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Filing date: **03/30/2009**

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

Proceeding	92050143
Party	Plaintiff Browhaus Pte Ltd
Correspondence Address	Jack L. Most Goetz Fitzpatrick LLP One Penn Plaza - Suite 4401, 44th Floor NEW YORK, NY 10119 UNITED STATES Jmost@goetzfitz.com
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Jack L. Most, Esq.
Filer's e-mail	jmost@goetzfitz.com, mostermann@goetzfitz.com
Signature	/jlm/
Date	03/30/2009
Attachments	OppositionMTD_30Mar09FINAL.pdf (9 pages)(370091 bytes) ExhibitAMTD_30Mar09FINAL.pdf (43 pages)(3887196 bytes)

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

BROWHAUS PTE LTD.,

Petitioner,

v.

BRAUHAUS INCORPORATED,

Respondent.

Cancellation No.
92/050,143

Registration No.
3,420,788

**PETITIONER BROWHAUS PTE LTD. RESPONSE TO
RESPONDENT BRAUHAUS INCORPORATED MOTION TO DISMISS**

Pursuant to 15 U.S.C. § 1051 *et seq.*, the Trademark Rules of Practice, the Federal Rules of Civil Procedure, and the Trademark Trial and Appeal Board Manual of Procedure (TBMP), Petitioner, Browhaus PTE Ltd (“Petitioner”) files this Response to Respondent Brauhaus Incorporated’s (“Respondent”) motion to dismiss.

PRELIMINARY STATEMENT

On November 3, 2008, Petitioner filed its Petition to Cancel Respondent’s U.S. Registration No. 3,420,788 for the mark BRAUHAUS for “Beauty Salons.” In what appears to be nothing more than a transparent attempt to obscure Petitioner’s claims, Respondent filed a motion to dismiss on March 13, 2009, arguing that Petitioner failed to state a claim upon which relief can be granted. Respondent’s arguments are erroneous.

Petitioner has both standing to petition the Trademark Trial and Appeal Board (the “Board”) to cancel the subject registration, and also, has articulated a valid ground for canceling Respondent’s registration, namely, that Respondent submitted a fraudulent statement to the

United States Patent and Trademark Office (“USPTO”) asserting that the mark had been used in interstate commerce on or before December 1, 2007, in connection with “Beauty salons” in International Class 44.

For the reasons provided below, the Board should deny Respondent’s motion in its entirety.

STATEMENT OF FACTS

According to the records of the USPTO, Respondent is the owner of the U.S. Registration No. 3,420,788 for the mark BRAUHAUS for “Beauty salons.” (Ptn. ¶ 1.)¹

On September 2, 2005, Respondent submitted an application for U.S. Mark Application Serial No. 78/705848. On February 11, 2008, Respondent submitted a Request to Divide U.S. Mark Application Serial No. 78/705848. (Ptn. ¶ 5.) The USPTO issued Respondent a Notice of Divisional Request on March 3, 2008. The request to divide U.S. Mark Application Serial No. 78/705848 was processed as follows: Parent (original) U.S. Mark Application Serial No. 78/705848 contains the following goods: Class 3 For Eyebrow colors; eyebrow pencils; eye makeup; facial makeup; wax for hair removal; cosmetic oils; lipstick; makeup kits comprised of various cosmetics; lip gloss; eyeshadow; Class 5 For Applicator for applying hair growth stimulants containing hair growth stimulant; Class 8 For Tweezers; scissors; and Class 21 For Eyebrow brushes; stencils for applying makeup; applicator sticks for applying cosmetics. (Ptn. ¶¶ 6-7.)

Child application, U.S. Mark Application Serial No. 78/979944 contains the following services: Class 44 For Beauty salons. (Ptn. ¶ 8.) A Statement of Use was filed with the USPTO on February 11, 2008 for the child application, Serial No. 78/979944. (Ptn. ¶ 9.) Registration No. 3,420,788 issued from an application filed by Respondent on September 2, 2005 for Serial No.

¹ All references to Petitioner’s petition appear in the form “Ptn. ¶ ____.”

78/979944 – the child application. That application included a Declaration by Zoey Van Jones, President & CEO of Brauhaus Incorporated, dated February 3, 2008, verifying that applicant Brauhaus Incorporated, was using the mark BRAUHAUS for the following services: “Beauty salons.” (Ptn. ¶10.)

On February 11, 2008, in connection with what would become the child application, Serial No. 78/979944, Respondent submitted a Statement of Use to the USPTO. Respondent’s Declaration included a statement verifying that the mark BRAUHAUS “was first used by Applicant on or before December 1, 2007 and was first used in interstate commerce on or before December 1, 2007, in connection with “Beauty salons” in International Class 44.” (Ptn. ¶12.)

Submitted contemporaneously with Respondent’s Statement of Use, was a specimen dated December 13, 2007 that indicated that a single salon located at 45 East Union Pasadena, California 91103 would be open for business on December 1, 2007.

On information and belief, the verified statement signed by the President and CEO of Brauhaus Incorporated and submitted as part of Application Serial No. 78/705848, which would later be incorporated into the child application, Serial No. 78/979944, contained knowingly false material representations of fact, and therefore constituted fraud in the procurement of Registration No. 3,420,788. As a consequence, Registration No. 3,420,788 in its entirety is void *ab initio*. (Ptn. ¶ 14.)

In submitting its memorandum of law in support of its motion to dismiss, Respondent completely mischaracterizes Petitioner’s claims. Tellingly, Respondent steers clear of Petitioner’s allegation that Respondent never used the mark in interstate commerce on or before December 1, 2007 – the gravamen of Petitioner’s petition. (Ptn. ¶ 13.) Rather, Respondent shifts the focus altogether, proffering arguments concerning the date of first use of the mark versus the

mark's actual use date. (Deft's Br. at 2.) Although interesting, the trivial arguments presented by Respondent are not raised in Petitioner's petition. Indeed, Respondent's response to the allegation of a lack of use of the mark in interstate commerce is confined to the conclusory statements in the sworn affidavit of Zoey Van Jones ("Van Jones Aff."), dated March 13, 2009. Such self-serving assertions cannot serve to dismiss Petitioner's petition. *See, e.g., Joseph M. Ivins v. Chix Rhul*, 2001 WL 208760 (T.T.A.B. 2001).

Accordingly, Respondent's arguments are deficient as a matter of law and should be dismissed in their entirety.

ARGUMENT

I. STANDARDS OF REVIEW

A motion to dismiss for failure to state a claim upon which relief can be granted is a test solely of the legal theory of a complaint, not the sufficiency of the evidence that may be produced. *See, e.g., Advanced Cardiovascular Sys., Inc. v. SciMed Life Sys., Inc.*, 988 F.2d 1157, 1160 (Fed. Cir. 1993). For purposes of determining a motion to dismiss, the Board must look solely at Petitioner's petition and must accept all of Petitioner's well-pleaded allegations as true. *See Young v. AGB Corp.*, 152 F.3d 1377, 1379 (Fed. Cir. 1998). In addition, in examining the petition in its entirety, the Board must construe the allegations liberally as required by Fed. R. Civ. P. 8(f), and in the light most favorable to the Petitioner. *See Advanced Cardiovascular Sys., Inc.*, 988 F.2d at 1161; *see also* TBMP §503.02; *Miller Brewing Co. v. Anheuser-Busch, Inc.* 27 U.S.P.Q.2d 1711, 1712(T.T.A.B. 1993).

In order to state a claim upon which relief can be granted in a cancellation proceeding, a petitioner must allege facts which, if proved, establish that: (1) it has standing to challenge the application against which the petition is directed; and (2) a valid ground exists for cancelling the subject registration. *See Young*, 152 F3d at 1379; *see also* Trademark Rule 2.112(a)("The

petition to cancel must set forth a short and plain statement showing why the petitioner believes it is or will be damaged by the registration [and] state the grounds for cancellations.”).

Petitioner has undeniably met these requirements.

A. Petitioner has Standing

Although not contested by Respondent, Petitioner clearly has standing. The rules for finding standing are very liberal in that a petitioner need only plead and prove that it has a real commercial interest in its mark and a reasonable basis for its belief that it would be damaged.

See Lipton Industries, Inc. v. Ralston Purina Co., 670 F.2d 1024, 1026 (C.C.P.A. 1982). As stated in its petition, Petitioner’s mark was precluded from achieving registration because, *inter alia*, a potentially conflicting mark in a prior-filed pending application was cited, namely, the then pending U.S. Mark Application Serial No. 78/705848. (Ptn. ¶ 3.)

It is well established that a party that files an intent-to-use application has standing to seek cancellation of a registration that an Examining Attorney has cited against the party’s own application. *See American Vitamin Products Inc. v. DowBrands Inc.*, 22 U.S.P.Q.2d 1313, 1314 (T.T.A.B. 1992); *Hartwell Co. v. Shane*, 17 U.S.P.Q.2d 1569, 1570 (T.T.A.B. 1990). Because of its bona fide intent to use the applied-for mark in commerce, a petitioner has a legitimate interest in the cancellation proceeding and a reasonable basis for believing it would be damaged by the continued existence of the challenged registration. *See id.* Evidence that Petitioner’s pending application was refused based on Respondent’s then prior-filed pending application, is attached hereto as Exhibit A with a copy of Petitioner’s file history, including the USPTO Office Action, dated February 28, 2007. This Office Action shows that Petitioner has a real interest in the outcome of the proceeding and is sufficient to establish standing. *See Lipton Industries, Inc.* 670 F.2d at 1029.

Accepting these assertions as outlined in the petition as true and in a light most favorable to Petitioner, Petitioner has demonstrated the requisite standard to maintain standing in this proceeding.

B. Petitioner has Alleged a Valid Ground for Canceling Respondent's Registration of BRAUHAUS

Once a petitioner establishes standing, it is entitled to rely on any pleaded ground for cancellation that may negate the respondent's right to maintain the challenged registration. Petitioner has alleged a valid ground for cancellation under 15 U.S.C. § 1064(3), as a claim of fraud is grounds for cancellation of a mark and may be asserted "at any time," i.e., either before or after the challenged registration is over five years old.

Under the Lanham Act, a mark is deemed to be in use "on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce." TMEP § 901.01. "Commerce" is defined as any type of commerce that may be regulated by Congress and includes interstate, territorial and foreign country commerce. *See* TMEP § 901.03.

In its February 3, 2008, Declaration and its February 11, 2008, Statement of Use, Respondent claimed a first use date for BRAUHAUS at least as early as December 1, 2007 in connection with "Beauty salon" services. (Ptn. ¶¶ 10,12.)

In support of its claims that Respondent was using the mark in interstate commerce in December 2007, Respondent offers nothing more than the self-serving affidavit of President and CEO of Brauhaus Incorporated, Zoey Van Jones. Van Jones states:

Beginning on or about December 2007, numerous customers have traveled from outside the state of California and purchased beauty salon services at the salon provided under and in connection with the stylized BRAUHAUS mark identified in Registration No. 3,420,788.

Van Jones Aff. at ¶ 3.

Affiant's affidavit is insufficient to dismiss Petitioner's claims. Van Jones' affidavit is vague in that it neither identifies the number of customers who have purportedly traveled across state lines and purchased Respondent's services in connection with the mark BRAUHAUS, nor does it identify the state(s) of origin of this purported clientele. The absence of these critical details in Van Jones' affidavit is fatal. *See, e.g., Joseph M. Ivins v. Chix Rhul*, 2001 WL 208760, at *2 (T.T.A.B. 2001)(on a motion for summary judgment, excluding respondent's affidavit for vagueness.)

Moreover, even if Respondent's affidavit were not vague, as it is here, the appropriate probative weight to be accorded to such a self-serving affidavit should be minimal. *See Wright, Miller & Kane*, Vol. 10A Federal Practice and Procedure: Civil 3d §2722 (1998). Furthermore, the Board has discretion to exclude from consideration matters outside the pleadings, in which case the Board need only focus its inquiry on the sufficiency of petitioner's pleadings. *See Internet Inc. v. Corporation for National Research Initiatives*, 38 U.S.P.Q.2d 1435, 1436 (T.T.A.B. 1996). Finally, cases concerning whether a mark was fraudulently claimed to be used in interstate commerce have routinely proceeded to discovery, and so, as a matter of law, Petitioner is entitled to discover evidence probative of its claims. *See, e.g., Maids to Order of Ohio, Inc. v. Maid-to-Order, Inc.* 78 U.S.P.Q.2d 1899 (T.T.A.B. 2006).

Accepting Petitioner's assertions as outlined in its petition as true and in a light most favorable to the Petitioner, Petitioner has clearly stated valid grounds for petitioning the Board to cancel Respondent's registration of the mark BRAUHAUS and as such, Respondent's motion should be denied.

CONCLUSION

Respondent's motion, based on the assertion that a valid ground for cancelling Respondent's registration has not been asserted, is wholly without merit. As stated above, Petitioner has standing to petition the Board, and has grounds to cancel Respondent's injurious registration. Accepting Petitioner's assertions as outlined in its Petition as true and in a light most favorable to the Petitioner, Respondent's motion must be denied.

Dated: March 30, 2009

Respectfully submitted,

GOETZ FITZPATRICK, LLP

By: 

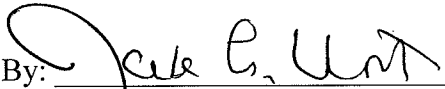
Jack L. Most
Joel G. MacMull
One Penn Plaza, Suite 4401
New York, NY 10119
(212) 695-8100

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30thA day of March, 2009, a true copy of the foregoing Petitioner Browhaus Pte Ltd. Response to Respondent Brauhaus Incorporated Motion to Dismiss was served via U.S. Mail, postage pre-paid on the following:

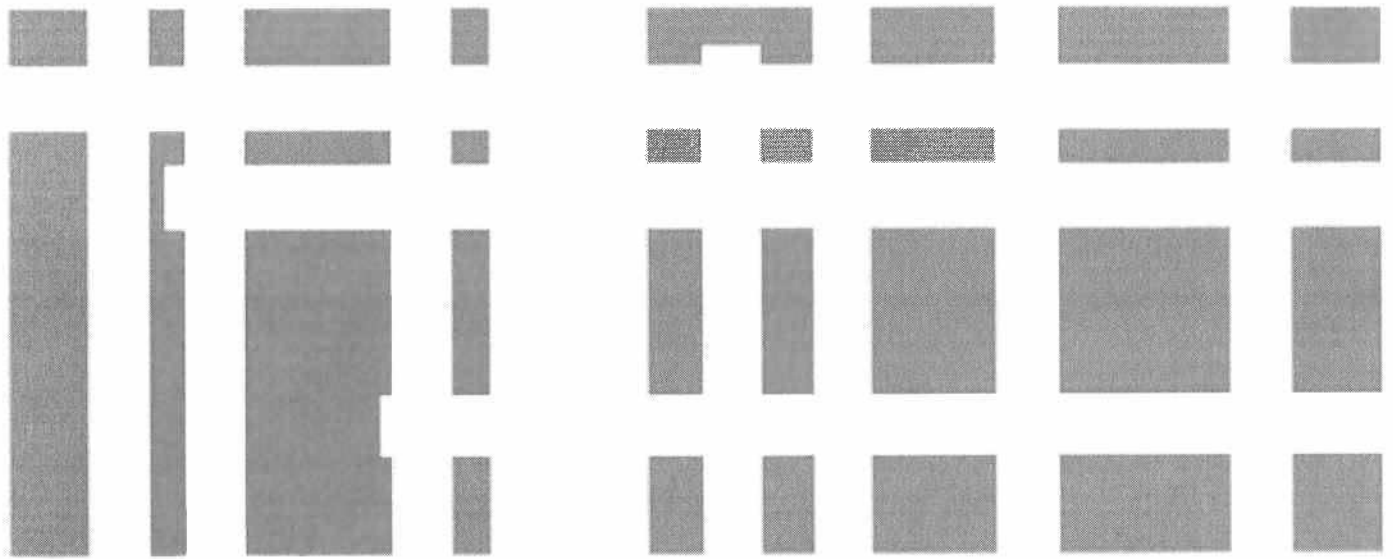
Lee J. Eulgen
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, IL 60602

By: 
Jack L. Most
One Penn Plaza, Suite 4401
New York, NY 10119
(212) 695-8100

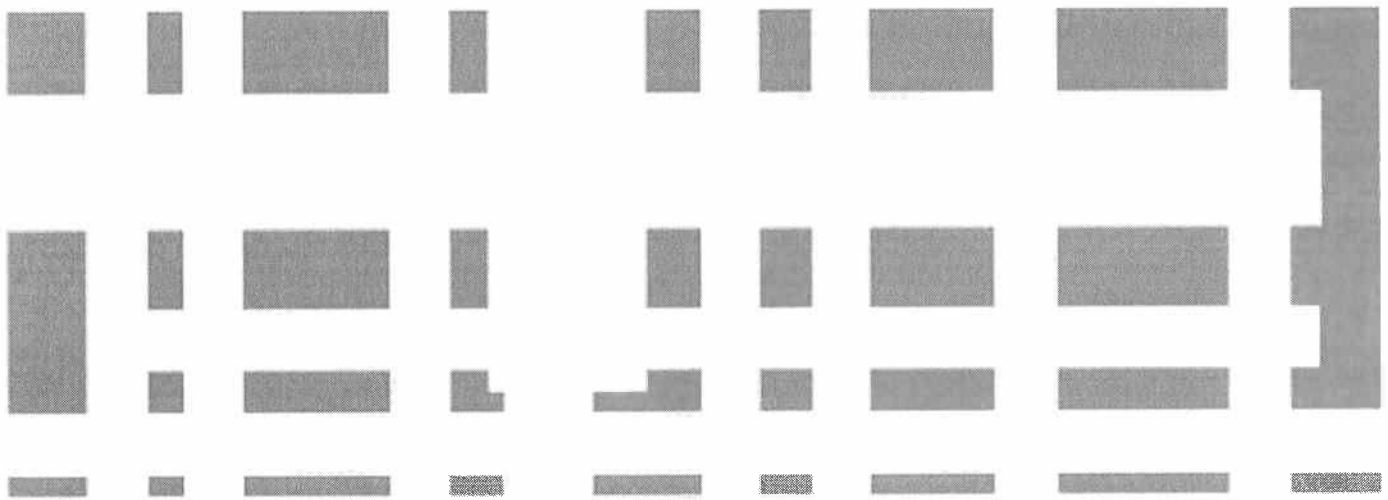
Attorney for Petitioner

EXHIBIT A

DRAWING



browhaus



APPLICATION

Trademark/Service Mark Application, Principal Register

Serial Number: 77019510

Filing Date: 10/12/2006

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77019510
MARK INFORMATION	
*MARK	\\TICRS\EXPORT2\IMAGEOUT2\770\195\77019510\xml1\AP P0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	browhaus
COLOR MARK	YES
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the letters "bro" and "haus", which appear in light green (Pantone 383C), the letter "w" (appearing between them) and the design appear in dark green (Pantone 378C). The word "browhaus" appears in the center of a grid-like design pattern.
COLOR(S) CLAIMED (If applicable)	light green and dark green
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	596 x 575
APPLICANT INFORMATION	
*OWNER OF MARK	Browhaus Pte Ltd.
*STREET	1 Scotts Road #19-04/05
*CITY	Shaw Center
*COUNTRY	Singapore
*ZIP/POSTAL CODE	228208

(Required for U.S. applicants only)

LEGAL ENTITY INFORMATION

TYPE	PRIVATE LIMITED COMPANY
*STATE/COUNTRY WHERE LEGALLY ORGANIZED	Singapore

GOODS AND/OR SERVICES SECTION

INTERNATIONAL CLASS	044
DESCRIPTION	Hygiene and beauty care of human beings; eye brow trimming; eye brow threading; and eyelash perming.
FILING BASIS	SECTION 1(b)
FILING BASIS	SECTION 44(d)
FOREIGN APPLICATION NUMBER	N/A
FOREIGN APPLICATION COUNTRY	Singapore
FOREIGN FILING DATE	07/11/2006

ATTORNEY INFORMATION

NAME	Jack L. Most, Esq.
ATTORNEY DOCKET NUMBER	44220/20090
FIRM NAME	Goetz Fitzpatrick LLP
STREET	One Penn Plaza - Suite 4401
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10119
PHONE	212-695-8100
FAX	212-629-4013
EMAIL ADDRESS	jmost@goetzfitz.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

CORRESPONDENCE INFORMATION

NAME	Jack L. Most, Esq.
------	--------------------

FIRM NAME	Goetz Fitzpatrick LLP
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CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10119
PHONE	212-695-8100
FAX	212-629-4013
EMAIL ADDRESS	jmost@goetzfitz.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
SIGNATURE	/Cynthia Chua/
SIGNATORY'S NAME	Cynthia Chua Ling Ling
SIGNATORY'S POSITION	Director
DATE SIGNED	10/13/2006
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Oct 12 12:23:43 EDT 2006
TEAS STAMP	USPTO/BAS-66.251.23.10-20 061012122343239723-770195 10-350cc7e817259756c71319 ef8217edcf-CC-1459-200610 05121451988722

Trademark/Service Mark Application, Principal Register

Serial Number: 77019510

Filing Date: 10/12/2006

To the Commissioner for Trademarks:

MARK: browhaus (stylized and/or with design, see [mark](#))

The literal element of the mark consists of browhaus. The applicant claims color as a feature of the mark, namely, light green and dark green. The mark consists of the letters "bro" and "haus", which appear in light green (Pantone 383C), the letter "w" (appearing between them) and the design appear in dark green (Pantone 378C). The word "browhaus" appears in the center of a grid-like design pattern.

The applicant, Browhaus Pte Ltd., a PRIVATE LIMITED COMPANY legally organized under the laws of Singapore, having an address of 1 Scotts Road #19-04/05, Shaw Center, Singapore, 228208, 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.

International Class 044: Hygiene and beauty care of human beings; eye brow trimming; eye brow threading; and eyelash perming.

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)).

Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based on Singapore application number, N/A, filed 07/11/2006.15 U.S.C. Section 1126(d), as amended.

The applicant hereby appoints Jack L. Most, Esq. of Goetz Fitzpatrick LLP, One Penn Plaza - Suite 4401, New York, New York, United States, 10119 to submit this application on behalf of the applicant. The attorney docket/reference number is 44220/20090.

Correspondence Information: Jack L. Most, Esq.

One Penn Plaza - Suite 4401

New York, New York 10119

212-695-8100(phone)

212-629-4013(fax)

jmost@goetzfitz.com (authorized)

A fee payment in the amount of \$325 will be 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.

Signature: /Cynthia Chua/ Date Signed: 10/13/2006
Signatory's Name: Cynthia Chua Ling Ling
Signatory's Position: Director

RAM Sale Number: 1459
RAM Accounting Date: 10/12/2006

Serial Number: 77019510
Internet Transmission Date: Thu Oct 12 12:23:43 EDT 2006
TEAS Stamp: USPTO/BAS-66.251.23.10-20061012122343239
723-77019510-350cc7e817259756c71319ef821
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NOTICE OF DESIGN SEARCH CODE
FOR SERIAL NUMBER: 77019510

From: TMDesignCodeComments
Sent: Tuesday, October 17, 2006 00:11 AM
To: jmost@goetzfitz.com
Subject: Notice of Design Search Code for Serial Number: 77019510

ATTORNEY REFERENCE NUMBER: 44220/20090

The USPTO may assign design search codes, 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. DESIGN SEARCH CODES are numerical codes assigned to figurative, non-textual elements found in marks. For example, if your mark contains the design of a flower, design search code 05.05 would be assigned to your application. Design search codes are described on Internet Web page <http://www.uspto.gov/tmdb/dscm/index.html>. You are not required to respond to this notice. However, if you would like to suggest additions or changes to the design search codes assigned to your mark, please send an email to TMDesignCodeComments@USPTO.GOV or call 1-800-786-9199 to speak to a Customer Service representative. No fee is necessary. (Please include the serial number of your application on ALL correspondence with the USPTO.) The USPTO will review your request and update the record if appropriate. 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. **Design search codes assigned to the referenced serial number are listed below.**

DESIGN SEARCH CODES:

26.11.13 - More than one rectangle
26.11.13 - Rectangles (more than one)
26.11.21 - Rectangles that are completely or partially shaded
26.17.25 - Other lines, bands or bars

XSEARCH SEARCH SUMMARY

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Session duration 19 minutes 44 seconds

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Sent to TICRS as Serial Number: 77019510

XSEARCH SEARCH SUMMARY

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18	1	0	1	0	0:01	(1 2) and 17
19	0	0	0	0	0:01	18 not 4
20	1588	N/A	0	0	0:02	*h{v2} {"sz"}[bi,ti] and live[ld]
21	576	N/A	0	0	0:01	20 and 7
22	278	0	1	1	0:01	20 and 9
23	161	N/A	0	0	0:05	b\$h{v2} {"sz"}*[bi,ti] and live[ld]
24	138	0	138	96	0:01	23 not (4 16)
25	1	0	1	1	0:01	browhaus

Session started 2/28/2007 10:04:12 AM

Session finished 2/28/2007 10:14:00 AM

Total search duration 0 minutes 43 seconds

Session duration 9 minutes 48 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77019510

OFFICE ACTION

To: Browhaus Pte Ltd. (jmost@goetzfitz.com)
Subject: TRADEMARK APPLICATION NO. 77019510 - BROWHAUS - 44220/20090
Sent: 2/28/2007 4:06:49 PM
Sent As: ECOM105@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/019510

APPLICANT: Browhaus Pte Ltd.

CORRESPONDENT ADDRESS:
JACK L. MOST, ESQ.
GOETZ FITZPATRICK LLP
1 PENN PLZ STE 4401
NEW YORK, NY 10119-0196

77019510

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK: BROWHAUS

CORRESPONDENT'S REFERENCE/DOCKET NO:
44220/20090

CORRESPONDENT EMAIL ADDRESS:
jmost@goetzfitz.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office

action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 77/019510

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

Search Results – One Earlier-filed Pending Application

The Office records have been searched and no similar *registered* mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02. However, please be advised that a potentially conflicting mark in a prior-filed pending application may present a bar to registration.

Information regarding pending Application Serial No. 78705848 is enclosed. The filing date of the referenced application precedes applicant's filing date. There may be a likelihood of confusion between the two marks under Trademark Act Section 2(d), 15 U.S.C. §1052(d). If the referenced application registers, registration may be refused in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon entry of a response to this Office action, action on this case may be suspended pending final disposition of the earlier-filed application.

If applicant believes there is no potential conflict between this application and the earlier-filed application, then applicant may present arguments relevant to the issue in a response to this Office action. The election not to submit arguments at this time in no way limits applicant's right to address this issue at a later point.

Recitation of Services

The wording "hygiene and beauty care of human beings" in the identification of services needs clarification because it is too broad and could include services classified in other international classes. TMEP §1402.01. Applicant should identify the type of services being provided, e.g., cosmetician services, beauty care salons, or specific services such as facials, cosmetic body services, depilatory hair removal, etc. Please note, if applicant is providing instruction in hygiene and beauty care of human beings (e.g., beauty arts instruction), then these services are properly classified in International Class 41.

The remaining identification is acceptable as filed.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>.

Applicant may adopt the following identification of services, if accurate:

INTERNATIONAL CLASS 44:

- Hygiene and beauty care of human beings, **namely, [please identify the specific services, e.g., cosmetician services]**; eye brow trimming; eye brown threading; and eyelash perming.

TMEP §1402.01

Please note that, while the identification of services may be amended to clarify or limit the services, adding to the services or broadening the scope of the services is not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, applicant may not amend the identification to include services that are not within the scope of the services set forth in the present identification.

Combined Applications – Additional Fee May be Required

The application identifies services that may be classified in at least two classes; however, the fees submitted are sufficient for only one class. In a multiple-class application, a fee for each class is required. 37 C.F.R. §2.86(a)(2); TMEP §§810-810.01 and 1403.01.

If applicant prosecutes this application as a combined, or multiple-class application, applicant must comply with each of the following for those services based on an intent to use the mark in commerce under Trademark Act Section 1(b) and a foreign registration under Trademark Act Section 44(e):

- (1) Applicant must list the services by international class with the classes listed in ascending numerical order; and
- (2) Applicant must submit a filing fee for each international class of services not covered by the fee already paid (current fee information should be confirmed at <http://www.uspto.gov>).

37 C.F.R. §2.86(a)(2); TMEP §§810 and 1403.01.

The filing fee for adding classes to an application is as follows:

- (1) \$325 per class, when the fees are submitted with a response filed online via the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>; and
- (2) \$375 per class, when the fees are submitted with a paper response.

37 C.F.R. §§2.6(a)(i) and (ii); TMEP §810.

Revised Description of the Mark and Color Location Statement Needed

Applicant must provide a color claim and color location statement using common color names, e.g., magenta, yellow, turquoise. Specifically, the commercial color names in the description of the mark must be supplemented with a generic description of the colors. TMEP §§807.07(a)(i) and (a)(ii).

The following is suggested:

- The mark consists of the letters “bro” and “haus”, which appear in light green, the letter “w” (appearing between them) and the design appear in dark green. The word “browhaus” appears in the center of a grid-like design pattern.

Translation

Applicant must submit an English translation of all foreign wording in the mark. 37 C.F.R. §2.61(b);

TMEP §809. In the present case, the wording “HAUS” needs translating for the record. The following translation statement is suggested: “The English translation of the word “haus” in the mark is “house.”

Serial Number of Foreign Application Omitted

Applicant must provide the serial number and filing date of the foreign application that supports the filing basis under Trademark Act Section 44(d), 15 U.S.C. §1126(d). Paris Convention Article 4(D)(5); 37 C.F.R. §2.34(a)(4)(i)(A); TMEP §1003. The application identifies the filing date, but not the application serial number for the foreign application.

Certificate of Registration Required

If applicant is asserting §44(e) as a basis for registration (based on the foreign registration that will issue from the application that the applicant relied on for priority), then applicant must submit a true copy, photocopy, certification or certified copy of a foreign registration from the applicant’s country of origin.

Applicant’s country of origin must either be a party to a convention or treaty relating to trademarks to which the United States is also a party, or must extend reciprocal registration rights to nationals of the United States by law. *See* TMEP §§1002.01, 1003.03 and 1004.

If the foreign certificate of registration is not written in English, then applicant must provide an English translation signed by the translator. *See* TMEP §§1004.01 and 1004.01(b).

Option to Delete Basis

The application specifies both intent to use under Section 1(b) and a claim of priority under Section 44(d) based on a foreign application. 15 U.S.C. §§1051(b) and 1126(d). When an application is filed pursuant to Section 44(d), the USPTO presumes, unless otherwise indicated, that applicant intends to rely upon the resulting foreign registration as a basis for registration in the U.S. TMEP §§806.02(f) and 1003.03.

However, applicant may rely solely on intent to use as the basis for registration, and still claim the benefit of the priority filing date. If applicant wants to rely on intent to use as the sole basis for registration, with the claim of priority, applicant should submit an amendment so advising the undersigned. Once all other outstanding issues are resolved, the mark would be approved for publication without requiring a copy of the foreign registration. TMEP §§806.02(f) and 806.04(b). However, while the mark may be approved for publication, it will not register until an acceptable allegation of use has been filed.

If applicant does not indicate otherwise, the USPTO will presume that applicant is relying on the foreign registration as an additional basis for registration. Thus, the application will not be approved for publication until a copy of the foreign registration and, if appropriate, an English translation signed by the translator, have been filed. TMEP §§1004.01 and 1004.01(b).

If the applicant has any questions or needs further assistance, please telephone the assigned examining attorney.

/Kate DuBray/
Trademark Examining Attorney, Law Office 105
Tel: (571) 272-4815
Fax: (571) 273-4815

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the *date of receipt in the Office*, not the postmarked date.** To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

Print: Feb 28, 2007

78705848

DESIGN MARK

Serial Number

78705848

Status

NOTICE OF ALLOWANCE - ISSUED

Word Mark

BRAUHAUS

Standard Character Mark

No

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Brauhaus Incorporated CORPORATION CALIFORNIA 6904 Clinton Street Los Angeles CALIFORNIA 90036

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: Eyebrow colors; eyebrow pencils; eye makeup; facial makeup; wax for hair removal; cosmetic oils; lipstick; makeup kits comprised of various cosmetics; lip gloss; eyeshadow.

Goods/Services

Class Status -- ACTIVE. IC 008. US 023 028 044. G & S: Tweezers; scissors.

Goods/Services

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050. G & S: Eyebrow brushes; stencils for applying makeup; applicator sticks for applying cosmetics.

Goods/Services

Class Status -- ACTIVE. IC 044. US 100 101. G & S: Beauty salons.

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: Applicator for applying hair growth stimulants containing hair growth stimulant.

Translation Statement

Print: Feb 28, 2007

78705848

The English translation of BRAUHAUS is BREWING HOUSE.

Filing Date

2005/09/02

Examining Attorney

POWELL, LINDA

Attorney of Record

Lee J. Eulgen

GRAMMAS



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RESPONSE TO OFFICE ACTION

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77019510
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	Applicant requests that its pending application be held in suspension pending the outcome of Application Serial No. 78705848.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/jlm/
SIGNATORY'S NAME	Jack L. Most
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	03/06/2007
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Mar 06 08:56:22 EST 2007
TEAS STAMP	USPTO/ROA-66.251.23.10-20 070306085622860425-770195 10-370cfd3ecbf852108aa24 feaac82875cf-N/A-N/A-2007 0306084422334912

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77019510** has been amended as follows:

Additional Statements

Applicant requests that its pending application be held in suspension pending the outcome of Application Serial No. 78705848.

Response Signature

Signature: /jlm/ Date: 03/06/2007

Signatory's Name: Jack L. Most

Signatory's Position: Attorney of Record

The signatory has confirmed that he/she is either (1) an attorney who is a member in good standing of the bar of the highest court of a U.S. state; or (2) a Canadian attorney/agent who has been granted reciprocal recognition under 37 C.F.R. §10.14(c) by the USPTO's Office of Enrollment and Discipline. He/she further confirms that (1) the applicant has not previously been represented in this matter by an authorized attorney; and (2) he/she is the applicant's attorney or an associate of that attorney.

Serial Number: 77019510

Internet Transmission Date: Tue Mar 06 08:56:22 EST 2007

TEAS Stamp: USPTO/ROA-66.251.23.10-20070306085622860

425-77019510-370cfd3ecbf852108aa24feaac

82875cf-N/A-N/A-20070306084422334912

TRADEMARK SNAP SHOT AMENDMENT
& MAIL PROCESSING STYLESHEET

Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	77019510	FILING DATE	10/12/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	DUBRAY, KATHERINE M	L.O. ASSIGNED	105

PUB INFORMATION

RUN DATE	04/11/2007		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	04/10/2007		
LITERAL MARK ELEMENT	BROWHAUS		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	RE PUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	YES	44D	YES	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	NO
-------------------------	----

LITERAL MARK ELEMENT	BROWHAUS
MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	YES

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Browhaus Pte Ltd.
ADDRESS	1 Scotts Road #19-04/05 Shaw Center, 228208
ENTITY	99-PRIVATE LIMITED COMPANY
CITIZENSHIP	Singapore

GOODS AND SERVICES

INTERNATIONAL CLASS	044
DESCRIPTION TEXT	Hygiene and beauty care of human beings; eye brow trimming; eye brow threading; and eyelash perming

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	044	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
COLORS CLAIMED STATEMENT	The applicant claims color as a feature of the mark, namely, light green and dark green.
DESCRIPTION OF MARK	The mark consists of the letters "bro" and "haus", which appear in light green (Pantone 383C), the letter "w" (appearing between them) and the design appear in dark green (Pantone 378C). The word "browhaus" appears in the center of a grid-like design pattern.

FOREIGN INFORMATION

PRIORITY CLAIMED	SEC. 44(D) ON Singapore
APPLICATION NO.	N/A
APPLICATION FILING DATE	07/11/2006
FOREIGN REG NO.	N/A
FOREIGN REG DATE	N/A

FOREIGN RNWL NUM	N/A
DATE OF FOREIGN RNWL	N/A
FOREIGN EXPIRATION	N/A
FOREIGN RNWL EXPIRATION	N/A

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
04/10/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
04/10/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
04/10/2007	ALIE	A	ASSIGNED TO LIE	007
03/06/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	006
02/28/2007	GNRT	F	NON-FINAL ACTION E-MAILED	005
02/28/2007	CNRT	R	NON-FINAL ACTION WRITTEN	004
02/28/2007	DOCK	D	ASSIGNED TO EXAMINER	003
10/17/2006	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
10/16/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Jack L. Most, Esq.
CORRESPONDENCE ADDRESS	JACK L. MOST, ESQ. GOETZ FITZPATRICK LLP 1 PENN PLZ STE 4401 NEW YORK, NY 10119-0196
DOMESTIC REPRESENTATIVE	NONE



browhaus



SUSPENSION LETTER

To: Browhaus Pte Ltd. (jmost@goetzfitz.com)
Subject: TRADEMARK APPLICATION NO. 77019510 - BROWHAUS - 44220/20090
Sent: 4/17/2007 2:13:14 PM
Sent As: ECOM105@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/019510
APPLICANT: Browhaus Pte Ltd.

77019510

CORRESPONDENT ADDRESS:
JACK L. MOST, ESQ.
GOETZ FITZPATRICK LLP
1 PENN PLZ STE 4401
NEW YORK, NY 10119-0196

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

MARK: BROWHAUS

CORRESPONDENT'S REFERENCE/DOCKET NO: Please provide in all correspondence:
44220/20090

CORRESPONDENT EMAIL ADDRESS:
jmost@goetzfitz.com

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

Serial Number 77/019510

NOTICE OF SUSPENSION

SUSPENSION PROCEDURE: This suspension notice serves to suspend action on the application for the reason(s) specified below. No response is needed. 37 C.F.R. §2.67. However, the examining

attorney will conduct periodic status checks and may issue inquiries at 6 month intervals from the mailing date of this notice. TMEP §716.05. If a status inquiry Office action issues, applicant will have 6 months from the mailing or e-mailing date of the status inquiry to respond. 15 U.S.C. §1062(b); 37 C.F.R. §2.62.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Action on this application is suspended pending the disposition of:

- Application Serial No(s). **78705848**

Since applicant's effective filing date is subsequent to the effective filing date of the above-identified application(s), the latter, if and when it registers, may be cited against this application in a refusal to register under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d). See 37 C.F.R. §2.83; TMEP §§1208 et seq. A copy of information relevant to this pending application(s) is **attached**.

Applicant may submit a request to remove the application from suspension to present arguments related to the potential conflict between the relevant application(s) or other arguments related to the ground for suspension. TMEP §716.03. Applicant's election not to present arguments during suspension will not affect the applicant's right to present arguments later should a refusal in fact issue. If a refusal does issue, applicant will be afforded 6 months from the mailing or e-mailing date of the Office action to submit a response. 15 U.S.C. §1062(b); 37 C.F.R. §2.62.

The following refusal(s)/requirement(s) is/are continued and maintained:

Recitation of Services

The wording "hygiene and beauty care of human beings" in the identification of services needs clarification because it is too broad and could include services classified in other international classes. TMEP §1402.01. Applicant should identify the type of services being provided, e.g., cosmetician services, beauty care salons, or specific services such as facials, cosmetic body services, depilatory hair removal, etc. Please note, if applicant is providing instruction in hygiene and beauty care of human beings (e.g., beauty arts instruction), then these services are properly classified in International Class 41.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>.

Applicant may adopt the following identification of services, if accurate:

INTERNATIONAL CLASS 44:

- Hygiene and beauty care of human beings, **namely, [please identify the specific services, e.g., cosmetician services]**; eye brow trimming; eye brown threading; and eyelash perming.

TMEP §1402.01

Please note that, while the identification of services may be amended to clarify or limit the services, adding to the services or broadening the scope of the services is not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, applicant may not amend the identification to include services that are not within the scope of the services set forth in the present identification.

Combined Applications – Additional Fee May be Required

The application identifies services that may be classified in at least two classes; however, the fees submitted are sufficient for only one class. In a multiple-class application, a fee for each class is required. 37 C.F.R. §2.86(a)(2); TMEP §§810-810.01 and 1403.01.

If applicant prosecutes this application as a combined, or multiple-class application, applicant must comply with each of the following for those services based on an intent to use the mark in commerce under Trademark Act Section 1(b) and a foreign registration under Trademark Act Section 44(e):

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Revised Description of the Mark and Color Location Statement Needed

Applicant must provide a color claim and color location statement using common color names, e.g., magenta, yellow, turquoise. Specifically, the commercial color names in the description of the mark must be supplemented with a generic description of the colors. TMEP §§807.07(a)(i) and (a)(ii).

The following is suggested:

- The mark consists of the letters “bro” and “haus”, which appear in light green, the letter “w” (appearing between them) and the design appear in dark green. The word “browhaus” appears in the center of a grid-like design pattern.

Translation

Applicant must submit an English translation of all foreign wording in the mark. 37 C.F.R. §2.61(b); TMEP §809. In the present case, the wording “HAUS” needs translating for the record. The following

translation statement is suggested:

- The English translation of the word “haus” in the mark is “house.”

Serial Number of Foreign Application Omitted

Applicant must provide the serial number and filing date of the foreign application that supports the filing basis under Trademark Act Section 44(d), 15 U.S.C. §1126(d). Paris Convention Article 4(D)(5); 37 C.F.R. §2.34(a)(4)(i)(A); TMEP §1003. The application identifies the filing date, but not the application serial number for the foreign application.

Certificate of Registration Required

If applicant is asserting §44(e) as a basis for registration (based on the foreign registration that will issue from the application that the applicant relied on for priority), then applicant must submit a true copy, photocopy, certification or certified copy of a foreign registration from the applicant’s country of origin.

Applicant’s country of origin must either be a party to a convention or treaty relating to trademarks to which the United States is also a party, or must extend reciprocal registration rights to nationals of the United States by law. *See* TMEP §§1002.01, 1003.03 and 1004.

If the foreign certificate of registration is not written in English, then applicant must provide an English translation signed by the translator. *See* TMEP §§1004.01 and 1004.01(b).

Option to Delete Basis

The application specifies both intent to use under Section 1(b) and a claim of priority under Section 44(d) based on a foreign application. 15 U.S.C. §§1051(b) and 1126(d). When an application is filed pursuant to Section 44(d), the USPTO presumes, unless otherwise indicated, that applicant intends to rely upon the resulting foreign registration as a basis for registration in the U.S. TMEP §§806.02(f) and 1003.03.

However, applicant may rely solely on intent to use as the basis for registration, and still claim the benefit of the priority filing date. If applicant wants to rely on intent to use as the sole basis for registration, with the claim of priority, applicant should submit an amendment so advising the undersigned. Once all other outstanding issues are resolved, the mark would be approved for publication without requiring a copy of the foreign registration. TMEP §§806.02(f) and 806.04(b). However, while the mark may be approved for publication, it will not register until an acceptable allegation of use has been filed.

If applicant does not indicate otherwise, the USPTO will presume that applicant is relying on the foreign registration as an additional basis for registration. Thus, the application will not be approved for publication until a copy of the foreign registration and, if appropriate, an English translation signed by the translator, have been filed. TMEP §§1004.01 and 1004.01(b).

If the applicant has any questions or needs further assistance, please telephone the assigned examining attorney.

/Kate DuBray/
Trademark Examining Attorney, Law Office 105
Tel: (571) 272-4815

Fax: (571) 273-4815

NOTICE OF NEW PROCEDURE FOR E-MAILED OFFICE ACTIONS: In late spring 2007, for any applicant who authorizes e-mail communication with the USPTO, the USPTO will no longer directly e-mail the actual Office action to the applicant. Instead, upon issuance of an Office action, the USPTO will e-mail the applicant a notice with a link/web address to access the Office action using Trademark Document Retrieval (TDR), which is located on the USPTO website at <http://portal.uspto.gov/external/portal/tow>. The Office action will not be attached to the e-mail notice. Upon receipt of the notice, the applicant can then view and print the actual Office action and any evidentiary attachments using the provided link/web address. TDR is available 24 hours a day, seven days a week, including holidays and weekends. This new process is intended to eliminate problems associated with e-mailed Office actions that contain numerous attachments.

DESIGN MARK

Serial Number

78705848

Status

NOTICE OF ALLOWANCE - ISSUED

Word Mark

BRAUHAUS

Standard Character Mark

No

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Brauhaus Incorporated CORPORATION CALIFORNIA 6904 Clinton Street Los Angeles CALIFORNIA 90036

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: Eyebrow colors; eyebrow pencils; eye makeup; facial makeup; wax for hair removal; cosmetic oils; lipstick; makeup kits comprised of various cosmetics; lip gloss; eyeshadow.

Goods/Services

Class Status -- ACTIVE. IC 008. US 023 028 044. G & S: Tweezers; scissors.

Goods/Services

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050. G & S: Eyebrow brushes; stencils for applying makeup; applicator sticks for applying cosmetics.

Goods/Services

Class Status -- ACTIVE. IC 044. US 100 101. G & S: Beauty salons.

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: Applicator for applying hair growth stimulants containing hair growth stimulant.

Translation Statement

Print: Apr 17, 2007

78705848

The English translation of BRAUHAUS is BREWING HOUSE.

Filing Date

2005/09/02

Examining Attorney

POWELL, LINDA

Attorney of Record

Lee J. Eulgen

BRANNAN