

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Applicant: CE Opco, LLC

Mark: COMBS GLOBAL

Serial No.: 88/441,258

Classes: 016, 025

Dated Filed: May 22, 2019

To: Commissioner of Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Tiffany Young Chiang
Trademark Examining Attorney
Law Office 113

**PETITION TO REVIVE AND RESPONSE TO
OFFICE ACTION DATED JULY 3, 2019**

Applicant CE Opco, LLC (“Applicant”) respectfully submits this Petition to Revive the above referenced Application Serial No. 88/391,809 (the “Application”), which was abandoned due to Applicant’s unintentional delay in responding to the Examining Attorney’s non-final Office Action dated July 3, 2019. For the reasons set forth below and in the accompanying Declaration of Tarik Brooks (“Brooks Declaration”), Applicant respectfully requests that its Application, which was unintentionally abandoned, be revived and that the Examining Attorney withdraw the refusals to register.

I. PETITION TO REVIVE

The Application was abandoned because a non-final Office Action issued against the Application on July 3, 2019 (the “Office Action”), and a response by Applicant was not timely received by the deadline on January 3, 2020. The U.S. Patent and Trademark Office (“USPTO”)

issued a Notice of Abandonment on January 27, 2020. Applicant timely files this Petition to Revive before the deadline on March 27, 2020. *See* Trademark Manual of Examining Procedure (“TMEP”) § 1714.01(d) (“a petition to revive an abandoned application must be filed by not later than: (1) two months after the issue date of the notice of abandonment; or (2) two months after the date of actual knowledge of the abandonment[.]”).

In support of the Petition to Revive, Applicant submits: (1) the \$100.00 petition fee required by 37 C.F.R. § 2.6; (2) the signed statement of Applicant, who has firsthand knowledge that the delay in filing a response to the Office Action on or before the due date was unintentional; and (3) the below, signed Office Action Response, which addresses the issues identified in the Examining Attorney’s Office Action. *See generally* TMEP § 1714.01(a)(i) (identifying the items that must be included in a Petition to Revive).¹

Based on all of the foregoing, Applicant respectfully requests that the USPTO grant its Petition to Revive the Application.

¹TMEP § 1714.01(a)(i) states, in part:

[A] petition to revive an application abandoned for failure to respond to an examining attorney’s *nonfinal* Office action...must include all of the following:

- (1) The petition fee required by 37 C.F.R. § 2.6;
- (2) A statement, signed by someone with firsthand knowledge of the facts, that the delay in filing the response on or before the due date was unintentional. The statement does not have to be verified; and
- (3) A properly signed response to the Office action or a statement that the applicant did not receive the Office action or the notification that an Office action issued.

II. RESPONSE TO JULY 3, 2019 NON-FINAL OFFICE ACTION

In the Application, Applicant seeks to register the mark COMBS GLOBAL (“Applicant’s Mark”) under Trademark Act Section 1(b) in connection with:

- “Posters; stickers; souvenir programs featuring entertainment, information concerning a musical performer and producer and his musical performances, his biography and productions sound and video recordings, live appearance and concert schedules, and information on other recording artists; desk supplies, namely, pencils, pens, erasers, notebooks and desk sets” in Class 16; and
- “Clothing and clothing accessories, namely, shirts, t-shirts, jackets, jogging suits, pants, coats, t-shirts, shorts, tank tops, skirts, warm-up suits, soccer jerseys, sportshirts, jackets, hoodies, beanies, sweatshirts and sweatpants, sweaters, dresses, sleepwear, loungewear, and swimwear; footwear, shoes, sneakers; headbands; socks; baseball caps and hats; fashion accessories, namely, bandanas, belts, ties, gloves, scarves, socks, hosiery, underwear, men's briefs, boxer briefs, boxer shorts and women's lingerie” in Class 25.

(hereafter, “Applicant’s Goods”).

On July 3, 2019, the Examining Attorney issued an Office Action: (1) refusing registration in Class 25 based on a perceived likelihood of confusion with a prior registration for LUKE COMBS (Reg. No. 5417705) (the “Cited Mark”), (2) advising Applicant of a prior-filed U.S. Application Serial No. 87188303 for the mark KELLY MC COMBS, which was filed with the USPTO on September 29, 2016 in Class 25 for a variety of clothing items (the “Prior Pending Application”); (3) requiring additional information about Applicant’s Goods; (4) requiring a disclaimer as to the term “GLOBAL,” and (5) requiring a consent statement and written consent.

Applicant respectfully submits the following Response to address the issues identified by the Examining Attorney.

A. Request to Divide Class 16 from the Application.

Pursuant to TMEP § 1110, Applicant respectfully requests to divide Class 16 from the Application as the Examiner has not raised any issues as to Class 16. Applicant submits that the resulting child application will be in condition for publication and requests favorable action as to the same. In connection with the request to divide, Applicant will submit the required \$100 fee after the Application has been revived.

B. Request to Suspend Parent Application Pending Outcome of the Prior Pending Application.

Applicant submits that there is no likelihood of confusion with the Cited Mark. However, Applicant prefers to reserve its arguments against likelihood of confusion at this time and hereby requests that the Examiner suspend the Application pending the outcome of the Prior Pending Application.

C. Request for Additional Information about Applicant's Goods.

The Examiner has requested additional information regarding Applicant's Goods. In particular, the Examiner has requested information as to (a) whether the goods are intended to be offered for sale on a global or worldwide scale and (b) whether the goods will be manufactured, packaged, shipped from or sold globally.

The Applicant confirms that its Goods will be offered under Applicant's Mark outside of the United States and potentially worldwide, and it's possible that at least some manufacturing to take place in a foreign country.

D. Disclaimer Requirement.

The Examiner has taken the position that the term “GLOBAL” is geographically descriptive of the origin of Applicant’s goods and is requiring Applicant to enter a disclaimer of the term. Applicant asserts that the application as-filed should be accepted. However, in the alternative, should the Examiner withdraw its objections, the Applicant is willing to submit the following disclaimer:

No claim is made to the exclusive right to use “GLOBAL” apart from the mark as shown.

E. Consent Statement and Written Consent.

The Examiner has required Applicant to submit a consent statement confirming that the term “COMBS” in Applicant’s Mark identifies a particular living individual along with an acceptable written consent to register the name signed by that individual. As such, Applicant submits the following consent statement:

“COMBS” identifies Sean Combs, a living individual whose consent is of record.

In addition, Applicant submits the attached written consent signed by Sean Combs attached hereto as Exhibit 1.

III. CONCLUSION

In light of all of the foregoing, Applicant respectfully requests that the Examining Attorney grant the petition to revive the Application, divide Class 16 from the Application and approve the resulting child application for publication, and suspend the parent application pending the outcome of the Prior Pending Application.