

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85984162
LAW OFFICE ASSIGNED	LAW OFFICE 104
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/85984162/large
LITERAL ELEMENT	CLEARBAGS
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.

ARGUMENT(S)

Applicant has received the Office Action mailed August 4, 2016, which continues and makes final the descriptiveness and alternative generic refusal of the goods of this divisional application after the divided goods remaining in the parent were approved for publication and issued as U.S. Trademark Registration No. 5,070,852. Applicant expresses appreciation to the Examining Attorney for the careful attention, explanation and guidance provided by the Examining Attorney throughout the pendency of this and its related applications, including the Examining Attorney's helpful guidance during the January 16, 2017 telephone call with Applicant's representative regarding the likelihood of overcoming the descriptiveness and alternative generic refusals without an appeal.

Applicant has amended the identification of goods to clarify the phrasing of the previously recited goods, as well as to add recitations of the previously recited goods that further limit the previously recited goods. Applicant respectfully submits that its CLEARBAGS mark is neither descriptive nor generic when used in connection with a number of the clarified and further limited goods. As to the remaining goods, Applicant reasserts that its mark has acquired distinctiveness under Section 2(f) and is not generic of its goods, while also raising new grounds for registration on the Principal Register of the present mark.

Applicant's CLEARBAGS Mark is Not Descriptive of its "Colored" and "Paper" Goods

Applicant's identifications of goods, as amended, include goods in connection with which CLEARBAGS cannot be considered merely descriptive due to the current recitation of goods limiting some of the goods to colored plastic or polymer goods or paper goods, which are evidently not "clear," including:

Decorative colored plastic polymer food storage bags for household use;

Gift bags with handles, fabricated from a colored polymer;

Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags; and All-purpose carrying bags, all fabricated from a colored polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags.

In all nondescriptiveness determinations, the "commercial impression of a mark is derived from it as a whole, not from its elements separated and considered in detail. For this reason it should be considered in its entirety..." *Estate of P.D. Beckwith v. Commissioner*, 252 U.S. 538,

545-546 (1920). Moreover, in a nondescriptiveness analysis, any doubt under Section 2(e) about the merely descriptive nature of the mark should be resolved in favor of the Applicant. *In re Conductive Systems, Inc.*, 220 U.S.P.Q. 84, 86 (T.T.A.B. 1983). Also, "[t]he proper test of descriptiveness of a word is its meaning to that class of buyers who are prospective purchasers, which may or may not be synonymous with its popular meaning." McCarthy, J.T., McCarthy on Trademarks § 11.20 and accompanying notes (Fourth Ed. 1998)(hereinafter *McCarthy* (1998)).

Applicant's customers do not recognize CLEARBAGS as descriptive of the above referenced goods. Applicant's competitors have not used, and do not need to use, Applicant's mark to describe relevant competing goods. Accordingly, the commercial impression of Applicant's CLEARBAGS mark is not merely descriptive of the above reference goods, and Applicant respectfully requests indication that registration on the Principal Register is appropriate for its mark used in connection with the above referenced goods.

Applicant's CLEARBAGS Mark Has Acquired Distinctiveness and Is Not Generic of Any of Its Goods.

With respect to the remaining goods of this instant applicatino, Applicant respectfully maintains that it has established sufficient acquired distinctiveness under Section 2(f) for registration on the Principal Register. Applicant's evidence submitted with its September 25, 2015 response by way of the declarations of consumers, competitors, and industry experts sufficiently establishes that Applicant's mark as a trademark to distinguish Applicant's goods from the goods of others. Therefore, Applicant submits that the present mark is not descriptive of any of its goods

Furthermore, Applicant's CLEARBAGS mark is not generic. A mark is a generic name if it refers to the class or category of goods and/or services on or in connection with which it is used. In *re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807 (Fed. Cir. 2001), citing *H. Marvin Ginn Corp. v. International Association of Fire Chiefs, Inc.* 782 F.2d 987, 228 USPQ 528 (Fed. Cir. 1986). Further, it is beyond dispute that "the burden of showing that a proposed trademark is generic remains with the Patent and Trademark Office." In *re Merrill Lynch*, 828 F.2d 1567, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987). Moreover, it is incumbent upon the Examining Attorney to make a "substantial showing that the matter is in fact generic." *Merrill Lynch*, 4 USPQ2d at 1143. Indeed, this substantial showing "must be based on clear evidence of generic use." *Merrill Lynch*, 4 USPQ2d at 1143. Thus, "a strong showing is required when the Office seeks to establish that a term is generic." In *re K-T Zoe Furniture Inc.*, 16 F.3d 390, 29 USPQ2d 1787, 1788 (Fed. Cir. 1994). Moreover, any doubt whatsoever on the issue of genericness must be resolved in favor of the applicant. In *re Waverly Inc.*, 27 USPQ2d 1620, 1624 (TTAB 1993).

The Office Action has failed to establish that the relevant public understands that the mark CLEARBAGS primarily refers to the goods listed in the present application. The Office Action has provided no evidence meeting the applicable "clear evidence" standard to support the generic refusal. Accordingly, Applicant respectfully asserts that its mark is not generic.

Applicant now raises a new issue which has not previously been raised in the present application and which is believed to result in approval of the present mark for publication and subsequent registration on the Principal Register. The present mark is not generic because it comprises a double entendre or a double meaning that is not generic and is, therefore, entitled to registration. As explained in T.M.E.P. § 1213.05(c), a "mark that comprises the 'double entendre' will not be refused registration as merely descriptive if one of its meanings is not merely descriptive in relation to the goods or services." The following cases illustrate situations where marks were considered to be "double entendres" and, therefore, registrable unitary marks: In *re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (CCPA 1968) (SUGAR & SPICE for bakery products); In *re Tea and Sympathy, Inc.*, 88 USPQ2d 1062 (TTAB 2008) (holding THE FARMACY registrable for retail store services featuring natural herbs and organic products and related health and information services relating to dietary supplements and nutrition); In *re Simmons Co.*, 189 USPQ 352 (TTAB 1976) (THE HARD LINE for mattresses and bed springs); In *re Del. Punch Co.*, 186 USPQ 63 (TTAB 1975) (THE SOFT PUNCH for noncarbonated soft drink); In *re National Tea Co.*, 144 USPQ 286 (TTAB 1965) (NO BONES ABOUT IT for fresh pre-cooked ham). In the present case, the term "clear" has the meaning of distinct, evident, or plain. For example, the phrase the "clear choice" is known by consumers to mean the most "evident" choice. By the same token, the use of the term "clear" in the present mark is understood by consumers to refer to the most "evident" bag. The Office has granted several similar registrations that use the term "clear" in this same context. See, e.g., U.S. Registration Nos. 4,501,495 (CLEARCHOICE); 4,497,683 (CLEAR ARTS); 4,444,358 (CLEARLOGX). Thus, the applied-for-mark is not merely descriptive or generic because it has a double meaning or double entendre.

Conclusion

This response is fully responsive to the issues raised in the August 4, 2016 Office Action. Applicant respectfully submits that registration on the Principal Register is appropriate in light of this Response, and the same is respectfully requested. If any impediment to passing this mark onto publication remains after entry of this Response and consideration of these remarks the Examining Attorney is invited to initiate a telephone interview with the undersigned.

GOODS AND/OR SERVICES SECTION (016)(current)

INTERNATIONAL CLASS

016

DESCRIPTION

Decorative plastic polymer food storage bags for household use; gift bags with handles, fabricated from a polymer, paper bags, namely, flap

seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, bottom gusset bags, reclosable bags with or without hang holes; comic book bags, decorative food bags, ice cream cone bags, cupcake bags, gift bags with handles, and flat bags, general purpose polymer bags adapted for hanging from door knobs, polymer bags specifically adapted for carrying CDs and DVDs, bags specifically adapted for carrying jewelry, fabricated from a polymer, and polymer bait bags for holding live bait worms; polymer fly fishing tackle bags

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1996
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1996

GOODS AND/OR SERVICES SECTION (016)(proposed)

INTERNATIONAL CLASS	016
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TRACKED TEXT DESCRIPTION

Decorative plastic polymer food storage bags for household use; ~~gift bags with handles, fabricated from a polymer, paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, bottom gusset bags, reclosable bags with or without hang holes; Gift bags with handles, fabricated from a polymer; comic book bags, decorative food bags, ice cream cone bags, cupcake bags, gift bags with handles, and flat bags, general purpose polymer bags adapted for hanging from door knobs, polymer bags specifically adapted for carrying CDs and DVDs, bags specifically adapted for carrying jewelry, fabricated from a polymer, and polymer bait bags for holding live bait worms; Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags; Reclosable bags with or without hang holes; Comic book bags; Decorative food bags; Ice cream cone bags; Cupcake bags; Gift bags with handles; Flat bags; General purpose polymer bags adapted for hanging from door knobs; Polymer bags specifically adapted for carrying CDs and DVDs; Bags specifically adapted for carrying jewelry, fabricated from a polymer; Polymer bait bags for holding live bait worms; Polymer fly fishing tackle bags; Decorative colored plastic polymer food storage bags for household use; Gift bags with handles, fabricated from a colored polymer~~; [Gift bags with handles, fabricated from a polymer](#); [Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags](#); [Reclosable bags with or without hang holes](#); [Comic book bags](#); [Decorative food bags](#); [Ice cream cone bags](#); [Cupcake bags](#); [Gift bags with handles](#); [Flat bags](#); [General purpose polymer bags adapted for hanging from door knobs](#); [Polymer bags specifically adapted for carrying CDs and DVDs](#); [Bags specifically adapted for carrying jewelry, fabricated from a polymer](#); [Polymer bait bags for holding live bait worms](#); [Polymer fly fishing tackle bags](#); [Decorative colored plastic polymer food storage bags for household use](#); [Gift bags with handles, fabricated from a colored polymer](#)

FINAL DESCRIPTION

Decorative plastic polymer food storage bags for household use; Gift bags with handles, fabricated from a polymer; Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags; Reclosable bags with or without hang holes; Comic book bags; Decorative food bags; Ice cream cone bags; Cupcake bags; Gift bags with handles; Flat bags; General purpose polymer bags adapted for hanging from door knobs; Polymer bags specifically adapted for carrying CDs and DVDs; Bags specifically adapted for carrying jewelry, fabricated from a polymer; Polymer bait bags for holding live bait worms; Polymer fly fishing tackle bags; Decorative colored plastic polymer food storage bags for household use; Gift bags with handles, fabricated from a colored polymer

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1996
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1996

GOODS AND/OR SERVICES SECTION (018)(current)

INTERNATIONAL CLASS	018
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DESCRIPTION

All-purpose carrying bags, all fabricated from a polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/2002
FIRST USE IN COMMERCE DATE	At least as early as 00/00/2002

GOODS AND/OR SERVICES SECTION (018)(proposed)

INTERNATIONAL CLASS	018
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TRACKED TEXT DESCRIPTION

All-purpose carrying bags, all fabricated from a polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags; [All-purpose carrying bags, all fabricated from a colored polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags](#)

FINAL DESCRIPTION

All-purpose carrying bags, all fabricated from a polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags; All-purpose carrying bags, all fabricated from a colored polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 00/00/2002

FIRST USE IN COMMERCE DATE

At least as early as 00/00/2002

SIGNATURE SECTION

RESPONSE SIGNATURE

/Grant R. Clayton/

SIGNATORY'S NAME

Grant R. Clayton

SIGNATORY'S POSITION

Attorney of Record, Utah Bar Member

SIGNATORY'S PHONE NUMBER

801-255-5335

DATE SIGNED

02/06/2017

AUTHORIZED SIGNATORY

YES

CONCURRENT APPEAL NOTICE FILED

YES

FILING INFORMATION SECTION

SUBMIT DATE

Mon Feb 06 17:18:59 EST 2017

TEAS STAMP

USPTO/RFR-XX.XXX.XX.XX-20
170206171859306419-859841
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N/A-20170206171720736733

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PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **85984162** CLEARBAGS(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/85984162/large>) has been amended as follows:

ARGUMENT(S)

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

Applicant has received the Office Action mailed August 4, 2016, which continues and makes final the descriptiveness and alternative generic refusal of the goods of this divisional application after the divided goods remaining in the parent were approved for publication and issued as U.S. Trademark Registration No. 5,070,852. Applicant expresses appreciation to the Examining Attorney for the careful attention, explanation and guidance provided by the Examining Attorney throughout the pendency of this and its related applications, including the Examining Attorney's helpful guidance during the January 16, 2017 telephone call with Applicant's representative regarding the likelihood of overcoming the descriptiveness and alternative generic refusals without an appeal.

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Decorative colored plastic polymer food storage bags for household use;

Gift bags with handles, fabricated from a colored polymer;

Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags; and All-purpose carrying bags, all fabricated from a colored polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags.

In all nondescriptiveness determinations, the "commercial impression of a mark is derived from it as a whole, not from its elements separated and considered in detail. For this reason it should be considered in its entirety..." *Estate of P.D. Beckwith v. Commissioner*, 252 U.S. 538, 545-546 (1920). Moreover, in a nondescriptiveness analysis, any doubt under Section 2(e) about the merely descriptive nature of the mark should be resolved in favor of the Applicant. *In re Conductive Systems, Inc.*, 220 U.S.P.Q. 84, 86 (T.T.A.B. 1983). Also, "[t]he proper test of descriptiveness of a word is its meaning to that class of buyers who are prospective purchasers, which may or may not be synonymous with its popular meaning." McCarthy, J.T., McCarthy on Trademarks § 11.20 and accompanying notes (Fourth Ed. 1998)(hereinafter *McCarthy* (1998)).

Applicant's customers do not recognize CLEARBAGS as descriptive of the above referenced goods. Applicant's competitors have not used, and do not need to use, Applicant's mark to describe relevant competing goods. Accordingly, the commercial impression of Applicant's CLEARBAGS mark is not merely descriptive of the above reference goods, and Applicant respectfully requests indication that registration on the Principal Register is appropriate for its mark used in connection with the above referenced goods.

Applicant's CLEARBAGS Mark Has Acquired Distinctiveness and Is Not Generic of Any of Its Goods.

With respect to the remaining goods of this instant application, Applicant respectfully maintains that it has established sufficient acquired distinctiveness under Section 2(f) for registration on the Principal Register. Applicant's evidence submitted with its September 25, 2015 response by way of the declarations of consumers, competitors, and industry experts sufficiently establishes that Applicant's mark as a trademark to distinguish Applicant's goods from the goods of others. Therefore, Applicant submits that the present mark is not descriptive of any of its goods

Furthermore, Applicant's CLEARBAGS mark is not generic. A mark is a generic name if it refers to the class or category of goods and/or services on or in connection with which it is used. *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807 (Fed. Cir. 2001), citing *H. Marvin Ginn Corp. v. International Association of Fire Chiefs, Inc.* 782 F.2d 987, 228 USPQ 528 (Fed. Cir. 1986). Further, it is beyond dispute that "the burden of showing that a proposed trademark is generic remains with the Patent and Trademark Office." *In re Merrill Lynch*, 828 F.2d 1567, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987). Moreover, it is incumbent upon the Examining Attorney to make a "substantial showing that the matter is in fact generic." *Merrill Lynch*, 4 USPQ2d at 1143. Indeed, this substantial showing "must be based on clear evidence of generic use." *Merrill Lynch*, 4 USPQ2d at 1143. Thus, "a strong showing is required when the Office seeks to establish that a term is generic." *In re K-T Zoe Furniture Inc.*, 16 F.3d 390, 29 USPQ2d 1787, 1788 (Fed. Cir. 1994). Moreover, any doubt whatsoever on the issue of genericness must be resolved in favor of the applicant. *In re Waverly Inc.*, 27 USPQ2d 1620, 1624 (TTAB 1993).

The Office Action has failed to establish that the relevant public understands that the mark CLEARBAGS primarily refers to the goods listed in the present application. The Office Action has provided no evidence meeting the applicable "clear evidence" standard to support the generic refusal. Accordingly, Applicant respectfully asserts that its mark is not generic.

Applicant now raises a new issue which has not previously been raised in the present application and which is believed to result in approval of the present mark for publication and subsequent registration on the Principal Register. The present mark is not generic because it comprises a double entendre or a double meaning that is not generic and is, therefore, entitled to registration. As explained in T.M.E.P. § 1213.05(c), a "mark that comprises the 'double entendre' will not be refused registration as merely descriptive if one of its meanings is not merely descriptive in relation to the goods or services." The following cases illustrate situations where marks were considered to be "double entendres" and, therefore, registrable unitary marks: In re Colonial Stores Inc., 394 F.2d 549, 157 USPQ 382 (CCPA 1968) (SUGAR & SPICE for bakery products); In re Tea and Sympathy, Inc., 88 USPQ2d 1062 (TTAB 2008) (holding THE FARMACY registrable for retail store services featuring natural herbs and organic products and related health and information services relating to dietary supplements and nutrition); In re Simmons Co., 189 USPQ 352 (TTAB 1976) (THE HARD LINE for mattresses and bed springs); In re Del. Punch Co., 186 USPQ 63 (TTAB 1975) (THE SOFT PUNCH for noncarbonated soft drink); In re National Tea Co., 144 USPQ 286 (TTAB 1965) (NO BONES ABOUT IT for fresh pre-cooked ham). In the present case, the term "clear" has the meaning of distinct, evident, or plain. For example, the phrase the "clear choice" is known by consumers to mean the most "evident" choice. By the same token, the use of the term "clear" in the present mark is understood by consumers to refer to the most "evident" bag. The Office has granted several similar registrations that use the term "clear" in this same context. See, e.g., U.S. Registration Nos. 4,501,495 (CLEARCHOICE); 4,497,683 (CLEAR ARTS); 4,444,358 (CLEARLOGX). Thus, the applied-for-mark is not merely descriptive or generic because it has a double meaning or double entendre.

Conclusion

This response is fully responsive to the issues raised in the August 4, 2016 Office Action. Applicant respectfully submits that registration on the Principal Register is appropriate in light of this Response, and the same is respectfully requested. If any impediment to passing this mark onto publication remains after entry of this Response and consideration of these remarks the Examining Attorney is invited to initiate a telephone interview with the undersigned.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 016 for Decorative plastic polymer food storage bags for household use; gift bags with handles, fabricated from a polymer, paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, bottom gusset bags, reclosable bags with or without hang holes; comic book bags, decorative food bags, ice cream cone bags, cupcake bags, gift bags with handles, and flat bags, general purpose polymer bags adapted for hanging from door knobs, polymer bags specifically adapted for carrying CDs and DVDs, bags specifically adapted for carrying jewelry, fabricated from a polymer, and polymer bait bags for holding live bait worms; polymer fly fishing tackle bags

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 00/00/1996 and first used in commerce at least as early as 00/00/1996, and is now in use in such commerce.

Proposed:

Tracked Text Description: Decorative plastic polymer food storage bags for household use; ~~gift bags with handles, fabricated from a polymer, paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, bottom gusset bags, reclosable bags with or without hang holes; Gift bags with handles, fabricated from a polymer; comic book bags, decorative food bags, ice cream cone bags, cupcake bags, gift bags with handles, and flat bags, general purpose polymer bags adapted for hanging from door knobs, polymer bags specifically adapted for carrying CDs and DVDs, bags specifically adapted for carrying jewelry, fabricated from a polymer, and polymer bait bags for holding live bait worms; Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags; Reclosable bags with or without hang holes; Comic book bags; Decorative food bags; Ice cream cone bags; Cupcake bags; Gift bags with handles; Flat bags; General purpose polymer bags adapted for hanging from door knobs; Polymer bags specifically adapted for carrying CDs and DVDs; Bags specifically adapted for carrying jewelry, fabricated from a polymer; Polymer bait bags for holding live bait worms; Polymer fly fishing tackle bags; Decorative colored plastic polymer food storage bags for household use; Gift bags with handles, fabricated from a colored polymer~~

Class 016 for Decorative plastic polymer food storage bags for household use; Gift bags with handles, fabricated from a polymer; Paper bags, namely, flap seal bags, protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, and bottom gusset bags; Reclosable bags with or without hang holes; Comic book bags; Decorative food bags; Ice cream cone bags; Cupcake bags; Gift bags with handles; Flat bags; General purpose polymer bags adapted for hanging from door knobs; Polymer bags specifically adapted for carrying CDs and DVDs; Bags specifically adapted for carrying jewelry, fabricated from a polymer;

Polymer bait bags for holding live bait worms; Polymer fly fishing tackle bags; Decorative colored plastic polymer food storage bags for household use; Gift bags with handles, fabricated from a colored polymer

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 00/00/1996 and first used in commerce at least as early as 00/00/1996 , and is now in use in such commerce.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 018 for All-purpose carrying bags, all fabricated from a polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 00/00/2002 and first used in commerce at least as early as 00/00/2002 , and is now in use in such commerce.

Proposed:

Tracked Text Description: All-purpose carrying bags, all fabricated from a polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags; [All-purpose carrying bags, all fabricated from a colored polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags](#)

Class 018 for All-purpose carrying bags, all fabricated from a polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags; All-purpose carrying bags, all fabricated from a colored polymer, and all for travel, and not as packaging, namely, flap seal bags, protective closure bags, laminated protective closure bags, flap bags, hanging bags, protective closure hanging bags, gusset bags, side gusset bags, flat bottom gusset bags, heavy duty gusset bags, clear print gusset bags, bottom gusset bags, reclosable bags, with and without hang holes, comic book bags, cone-shaped bags, roll bags

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 00/00/2002 and first used in commerce at least as early as 00/00/2002 , and is now in use in such commerce.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Grant R. Clayton/ Date: 02/06/2017

Signatory's Name: Grant R. Clayton

Signatory's Position: Attorney of Record, Utah Bar Member

Signatory's Phone Number: 801-255-5335

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

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