

To: Pan American Properties, Corp. (aileen@hhoglund.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86556214 - WHITE SANGRIIIA - PANAMERICAN-
Sent: 8/14/2017 5:59:14 AM
Sent As: ECOM117@USPTO.GOV
Attachments:

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

U.S. APPLICATION
SERIAL NO. 86556214

MARK: WHITE
SANGRIIIA

86556214

CORRESPONDENT
ADDRESS:
AILEEN E
VÁZQUEZ

HOGLUND &
PAMIAS PSC

256 ELEONOR
ROOSEVELT ST

SAN JUAN, PR
00918

**CLICK HERE TO RESPOND TO THIS
LETTER:**

http://www.uspto.gov/trademarks/teas/response_forms.jsp

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Pan
American Properties,
Corp.

CORRESPONDENT'S
REFERENCE/DOCKET
NO:

PANAMERICAN-

CORRESPONDENT
E-MAIL ADDRESS:

aileen@hhoglund.com

OFFICE ACTION

ISSUE/MAILING DATE: 8/14/2017

THIS IS A FINAL ACTION.

The referenced application is currently the subject of an appeal with the Trademark Trial and Appeal Board (Board). However, the Board has suspended action on the appeal and has remanded the application to the trademark examining attorney to consider specific facts or issues pertaining to the application. *See* 37 C.F.R. §2.142(d), (f); TMEP §1504.05.

This letter responds to applicant's incoming correspondence received 7/13/2017. As requested by the Board in the remand letter mailed 12/13/2016, the Trademark Examining Attorney has thoroughly reviewed the additional evidence submitted by applicant, and found it unpersuasive to overcome the stated refusal at issue on appeal. The file is now returned to the Board to resume proceedings of the issue on appeal as set forth in the Examiner's Statement of 10/17/2016. *See* 37 C.F.R. §2.142(d), (f); TMEP §1504.05.

Briefly, on 1/13/2017 an Office Action was issued as requested by the Board to allow applicant an opportunity to submit additional evidence in support of registration. On 7/13/2017 applicant submitted a Response including evidence and arguments in support of a Section 2(f) In Part claim based on acquired distinctiveness for this Section 1(b) application. The Section 2(f) In Part claim has now been validly submitted and will remain a part of the application. *See* TMEP §1212.05(a). It is noted that an Amendment to Allege Use has never been filed.

In applicant's 7/13/2017 Response, a claim was made of Section 2(f) In Part, with a limitation to "SANGRIIIA" based on 1) the evidence newly submitted, 2) five years use (no dates of use have ever been submitted), and 3) based on the ownership of U.S. Registration No. 4099580 on the Principal Register with the wording SANGRIA disclaimed. The disclaimer of both WHITE and SANGRIA entered 5/9/2016 remains of record. Evidence submitted in a foreign language is unacceptable and is not made of record for purposes of appeal. *See* TMEP §904.06; *see* 37 C.F.R. §2.61(b).

The additional evidence submitted does not resolve the issue on appeal because the mark is so highly descriptive that applicant's own social media pages including Facebook and random photographs of parties where the drink is being consumed and in-store advertising of the relevant portion of the mark are not sufficient to establish secondary meaning in this instance. "To establish secondary meaning, a manufacturer must show that, in the minds of the public, the primary significance of a product feature or term is to identify the source of the product rather than the product itself." *Inwood Labs., Inc. v. Ives Labs., Inc.*, 456 U.S. 844, 851 n.11, 214 USPQ 1, 4 n.11 (1982). Here, the misspelled wording SANGRIIIA is still seen in the minds of the public to primarily refer to the alcoholic beverage of sangria.

Thus, applicant's arguments in favor of registration under Section 2(f) In Part with a limitation to SANGRIIIA are not persuasive to overcome the Section 2(e)(1) Refusal on issue at appeal as applicant has argued for the Section 2(f) In Part in the alternative, and stated that it is *not* an admission that the proposed mark is not inherently distinctive. Because applicant's response does not resolve the outstanding refusal nor otherwise put the application in condition for publication or registration, the trademark examining attorney is holding all issues final. *See* 37 C.F.R. §§2.63(b), 2.142(d); TMEP §715.04(b).

The following issue is in final status: Section 2(e)(1) refusal to register. The Board has been notified to resume the appeal. *See* TMEP §715.04(b).

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. *See* 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

/Morgan L. Meyers/
Trademark Attorney
U.S. Patent and Trademark Office
Law Office 117
Direct: 571-272-8290
morgan.meyers@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.

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>.

To: Pan American Properties, Corp. (aileen@hhoglund.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86556214 - WHITE SANGRIIIA - PANAMERICAN-
Sent: 8/14/2017 5:59:17 AM
Sent As: ECOM117@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 **8/14/2017** FOR U.S. APPLICATION SERIAL NO. 86556214

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 **8/14/2017** (*or sooner if specified in the Office action*). A response transmitted through the Trademark Electronic Application System (TEAS) must be received before midnight **Eastern Time** of the last day of the response period. 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 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.