

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86651776
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86651776/large
LITERAL ELEMENT	SOFTEQ
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)	
<p>Registration has been refused under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), based on the cited registration in Registration No. 4,553,731 and the Applicant is amending the identification of goods herein to narrow the identification previously submitted by expressly excepting the Registrant's goods in an attempt to eliminate this refusal under Section 2(d), 15 U.S.C. § 1052(d), in the TEAS functionality afforded for that purpose.</p> <p>In the unlikely event that this amendment is not availing, Applicant is also considering (potentially) further amendment of the identification of goods to attempt to eliminate this refusal under Section 2(d), 15 U.S.C. § 1052(d), so that the goods would be themselves even further narrowed and the Registrant's goods would still be made the subject of the express exception, if availing, to become:</p> <p style="padding-left: 40px;">clothing, namely, underwear, briefs and thongs, and fabric sold as an integral part of finished clothing items, namely, these clothing items foregoing, all of the foregoing expressly exclusive of running gloves, gloves and inserts for gloves, and headgear, namely, hats and caps, ski caps, and headbands</p>	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	025
DESCRIPTION	
clothing, namely, dresses, skirts, tops, blouses, shirts, crop tops, halter tops, tank tops, t-shirts, jerseys, button-down shirts, knit shirts and tops, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, sport shirts, golf shirts, sweaters, sweat shirts, hooded sweat shirts, pants, trousers, lounge pants, shorts, board shorts, short sets, sweat pants, sweat shorts, sweat suits, sweaters, swimwear, anklets, socks, hosiery, belts, ties, neckties, bowties, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, coats, wrap-arounds, underwear, briefs and thongs, apparel for dancers, namely, singlets, skirts, t-shirts, sweatshirts, pants, leggings, shorts and jackets; athletic apparel, namely, shirts, pants, jackets, athletic uniforms; athletic shirts; athletic shorts; fabric	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	
clothing, namely, dresses, skirts, tops, blouses, shirts, crop tops, halter tops, tank tops, t-shirts, jerseys, button-down shirts, knit shirts and tops, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, sport shirts, golf shirts, sweaters, sweat shirts, hooded sweat shirts, pants, trousers, lounge pants, shorts, board shorts, short sets, sweat pants, sweat shorts, sweat suits, sweaters, swimwear, anklets, socks,	

hosiery, belts, ties, neckties, bowties, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, coats, wrap-arounds, underwear, briefs and thongs, apparel for dancers, namely, singlets, skirts, t-shirts, sweatshirts, pants, leggings, shorts and jackets; athletic apparel, namely, shirts, pants, jackets, athletic uniforms; athletic shirts; athletic shorts; **fabric; and fabric sold as an integral part of finished clothing items, namely, these clothing items foregoing, all of the foregoing expressly exclusive of running gloves, gloves and inserts for gloves, and headgear, namely, hats and caps, ski caps, and headbands**

FINAL DESCRIPTION

clothing, namely, dresses, skirts, tops, blouses, shirts, crop tops, halter tops, tank tops, t-shirts, jerseys, button-down shirts, knit shirts and tops, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, sport shirts, golf shirts, sweaters, sweat shirts, hooded sweat shirts, pants, trousers, lounge pants, shorts, board shorts, short sets, sweat pants, sweat shorts, sweat suits, sweaters, swimwear, anklets, socks, hosiery, belts, ties, neckties, bowties, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, coats, wrap-arounds, underwear, briefs and thongs, apparel for dancers, namely, singlets, skirts, t-shirts, sweatshirts, pants, leggings, shorts and jackets; athletic apparel, namely, shirts, pants, jackets, athletic uniforms; athletic shirts; athletic shorts; and fabric sold as an integral part of finished clothing items, namely, these clothing items foregoing, all of the foregoing expressly exclusive of running gloves, gloves and inserts for gloves, and headgear, namely, hats and caps, ski caps, and headbands

FILING BASIS

Section 1(b)

SIGNATURE SECTION

RESPONSE SIGNATURE

/Kevin Oliveira/

SIGNATORY'S NAME

Kevin Oliveira

SIGNATORY'S POSITION

Attorney of record, Virginia bar member

SIGNATORY'S PHONE NUMBER

(703) 218-2138

DATE SIGNED

10/14/2016

AUTHORIZED SIGNATORY

YES

CONCURRENT APPEAL NOTICE FILED

YES

FILING INFORMATION SECTION

SUBMIT DATE

Fri Oct 14 12:30:38 EDT 2016

TEAS STAMP

USPTO/RFR-XX.XXX.XX.XX-20
161014123038404285-866517
76-570951eea514232518c3d4
5abf07f23c0958640ee1529f1
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/A-20161014123000075831

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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. **86651776** SOFTEQ(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86651776/large>) has been amended as follows:

ARGUMENT(S)

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

Registration has been refused under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), based on the cited registration in Registration No. 4,553,731 and the Applicant is amending the identification of goods herein to narrow the identification previously submitted by expressly excepting the Registrant's goods in an attempt to eliminate this refusal under Section 2(d), 15 U.S.C. § 1052(d), in the TEAS functionality afforded for that purpose.

In the unlikely event that this amendment is not availing, Applicant is also considering (potentially) further amendment of the identification of goods to attempt to eliminate this refusal under Section 2(d), 15 U.S.C. § 1052(d), so that the goods would be themselves even further narrowed and the Registrant's goods would still be made the subject of the express exception, if availing, to become:

clothing, namely, underwear, briefs and thongs, and fabric sold as an integral part of finished clothing items, namely, these clothing items foregoing, all of the foregoing expressly exclusive of running gloves, gloves and inserts for gloves, and headgear, namely, hats and caps, ski caps, and headbands

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 025 for clothing, namely, dresses, skirts, tops, blouses, shirts, crop tops, halter tops, tank tops, t-shirts, jerseys, button-down shirts, knit shirts and tops, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, sport shirts, golf shirts, sweaters, sweat shirts, hooded sweat shirts, pants, trousers, lounge pants, shorts, board shorts, short sets, sweat pants, sweat shorts, sweat suits, sweaters, swimwear, anklets, socks, hosiery, belts, ties, neckties, bowties, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, coats, wrap-arounds, underwear, briefs and thongs, apparel for dancers, namely, singlets, skirts, t-shirts, sweatshirts, pants, leggings, shorts and jackets; athletic apparel, namely, shirts, pants, jackets, athletic uniforms; athletic shirts; athletic shorts; fabric Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: clothing, namely, dresses, skirts, tops, blouses, shirts, crop tops, halter tops, tank tops, t-shirts, jerseys, button-down shirts, knit shirts and tops, short-sleeved shirts, long-sleeved shirts, night shirts, polo shirts, rugby shirts, sport shirts, golf shirts, sweaters, sweat shirts, hooded sweat shirts, pants, trousers, lounge pants, shorts, board shorts, short sets, sweat pants, sweat shorts, sweat suits, sweaters, swimwear, anklets, socks, hosiery, belts, ties, neckties, bowties, wraps, jackets, denim jackets, fur jackets, leather jackets, rain jackets, wind resistant jackets, coats, wrap-arounds, underwear, briefs and thongs, apparel for dancers, namely, singlets, skirts, t-shirts, sweatshirts, pants, leggings, shorts and jackets; athletic apparel, namely, shirts, pants, jackets, athletic uniforms; athletic shirts; athletic shorts; fabrie; and fabric sold as an integral part of finished clothing items, namely, these clothing items foregoing, all of the foregoing expressly exclusive of running gloves, gloves and inserts for gloves, and headgear, namely, hats and caps, ski caps, and headbands

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Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Kevin Oliveira/ Date: 10/14/2016
Signatory's Name: Kevin Oliveira
Signatory's Position: Attorney of record, Virginia bar member

Signatory's Phone Number: (703) 218-2138

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.

Serial Number: 86651776
Internet Transmission Date: Fri Oct 14 12:30:38 EDT 2016
TEAS Stamp: USPTO/RFR-XX.XXX.XX.XX-20161014123038404
285-86651776-570951eea514232518c3d45abf0
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