

Applicant responds to the Office Action issued by the Examining Attorney on July 6, 2015 as follows:

**I. Amendment to Identification of Goods**

Applicant requests amendment of its identification of goods to read as follows (additions in **bold red font**):

- Class 3: Cosmetics; cosmetic pencils; make-up kits **comprising** cosmetics, make-up, cosmetic pencils, scissors, **and** cosmetic brushes; eyeliner

Applicant believes that this amendment satisfies the Examining Attorney's objections to the description of goods.

**II. Likelihood of Confusion Refusal and Advisory Regarding Cited Registration**

The Examining Attorney has refused registration on the ground that Applicant's mark, **SIGMA & Design**, when used on or in connection with the goods as amended claimed in the application, so resembles the following mark as to be likely to cause confusion, mistake or to deceive:



**SIGMASKIN**, U.S. Registration No. 3720748, owned by Sigma Development & Holding Co., Inc. for "skin cream, hair growth shampoo, hair growth conditioner, skin toning cream, aftershave cream, facial cleanser facial moisturizer" in Class 3.

In response to the Examining Attorney's likelihood of confusion refusal, Applicant respectfully requests that the application be suspended until maintenance documents are filed for the cited mark. Applicant notes that the owner of the cited registration had a deadline of December 8, 2015 to maintain its registration. At present, the TSDR shows no documents have been filed in connection with the registration. See **Exhibit A**. The cited registration now has a grace period deadline of June 8, 2016. Applicant believes that the citation of this registration will be moot if the registration is cancelled. Therefore, Applicant requests that its application be suspended until that time. Applicant understands, however, that pursuant to Trademark Manual of Examining Procedure § 716.02(e), the Examining Attorney may be forced to issue a new office action maintaining the refusal if the registration is not cancelled.

**III. Conclusion**

In light of the above, Applicant respectfully requests that the Examining Attorney enter the amendment of the goods and suspend all further action on Applicant's application.

**Exhibit A**

**Generated on:**

This page was generated by TSDR on 2015-12-15 21:54:00 EST

**Mark:** SIGMASKIN



**US Serial Number:** 77547998

**Application Filing Date:**

Aug. 15, 2008

**US Registration Number:** 3720748

**Registration Date:**

Dec. 08, 2009

**Register:**

Principal

**Mark Type:**

Trademark

**Status:**

Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:**

Dec. 08, 2009

**Publication Date:** Sep. 22, 2009

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## Mark Information

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**Mark Literal Elements:**

SIGMASKIN

**Standard Character Claim:**

No

**Mark Drawing Type:**

3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

**Description of Mark:**

The mark consists of the Greek alphabet letter "sigma" capitalized with the word "Sigmaskin" underneath.

**Color(s) Claimed:**

Color is not claimed as a feature of the mark.

**Design Search Code(s):**

28.01.05 - Alpha (Greek letter); Omega (Greek letter); Greek characters

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## Goods and Services

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**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:**

skin cream, hair growth shampoo, hair growth conditioner, skin toning cream, aftershave cream, facial cleanser facial moisturizer

**International Class(es):** 003 - Primary Class

**U.S Class(es):**

001, 004, 006, 050, 051, 052

**Class Status:**

ACTIVE

**Basis:**

1(a)

**First Use:** Jul. 07, 2008

**Use in Commerce:**

## Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

## Current Owner(s) Information

**Owner Name:**

Sigma Development &amp; Holding Co., Inc.

**Owner Address:**6365 Collins Avenue, Suite 3806  
Miami Beach, FLORIDA UNITED STATES 33141**Legal Entity Type:** CORPORATION**State or Country Where  
Organized:**

FLORIDA

## Attorney/Correspondence Information

**Attorney of Record****Attorney Name:** Natalia Utrera, Esq.**Correspondent****Correspondent  
Name/Address:**NATALIA UTRERA, ESQ.  
SPIEGEL & UTRERA, P.A.  
PO BOX 450605  
MIAMI, FLORIDA UNITED STATES 33245-0605**Phone:** 800-603-3900 ext. 208**Fax:**

305-857-3700

**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Dec. 08, 2009	REGISTERED-PRINCIPAL REGISTER	
Sep. 22, 2009	PUBLISHED FOR OPPOSITION	
Sep. 02, 2009	NOTICE OF PUBLICATION	
Aug. 18, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
Aug. 13, 2009	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 13, 2009	ASSIGNED TO EXAMINER	77073
Jun. 21, 2009	AMENDMENT FROM APPLICANT ENTERED	73787
Jun. 21, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Jun. 21, 2009	ASSIGNED TO LIE	73787
Jun. 16, 2009	FAX RECEIVED	
Dec. 05, 2008	NON-FINAL ACTION MAILED	
Dec. 05, 2008	NON-FINAL ACTION WRITTEN	86334
Nov. 24, 2008	ASSIGNED TO EXAMINER	86334
Aug. 20, 2008	NOTICE OF DESIGN SEARCH CODE AND PSEUDO MARK MAILED	
Aug. 19, 2008	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

**TM Staff Information - None**  
**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:**

Dec. 08, 2009