vaporshop.com web page selling vaporizers part 2

11. Buyvaporizers.com web page selling vaporizers part 1

12. Buyvaporizers.com web page selling vaporizers part 2

13. Random unidentified web page referring to "vapor vaporizers" part 1

14. Random unidentified web page referring to "vapor vaporizers" part 2

15. VaporBros.com web page selling vaporizers part 1

16. VaporBros.com web page selling vaporizers part 2

17. WorldVapor.com webpage selling e-cigarettes, eliquids and equipment part 1

18. WorldVapor.com webpage selling e-cigarettes, eliquids and equipment part 2

19. Trademark Registration for mark "Vapir" part 1

20. Trademark Registration for mark "Vapir" part 2

21. Trademark Registration for mark "Vapor Experts" part 1

22. Trademark Registration for mark "Vapor Experts" part 2

23. Trademark Registration for mark "Hot Box Vapors" part 1

24. Trademark Registration for mark "Hot Box Vapors" part 2

25. Trademark Registration for mark "Vapor Dub" part 1

26. Trademark Registration for mark "Vapor Dub" part 2

27. Trademark Registration for mark "Vapor Dub" part 3

28. Random images from Yahoo.com of beverage containers with straws part 1[2]

29. Random images from Yahoo.com of beverage containers with straws part 2

30. Random images from Yahoo.com of beverage containers with straws part 3

C. APPLICANT'S EVIDENCE

Evidence attached to Applicant's April 4, 2014, Response to Office Action

Applicant's argument (5 pages)

Advertisements, obtained from the web, showing actual use of the following registered marks.

Reg. No.	Mark	Goods	Disclaimer
439171	Creature Cups	Cups and Mugs	"Cups" is Disclaimed
3825078	Compost-A-Cup	Disposable cups	No disclaimer

[2] We note that examiner's search was for "cup with straw." If examiner conducted a search for just "cup" it was not included in the office action. "Straw has no bearing on the marks in question and serve only to skew the examiner's search results.

1813921	Cup Noodles	Noodles	"Noodles" is disclaimed
3872220	Cup Corn	Pop Corn	"Corn" is Disclaimed
1522790	Fruit in Gel Cup	Canned Fruit in Gelatin	"Fruit in Gel" is Disclaimed
0918135	Fruit Cup	Canned Fruit	"Fruit" is Disclaimed
3192344	Gas Walker	non-metal liquid fuel containers	

Applicant also submitted a copy of his patent application relating to goods to be sold under the "Vapor Cup" and "WeVaps Vapor Cup" marks, and an extensive list of additional registered marks using "cup" or "vapor," and analogous terms, for the examiner's consideration.[3]

Submitted herewith

Exhibit	Content
A.	Full page showing source of Examiner's Exhibit 1 from Second Office Action
B.	Trademark Application 86226640 for mark "Vapocup"
C.	Notice of Pseudo Mark of "Vapor Cup" in Application 86226640
D.	Office Action relating to Application 86226640 for mark "Vapocup" (11 pages)

ARGUMENT

A. LEGAL STANDARDS

A mark is merely descriptive if it "forthwith conveys an immediate idea of the

[3] While Applicant acknowledges that the appropriate method for bringing such marks to the examiner's attention is to submit copies of the registrations, or the complete electronic equivalent from the USPTO's automated systems, prior to appeal, In re Jump Designs LLC, 80 USPQ2d 1370, 1372-73 (TTAB 2006); In re Ruffin Gaming, 66 USPQ2d 1924, 1925 n.3; TBMP §1208.02; TMEP §710.03, it does appear that the examiner reviewed these submissions and disregarded them out of hand, seemingly taking the position that simply because prior grants of registration are not binding on an examiner, they have no relevance at all.

ingredients, qualities or characteristics of the goods." Abercrombie & Fitch Company v. Hunting World, Incorporated, 537 F.2d 4, 189 USPQ 759, 765 (2d Cir. 1976). See also, In re Abcor Development Corporation, 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, in order to be merely descriptive, the mark must immediately convey information as to the ingredients, qualities or characteristics of the goods or services with a "degree of particularity." See In re TMS Corporation of the Americas, 200 USPQ 57, 59 (TTAB 1978).

Further, it is well established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods. See In re Consolidated Cigar Co., 35 USPQ2d 1290, 1293 (TTAB 1995).

A mark is suggestive if, when the goods or services are encountered under the mark, a multi-stage reasoning process, or the utilization of imagination, thought or perception, is required in order to determine what attributes of the goods or services the mark indicates. See, e.g., In re Abcor Development Corp., supra at 218, and In re Mayer-Beaton Corp., 223 USPQ 1347, 1349 (TTAB 1984). See also In re Nett Design, Inc. 236 F.3d 1339, 1341 (Fed. Cir. 2001). Suggestive marks are registrable. “[E]ven highly suggestive marks are entitled to protection.” In re Ctr. for Med. Surgical Hair Restoration P.C., 1997 TTAB Lexis 64, *8 (TTAB 1997)

As has often been stated, there is a thin line of demarcation between a suggestive mark and a merely descriptive one, with the determination of which category a mark falls into frequently being a difficult matter involving a good measure of subjective judgment. See, e.g., In re Atavio, 25 USPQ2d 1361, 1362 (TTAB 1992) and In re TMS Corp. of the Americas, supra.

The distinction, furthermore, is often made on an intuitive basis rather than as a result of precisely logical analysis susceptible of articulation. See In re George Weston Ltd., 228 USPQ 57, 58 (TTAB 1985).

Prior actions of examining attorneys in assertedly analogous situations are not binding. See In re Nett Designs Inc., supra at 1342 ["Even if some prior registrations had some characteristics similar to [applicant's] application, the PTO's allowance of such prior registrations does not bind the board or this court."]. While prior registrations are not binding, they, and other actions of the United States Patent and Trademark Office, are relevant to this body's inquiry. See, e.g. In re Scott Paper Company, 180 USPQ 283 (TTAB1973). This is so because a uniform standard for assessing registrability of marks is desirable, See In Re Nett Designs, supra, at 1342 ("Needless to say, this court encourages the PTO to achieve a uniform standard for assessing registrability of marks"). See also Midwestern Pet Foods, Inc., 2009 TTAB LEXIS 43, *8, (TTAB 2009) ("Certainly it is desirable to provide equal treatment to applicants under the Trademark Act.")

When dealing with a compound mark, "it does not follow, however, that because the components of a compound mark are descriptive, ... the mark in its entirety is descriptive." Firestone Tire & Rubber Co. v. Goodyear Tire & Rubber Co., 186 USPQ 557, 559 (TTAB 1975). Instead, the issue of whether a combination of descriptive terms is registrable depends not on the descriptiveness of the terms individually but whether the combination thereof creates a new and different commercial impression. See, e.g., In re Colonial Stores Inc., 394 F.2d 549, 157 USPQ 382, 384-85 (CCPA 1968). Consequently, it is well established that otherwise descriptive terms may be combined to form an arbitrary unitary designation which may function as a

trademark and hence is registrable. See In Re Ron Matusalem, Inc., 196 USPQ. 458, 460 (TTAB 1977) and cases cited therein.

"The mere act of combining does not in itself render the resulting composite a registrable trademark. Rather, it must be shown that in combination the descriptiveness of the individual words has been diminished, [such] that the combination creates a term so incongruous or unusual as to possess no definitive meaning or significance other than that of an identifying mark for the goods. See In re Calspan Technology Products, Inc., 197 USPQ 647 (TTAB 1977)." In re Medical Disposables Co., 25 USPQ2d 1801, 1804 (TTAB 1992)

A conclusion that Applicant's marks are suggestive rather than merely descriptive is bolstered by the absence of evidence of others using the term descriptively in connection with the intended goods. See, e.g., In re Wells Fargo & Co., 231 USPQ 116, 119 (TTAB 1986) ["the absence from this record of evidence of any descriptive use of the term 'Express Savings' by others in the field of banking reinforces our view that the Examining Attorney's mere descriptiveness holding is in error"]. See also In re Matsushita Electric Corporation of America, 2002 TTAB Lexis 488, *13-*14 (TTAB 2002).

A grant of trademark rights to the Applicant for a compound mark "would pertain only to the specific designation ... and cannot serve to preclude fair use of the [individual] terms ...by others in the trade to describe the nature of their [goods].... And, if t[he applied for mark] is a term of art, a fact not revealed by the Examiner's record, the trade can seek to preclude the registration through the opposition practice provided for in Section 13. See: Pacific Industries, Inc. v. Minnesota Mining and Manufacturing Co., 165 USPQ 631 (CCPA, 1970); and Exxon Corporation v. FillRUp Systems, Inc., 182 USPQ 443 (TTAB, 1974)." See In Re Ron

Matusalem, Inc., supra at 460.

The Examining Attorney bears the burden of showing that a mark is merely descriptive of the identified goods or services. In re Advance Watch Co., 1996 TTAB Lexis 178, *2 (TTAB 1996). Any doubt which the USPTO or this tribunal may have regarding the suggestive character of the mark in favor of Applicant and the mark should be published for opposition. See In re Rank Organization Ltd., 222 USPQ 324, 326 (TTAB 1984) and cases cited therein.

B. ANALYSIS

The mark at issue here is not merely descriptive. In this case, the term "Vapor Cup" is a coined compound mark, with no inherent meaning within the relevant industry. It is, at worst, suggestive of Applicant's goods. The actions of the Trademark Office itself demonstrate this.

I EXAMINER'S EXHIBITS

a. The Examiner's Exhibits Strengthen the Case for Allowing "Vapor" as an element of a mark for Vaporizers.

The exhibits submitted by the examiner do not justify denial of registration, or the demanded disclaimer, for Applicant's marks. The examiner's exhibits, in fact, go to show that "Vapor" is a common element of compound marks used in connection with the sale of vaporizers. Examiner's exhibits 15, 16, and 22 through 26 from the First Office Action as well as Exhibits 2 through 10, and 15 through 27 from the Second Office Action, all show marks, some of them registered some not, making use of "Vapor" or a variant thereof. Indeed, the mark "Vapir" (Exhibits 19 and 20 to the Second Office Action) is not even a composite mark.

The exhibits introduced by the examiner that utilize both the words "vapor" and

"vaporizer" primarily use "vapor" in a trade name or trademark sense. The examiner's exhibits fail to evidence a public perception linking the two words. In an effort to meet the examiner's objections and avoid the need for this proceeding, Applicant offered to disclaim exclusivity of the term "vapor" except as used in the instant marks, but this did not satisfy the examiner.

b. The Examiner's Exhibits Fail to Show That the Term "Cup" is Descriptive of Applicant's Goods.

The only exhibits submitted by the examiner that relate to cups are Exhibits 3 and 4 of the First Office action (Dictionary definition of "cup"), Exhibit 1 of the Second Office Action (A picture of a vaporizer that has been placed in a beverage container) and Exhibits 27-30 of the Second Office Action (random images from Yahoo.com of beverage containers with straws). Of these, the only one that has any connection between vaporizers and beverage containers is Exhibit 1 from the Second Office Action. Annexed hereto, as Applicant's Exhibit A, is the original page from which the picture in Exhibit 1 from the Second Office Action was derived. As can be clearly seen, the vaporizer and beverage container are separate items. Someone has simply put a vaporizer in a beverage container. The items are not sold or marketed together and there is no reason to believe the public associates such beverage container with vaporizers.

The only evidence introduced by the examiner that supposedly demonstrates that "cup" is an aspect of Applicant's goods is a Yahoo Dictionary definition of "cup." It is the eleventh of twelve possible noun definitions ("a cuplike object") that the examiner relies on. There is nothing in the examiner's evidence, or in the office action, that indicates that the public considers this to be a primary or prevalent definition of "cup."

In fact, the Vapor Cup is not a "cup" in the sense the public thinks of "cup" or in the

sense that the definition refers to. It is not a "small open container, usually with a bottom and a handle, used for drinking." The Vapor Cup, as demonstrated in the drawings submitted to the examiner as part of Applicant's patent application, does not meet this definition. It has no handle, it is not an open container, and it is not used for drinking. It has no "bottom" in the sense of a saucer. Nor does it meet any of the other first ten definitions (nor the 12th) of "cup" supplied by the examiner. Not meeting any of these definitions, it is unclear how the Vapor Cup can meet the definition of a "cuplike object." It is not a cup, does not function as a cup, and it is not cup like. The term "cup" is not descriptive of the Vapor Cup.

At most, therefore, "cup" is suggestive of Applicant's goods, requiring a multi-stage reasoning process, or the utilization of imagination, thought or perception, in order to determine what attributes of the goods or services the mark indicates, In re Abcor Development Corp., supra. Even should this Board find that "Vapor Cup" is "highly suggestive" of Applicant's goods, it is still entitled to registration and protection. See In re Ctr for Med. Surgical Hair Restoration P.C., supra (Finding "Micrograph" only highly suggestive of hair transplants that used micro grafting techniques, and, therefore, registerable).

Even if one deems "vapor" to be descriptive of vaporizers, and for the reasons stated above, Applicant does not agree that to be the case, there is no reason to deny Applicant his registration for the marks "Vapor Cup" or WeVaps Vapor Cup which couple "vapor" with the non-descriptive mark "cup," nor should "Cup" have to be disclaimed. See TMEP Section 1213.05(a) ("If a compound word mark consists of an unregistrable component and a registrable component combined into a single word, no disclaimer of the unregistrable component of the compound word will be required. See In re EBS Data Processing, Inc., 212 USPQ 964, 966

(TTAB 1981)").

II "VAPOR CUP" AS A UNIFIED COMPOUND MARK

Vapor Cup is a unified compound mark, treated by Applicant, and presumably consumers, as a single entity. Even if this Board were to conclude that both the terms "Vapor" and "Cup" were descriptive of Applicant's goods, a finding which Applicant believes flies in the face of the evidence and arguments set out above, that would not be the end of the inquiry. Although the examiner made no findings or even examination on the issue, it is well established law that

> a term sought to be registered may consist of two or more terms which are descriptive of features of a product does not necessarily render their combination in a compound expression descriptive within the meaning of the Trademark Act. In these cases, if analysis is required on the part of the purchaser or prospective purchaser to understand the terms' significance in relation to the product, then the compound term is sometimes removed from the category of mere descriptiveness. In re Geo. A. Hormel & Co., 218 USPQ 2286, 2287 (TTAB 1983).

As previously stated in Applicant's response to the First Office Action, there is no such thing as a "vapor cup" in the field of vaporizers. The only Exhibits the examiner has produced that relate to this point are exhibits 27 - 30 of the First Office Action. These purport to be pages from the website vaporcup.com, or at least the text thereof, from September, 2013. While VaporCup.com is presently owned by Applicant, at that time it was owned by an unrelated, non-involved third party, who at one time also sought to utilize the compound mark in a trade, not

descriptive, sense. The record shows no evidnce that such individual ever actually marketed any vaporizers.

There is, in fact, nothing on the record that shows "Vapor Cup" having any inherent meaning with regards to vaporizers, nor any descriptive usage of the mark with respect to vaporizers. The absence of such evidence bolster's Applicant's argument that Vapor Cup is, at worst, suggestive. (A conclusion that applicant's mark is suggestive rather than merely descriptive is bolstered by the fact that there is no evidence of others using the term in connection with the intended goods. See, e.g., In re Wells Fargo & Co., supra). See also In re Matsushita Electric Corporation of America, supra.

"Vapor Cup," as a unitary compound mark, is not descriptive of anything, has not been used as a descriptive term for vaporizers and, indeed, the examiner does not argue against any of these points. Vapor Cup is, at worst, suggestive for an item that is neither vapor nor a cup.

III. THE TRADEMARK OFFICE'S OWN ACTIONS PROVE THAT THERE IS DOUBT AS TO THE DESCRIPTIVE VS SUGGESTIVE CATEGORIZATION OF "VAPOR CUP."

Applicant acknowledges that "As has often been stated, there is a thin line of demarcation between a suggestive mark and a merely descriptive one, with the determination of which category a mark falls into frequently being a difficult matter involving a good measure of subjective judgment... The distinction, furthermore, is often made on an intuitive basis rather than as a result of precisely logical analysis susceptible of articulation." In re Calpis Co., 2001 TTAB LEXIS 434, *4 (TTAB, 2001) and cases cited there in.

When faced with such a situation as this, the Trademark Trial and Appeals Board almost exclusively has to rely on a single examiner's judgment as to where on the spectrum between generic and arbitrary a mark falls. Judgments of other examiners as to prior decisions are not binding, and, since they are from a different time, for only similar goods and/or marks, their relevance and guidance is, at best, limited. This matter presents a situation that is certainly unusual and possibly unique. Two applicants have applied for functionally the same mark at roughly the same time for extremely related goods. In one of these two case, the one before this body, applications have been rejected because the examiner adjudged the mark to be merely descriptive. In the second of these two cases, Application 86226640 for mark "Vapocup," the examiner issued an Office Action on June 26, 2014[4], which raises no issues concerning descriptiveness, but puts the application into suspension because of the close relationship between the goods in Application 86226640 and the goods in Applicant's applications.

Simply put, both examiners cannot be correct. Either the mark Vapor Cup is merely descriptive or it is not. "Vapor Cup" cannot be merely descriptive for Applicant Michael Starr, but suggestive for the closely related goods of Applicant Products 2 Retail, Inc. This board is faced with an extreme difference of judgment between the two examiners. The examiner in the instant matter told counsel not to even argue for suggestiveness, as his only issue was determining between declaring the mark generic or merely descriptive. With regards to the

[4] The Office Action was issued after issuance of both Applicant's Response to the First Office Action and Examiner's Second Office Action herein. Applicant only became aware of the office action with regards to Application 86226640 while preparing its brief herein, too late to bring it to the examiner's attention. The relevant documents are annexed as exhibits to this brief. Should this Board feel they cannot take notice of these documents, which are part of an active and pending matter before the PTO, then Applicant respectfully requests that the matter be remanded to the examiner to consider such evidence as it relates to his stated view that there is no way the mark "Vapor Cup" is suggestive.

Products 2 Retail, Inc. application, the examiner saw no reason to declare the mark even descriptive, let alone generic.

The important issue here is not which examiner is "right," if right can have a meaning in an admittedly subjective judgment. The difference in the judgments of the two USPTO examiners is stark evidence that there is doubt as to whether the mark Vapor Cup is merely descriptive or suggestive. It is impossible to say there is no such doubt when faced with the Office Action in the Products 2 Retail, Inc. application. Any doubt which the USPTO or this tribunal may have regarding the suggestive character of the mark must be resolved in favor of Applicant and the mark should be published for opposition. See In re Rank Organization Ltd., supra and cases cited therein. Registrability must not depend on the random assignment of an application to examiner Pino as opposed to examiner Brown.

Any other finding would constitute blatantly unequal treatment of the two applicants and lead to the anomalous situation where Applicant Michael Starr, the senior applicant, would find himself denied a registration and in the position of having to fight the grant of registration of the functionally identical mark on extremely similar goods to Products 2 Retail, Inc. Starr would be forced to argue the exact opposite of his position herein, and would likely have this brief introduced as evidence against him and in support of Products 2 Retail, Inc.'s position that the mark is registrable. Should this Board rule against Applicant in this matter, it could well result in Mr. Starr, the first to seek registration for and, it is believed, the first to use the mark, being sued for infringement by Products 2 Retail, Inc. This Board can prevent such an unjust and indefensible situation by treating both applicants equally and finding that Mr. Starr's usage of the mark "Vapor Cup" is just as protectable as Products 2 Retail's usage would have been had Mr.

Starr not sought registration first.

CONCLUSION

The Examining Attorney has failed to meet his burden to demonstrate the Applicant's Vapor Cup mark and the "Vapor Cup" aspect of the "WeVaps Vapor Cup" mark are merely descriptive. The actions of the Trademark Office in regards to application no. 86226640 show that, at the very least, there is serious doubt as to the "merely descriptive" refusal assessment. To the extent there exists any doubt in the "merely descriptive" refusal assessment after weighing relevant factors, the Board must resolve any such doubt in favor of Applicant.

In light of the above, Applicant respectfully requests that the Board grant this Ex Parte Appeal and direct publication for opposition of both the Vapor Cup and WeVaps Vapor Cup marks.

Dated this 21st day of December, 2014

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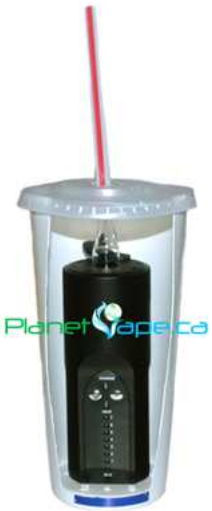
Gear (http://www.weedist.com/category/gear/) August 14, 2012

Arizer Solo Stealth Adapter (http://www.weedist.com/2012/08/arizer-solo-stealth-adapter/)

Rob Schmidt (http://www.weedist.com/author/lakota/)
(http://www.weedist.com/author/lakota/)

If you own an Arizer Solo battery powered portable vaporizer (http://www.weedist.com/2012/07/arizer-solo-portable-battery-powered-vaporizer/), you should also own the Arizer Solo Stealth adapter (http://www.planetvape.ca/solo-stealth-adapter.html). The Arizer Solo Stealth adapter allows you to hide your Arizer Solo (http://www.amazon.com/gp/product/B005CXAJHY/ref=as_li_ss_tl?ie=UTF8&tag=fortof-20&linkCode=as2&camp=1789&creative=390957&creativeASIN=B005CXAJHY) in a common fast food chain soft drink cup and pull your vapor through it's straw!



We were already fans of the Arizer Solo battery powered portable vaporizer (http://www.weedist.com/2012/07/arizer-solo-portable-battery-powered-vaporizer/), a discreet vaporizer with adjustable temperature control, which allows you to get the most out of your cannabinoids (http://www.weedist.com/2012/07/tailoring-high-compounds-in-cannabis-properties-boiling-points/). The Arizer Solo Stealth Adapter just makes the Arizer Solo a lot more fun because vaporizing cannabis is now almost 100% discreet! You can now take your weed out in public and enjoy vaporizing marijuana during your everyday adventures. Every weedist should experience the freedom that this setup provides.

If you buy an Arizer Stealth adapter (http://www.planetvape.ca/solo-stealth-adapter.html) it will either turn into a regular tool or a once-in-a-while conversation piece. You can purchase the glass whip online (http://www.planetvape.ca/solo-stealth-adapter.html), but you will need to provide the clean soft drink cup and straw. ***Pro tip: don't forget to poke enough holes in the bottom of your cup so that you can pull air through for your hit.***

Arizer Solo Stealth adapter manufacturer opportunity?

The only problem with this piece is that PlanetVape.ca is regularly out-of-stock. So it appears demand outstrips supply for these covert Arizer Solo vaporizer adapters. Does anyone know another source for Arizer Solo whip adapters? Or possibly a glass manufacturer who could make a similar piece? The stealth adapter is essentially a stubby glass whip that tapers from the Arizer Solo diameter down to the diameter of the inside of a typical fast food chain straw (see the gallery above). **Please let us know if you know a specialist that could make this kind of piece. (/contact)**

Arizer Solo Links

If you don't have an Arizer Solo yet, why not? Portable battery power, precise temperature control, and virtually no smell (certainly none like smoking marijuana). Take the plunge and purchase your Arizer Solo portable vaporizer on Amazon.com (http://www.amazon.com/gp/product/B005CXAJHY/ref=as_li_ss_tl?ie=UTF8&tag=fortof-20&linkCode=as2&camp=1789&creative=390957&creativeASIN=B005CXAJHY).

Categories: Features (http://www.weedist.com/category/features/), Gear (http://www.weedist.com/category/gear/), Vaporizers (http://www.weedist.com/category/consumption/vaporizers/), Weed Lifestyle (http://www.weedist.com/category/weed-lifestyle/)
Tags: arizer (http://www.weedist.com/tag/arizer/), portable vaporizers (http://www.weedist.com/tag/portable-vaporizers/), stealth (http://www.weedist.com/tag/stealth/).
By: (http://www.weedist.com/author/lakota/) Rob Schmidt (http://www.weedist.com/author/lakota/). **Permalink**: (http://www.weedist.com/2012/08/arizer-solo-stealth-adapter/)
Shortlink: http://weedi.st/XyR4N (http://weedi.st/XyR4N)

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House of Representatives Passes Legislation to Stop Legalization in D.C.
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Congress Passes Historic Medical Marijuana Protections in Spending Bill
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Piece of the Week | Purple Rain Rig
(http://www.weedist.com/image-post/piece-week-purple-rain-rig/)


(http://www.weedist.com/image-post/instafire-sticky-dab-dank-full-melt/)
Instafire: Sticky Dab of Dank Full Melt
(http://www.weedist.com/image-post/instafire-sticky-dab-dank-full-melt/)


(http://www.weedist.com/2014/12/product-review-v2-pro-series-3-portable-vaporizer/)
Product Review: V2 Pro Series 3 Portable Vaporizer
(http://www.weedist.com/2014/12/product-review-v2-pro-series-3-portable-vaporizer/)

MORE ARTICLES...

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 86226640
Filing Date: 03/20/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86226640
MARK INFORMATION	
***MARK**	VapoCup
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	VapoCup
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**	Products 2 Retail, Inc.
***STREET**	34 Kimberly Drive
***CITY**	Westhampton
***STATE** **(Required for U.S. applicants)**	New York
***COUNTRY**	United States
***ZIP/POSTAL CODE** **(Required for U.S. applicants only)**	11977
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	034
	Tobacco pipes; Tobacco cups; Smoking

*IDENTIFICATION	pipes; Smoking cups; Smoking paraphernalia, namely, smoking pipes and smoking cups for smoking tobacco and herbs.
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Michael A. Adler
ATTORNEY DOCKET NUMBER	10275.014
FIRM NAME	Davidoff Hutcher & Citron LLP
STREET	200 Garden City Plaza, Suite 315
CITY	Garden City
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	11530
EMAIL ADDRESS	maa@dhclegal.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Andrew Paul Cooper
CORRESPONDENCE INFORMATION	
NAME	Michael A. Adler
FIRM NAME	Davidoff Hutcher & Citron LLP
STREET	200 Garden City Plaza, Suite 315
CITY	Garden City
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	11530
EMAIL ADDRESS	maa@dhclegal.com;apc@dhclegal.com; jet@dhclegal.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325

SIGNATURE INFORMATION	
SIGNATURE	/Michael A. Adler/
SIGNATORY'S NAME	Michael A. Adler
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	03/20/2014

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 86226640
Filing Date: 03/20/2014

To the Commissioner for Trademarks:

MARK: VapoCup (Standard Characters, see mark)
The literal element of the mark consists of VapoCup.
The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Products 2 Retail, Inc., a corporation of New York, having an address of
34 Kimberly Drive
Westhampton, New York 11977
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:

International Class 034: Tobacco pipes; Tobacco cups; Smoking pipes; Smoking cups; Smoking paraphernalia, namely, smoking pipes and smoking cups for smoking tobacco and herbs.
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:
Michael A. Adler and Andrew Paul Cooper of Davidoff Hutcher & Citron LLP
200 Garden City Plaza, Suite 315
Garden City, New York 11530
United States
The attorney docket/reference number is 10275.014.
The applicant's current Correspondence Information:
Michael A. Adler
Davidoff Hutcher & Citron LLP
200 Garden City Plaza, Suite 315
Garden City, New York 11530
maa@dhclegal.com;apc@dhclegal.com; jet@dhclegal.com (authorized)

A fee payment in the amount of $325 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.

Declaration Signature

Signature: /Michael A. Adler/ Date: 03/20/2014
Signatory's Name: Michael A. Adler
Signatory's Position: Attorney of Record
RAM Sale Number: 86226640
RAM Accounting Date: 03/20/2014

Serial Number: 86226640
Internet Transmission Date: Thu Mar 20 10:23:19 EDT 2014
TEAS Stamp: USPTO/BAS-75.99.23.114-20140320102319321
451-86226640-5003b6b36b2e0213b68b2fbbe66
2b50709c51f3e12180b5aa592792e57ff6c0c476
-DA-10447-20140320100624020018

VapoCup

From:	TMDesignCodeComments
Sent:	Friday, April 4, 2014 00:17 AM
To:	maa@dhclegal.com
Cc:	apc@dhclegal.com ; jet@dhclegal.com
Subject:	Official USPTO Notice of Pseudo Mark: U.S. Trademark SN: 86226640: VAPOCUP: Docket/Reference No. 10275.014

Docket/Reference Number: 10275.014

The USPTO may assign pseudo marks, as appropriate, to new applications to assist in searching the USPTO database for conflicting marks. They have no legal significance and will not appear on the registration certificate.

A PSEUDO MARK may be assigned to marks that include words, numbers, compound words, symbols, or acronyms that can have alternative spellings or meanings. For example, if the mark comprises the words 'YOU ARE' surrounded by a design of a box, the pseudo mark field in the USPTO database would display the mark as 'YOU ARE SQUARE'. A mark filed as 'URGR8' would receive a pseudo mark of 'YOU ARE GREAT'.

Response to this notice is not required; however, to suggest additions or changes to the pseudo mark assigned to your mark, please e-mail TMDesignCodeComments@USPTO.GOV. You **must** reference your application serial number within your request. The USPTO will review the proposal and update the record, if appropriate. For questions, please call 1-800-786-9199 to speak to a Customer Service representative.

The USPTO will not send any further response to your e-mail. Check TESS in approximately two weeks to see if the requested changes have been entered. Requests deemed unnecessary or inappropriate will not be entered.

To view this notice and other documents for this application on-line, go to http://tdr.uspto.gov/search.action?sn=86226640. NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

Pseudo marks assigned to the referenced serial number are listed below.

PSEUDO MARK:

VAPOR CUP

To:	Products 2 Retail, Inc. (maa@dhclegal.com)
Subject:	U.S. TRADEMARK APPLICATION NO. 86226640 - VAPOCUP - 10275.014
Sent:	6/26/2014 7:13:26 PM
Sent As:	ECOM118@USPTO.GOV
Attachments:	Attachment - 1 Attachment - 2 Attachment - 3 Attachment - 4 Attachment - 5

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

U.S. APPLICATION SERIAL NO. 86226640

MARK: VAPOCUP

86226640

CLICK HERE TO RESPOND TO
http://www.uspto.gov/trademarks/teas/r

CORRESPONDENT ADDRESS:
MICHAEL A. ADLER
DAVIDOFF HUTCHER & CITRON LLP
200 GARDEN CITY PLZ STE 315
GARDEN CITY, NY 11530-3338

APPLICANT: Products 2 Retail, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO :
10275.014
CORRESPONDENT E-MAIL ADDRESS:
maa@dhclegal.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: 6/26/2014

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

SUMMARY OF ISSUES THAT APPLICANT MUST ADDRESS:

- SEARCH RESULTS: PRIOR-FILED APPLICATIONS
- REQUIREMENT: IDENTIFICATION OF GOODS CLARIFICATION NEEDED
- REQUIREMENT: ADDITIONAL INFORMATION ABOUT THE GOODS NEEDED

SEARCH RESULTS: PRIOR-FILED APPLICATIONS

The filing dates of pending U.S. Application Serial Nos. **85969016** and **85971474** precede applicant's filing date. See attached referenced applications at Exhibit A. If one or more of the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion with the registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the marks in the referenced applications. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

REQUIREMENT: IDENTIFICATION OF GOODS CLARIFICATION NEEDED

The wording "tobacco cups," "smoking cups," and "smoking cups for smoking tobacco and herbs" in the identification of goods is indefinite and must be clarified because the nature of the goods identified is unclear. Applicant must clarify the identification by specifying the nature of the goods as is shown in the suggested identification below. *See* TMEP §1402.01.

SUGGESTED IDENTIFICATION OF GOODS

Instructions and suggested changes are shown in bold text. Applicant may adopt the following identification of goods, if accurate:

INTERNATIONAL CLASS 34: Tobacco pipes; Tobacco cups**, namely, {specify the nature of the tobacco cups, e.g., tobacco spittoons, component parts of tobacco pipes}**; Smoking pipes; Smoking cups**, namely, {specify the nature of the smoking cups, e.g., tobacco spittoons, component parts of smoking pipes}**; Smoking paraphernalia, namely, smoking pipes and smoking cups**, namely, {specify the nature of the smoking cups, e.g., tobacco spittoons, component parts of smoking pipes}** for smoking tobacco and herbs

See TMEP §1402.01.

An applicant may only amend an identification to clarify or limit the goods, but not to add to or broaden the scope of the goods. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07.

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual* at http://tess2.uspto.gov/netahtml/tidm.html. *See* TMEP §1402.04.

REQUIREMENT: ADDITIONAL INFORMATION ABOUT THE GOODS NEEDED

To permit proper examination of the application, applicant must submit additional product information about the goods. *See* 37 C.F.R. §2.61(b); *In re AOP LLC*, 107 USPQ2d 1644, 1650-51 (TTAB 2013); *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814. The requested product information should include fact sheets, instruction manuals, and/or advertisements. If these materials are unavailable, applicant should submit similar documentation for goods of the same type, explaining how its own product will differ. If the goods feature new technology and no competing goods are available, applicant must provide a detailed description of the goods.

The submitted factual information must make clear how the goods operate, their salient features, and their prospective customers and channels of trade. Conclusory statements regarding the goods will not satisfy this requirement.

Failure to comply with a request for information can be grounds for refusing registration. *In re AOP LLC*, 107 USPQ2d at 1651; *In re DTI P'ship LLP*, 67 USPQ2d at 1701-02; TMEP §814. Merely stating that information about the goods is available on applicant's website is an inappropriate response to a request for additional information and is insufficient to make the relevant information of record. *See In re Planalytics, Inc.*, 70 USPQ2d 1453, 1457-58 (TTAB 2004).

ADVISORY: RESPONDING TO THIS OFFICE ACTION

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

OFFICE ACTION QUESTIONS: If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Tina Brown/
Examining Attorney
United States Patent and Trademark Office
Law Office 118
E: tina.brown@uspto.gov
P: 571-272-8864

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.

EXHIBIT A

DESIGN MARK

Serial Number
85969016

Status
FINAL REFUSAL - MAILED

Word Mark
VAPOR CUP

Standard Character Mark
Yes

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(4) STANDARD CHARACTER MARK

Owner
Michael Starr INDIVIDUAL UNITED STATES 17759 W Cape Jasmine Rd Canyon Country CALIFORNIA 91387

Goods/Services
Class Status -- ACTIVE. IC 011. US 013 021 023 031 034. G & S: Electrically-powered handheld vaporizers for vaporizing vaporizable constituents of herbal and plant matter for creating an aroma.

Filing Date
2013/06/25

Examining Attorney
PINO, BRIAN

Attorney of Record
Howard David Leib

Vapor Cup

DESIGN MARK

Serial Number
85971474

Status
FINAL REFUSAL - MAILED

Word Mark
WEVAPS VAPOR CUP

Standard Character Mark
Yes

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(4) STANDARD CHARACTER MARK

Owner
Michael Starr INDIVIDUAL UNITED STATES 17759 W Cape Jasmine Rd Canyon Country CALIFORNIA 91387

Goods/Services
Class Status -- ACTIVE. IC 011. US 013 021 023 031 034. G & S: Electrically-powered handheld vaporizers for vaporizing vaporizable constituents of herbal and plant matter for creating an aroma.

Translation Statement
The wording "WEVAPS" has no meaning in a foreign language.

Filing Date
2013/06/27

Examining Attorney
PINO, BRIAN

Attorney of Record
Howard David Leib

WeVaps Vapor Cup

To:	Products 2 Retail, Inc. (maa@dhclegal.com)
Subject:	U.S. TRADEMARK APPLICATION NO. 86226640 - VAPOCUP - 10275.014
Sent:	6/26/2014 7:13:27 PM
Sent As:	ECOM118@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 **6/26/2014** FOR U.S. APPLICATION SERIAL NO. 86226640

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 **6/26/2014** (*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.