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February 17, 2019

RE: Response to Office Action – The Truth Serial No. 88031216

Dear Mr. Fennessy:

We are in receipt of the Examining Attorney's Office Action filed on August 16, 2018 for the trademark application The Truth (Serial Number 88031216) ("Applicant Mark"). In the Office Action, the Examining Attorney issued an initial refusal to the Applicant Mark based on a finding of likelihood of confusion with previously registered marks.

Applicant responds to the refusal with the following:

1. Deletion of Class 16 and Amendment of Class 41 Identification of Services.
   In light of the Examining Attorney's ruling, Applicant shall delete its class 16 application in its entirety and proposes to amend its class 41 class description by deleting "Providing a website featuring resources, namely, non-downloadable publications in the nature of books, magazines, and pamphlets in the field of personal development, general interest, health and lifestyle".

2. Likelihood of Confusion.
   The Examining Attorney found that the Applicant Mark would cause a likelihood of confusion with the registered marks, "The Truth" for "books in the field of lifestyle counseling" ("Mark 1") and "Truth" for "entertainment in the nature of on-going television programs featuring hunting and outdoor topics" ("Mark 2") (collectively the "Marks").

   Based on Applicant's proposed deletion of its class 16 filing in its entirety and a portion of its class 41 description as first stated above, Applicant submits that the initial refusal related to Mark 1 is no longer applicable and therefore should no longer be cited as reason for such refusal. With respect to Mark 2, Applicant requests that the Examining Attorney reconsider the refusal based on the following:

   Relatedness of the Services. Though the Applicant Mark and Mark 2 fall within the same class category, the services are not similar nor do they travel in the same channels of trade. The services emanating from Mark 2 consist of a television or video program intended for individuals to view as a source of entertainment; whereas the Applicant Mark is the provision of development, production, and distribution of multimedia content, not the broadcast or exhibition of said content.

As a result, individuals viewing Truth programs would not necessarily be the same individuals seeking content development and production services from a mark called The Truth, nor would Mark 2 viewers think that the Applicant Mark is the source of the Truth programming. Additionally, the Mark 2 programming is narrowly defined to solely be about "hunting and outdoor topics". Applicant submits that this limitation further alleviates any concerns about the Applicant Mark creating a likelihood of confusion with Mark 2.

Applicant also encourages the Examining Attorney to consider customary industry practice around the exhibition of programming and the development and production of multimedia content –

- in the event that an ordinary consumer sought out development and production services and learned about the services provided by the Applicant Mark, such consumer would not come across any references to the Mark 2 programming (e.g. that Applicant is the producer or exhibitor of such programming)
- in the event that an ordinary consumer viewed Mark 2 programming and then sought more information about the programming, if such consumer also learned about the Applicant Mark in search of additional information, that consumer would immediately realize that the Applicant Mark is not the producer of such content.

The mere fact that an ordinary consumer in search of the services provided by either the Applicant Mark or Mark 2 may learn about the other mark should not create an assumption that a likelihood of confusion exists.

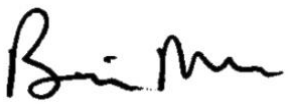
3. Proposed Further Amendment to Identification of Class 41 Services.
In the event the Examining Attorney is not persuaded by the above discussion, Applicant proposes further amending its class 41 description by explicitly excluding "any content about or related to hunting and outdoor topics" in connection with the remaining services set forth in class 41. While Applicant believes that the Mark 2 services, and the individuals those services are marketed to, are not similar to the services emanating from the Applicant Mark, further amending the Applicant Mark class 41 description offers an additional distinction between the parties' marks.

4. Prior Pending Application.
Applicant notes that the Examining Attorney cited five (5) prior pending applications, all of which are still pending before the United States Patent & Trademark Office. Some of these prior pending applications appear to have failed to respond to non-final office actions in a timely manner and may be abandoned in due course; rendering any concern about these prior pending applications moot. While Applicant submits that the Applicant Mark would not create a likelihood of confusion with any of the prior pending applications based on the *du Pont* analysis, Applicant would be prepared to more fully respond to a refusal should (a) any of the prior pending applications ultimately register and (b) the Examining Attorney rules that the Applicant Mark creates a likelihood of

confusion with one or more of the prior pending applications that proceeded to registration.

In conclusion, Applicant submits that the Applicant Mark does not create a likelihood of confusion with Mark 1, Mark 2, or any of the prior pending applications. Accordingly, Applicant respectfully requests that the Examining Attorney reverse its initial ruling.

Sincerely,



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Attorney for Applicant