

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: American Cleaning Institute Examining Attorney: Karen Bracey

Serial No.: 88/265748

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Mark:

RESPONSE

On behalf of the American Cleaning Institute ("Applicant"), please consider the following response to the Examining Attorney's Office Action dated March 29, 2019.

REMARKS

Section 2(d) Refusal

The Examining Attorney has initially refused registration of the Applicant's mark under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), based on a likelihood of confusion with U.S. Registration Nos. 2151696 and 3558638 for the mark EXPLORATION for providing elementary and high school level instruction and teacher training for class instruction and preparation. The Examining Attorney also cited two prior-pending applications owned by the same party for the marks EXPLORATION LEARNING (SN 87-947330) and THE EXPLORATION CLASSROOM (SN 88-005713) for teacher training, academic enrichment courses, and educator training services. The Applicant respectfully disagrees with the Examining Attorney's conclusion and submits that there is no likelihood of confusion between the cited marks and applications and its EXPLORATION CLEAN & Design mark to identify information programs to encourage and promote STEM education.

As noted by the Examining Attorney, the relevant factors to consider when determining whether there is a likelihood of confusion between two marks are set forth in In re E.I. DuPont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). The Examining Attorney must look not only at the marks, but also at the relatedness of the compared services and at all of the circumstances that exist in the marketplace. In this case, the differences in the marks and the overall commercial impression created by the marks and differences in the nature of the services offered under the marks are sufficient to prevent a likelihood of consumer confusion.



The Marks Differ

Although the Applicant's mark includes the term "EXPLORATION" and the cited registrations include the same term, the Applicant's mark is stylized and includes distinctive design elements and the term "CLEAN." The Examining Attorney is obligated to consider the marks in their entirety and should not dissect the marks. Even marks that share similar elements may create significantly different commercial impressions when applied to a parties' goods or services so that there is no likelihood of consumer confusion.

The Supreme Court observed in Estate of P.D. Beckwith v. Commissioner of Patents, 252 US 538 (1920), that "[t]he commercial impression of a trademark is derived from it as a whole, not from its elements separated and considered in detail." Id. at 545-46. This "anti-dissection" rule is intended to prevent focusing on any individual feature and ignoring all other elements of a mark when determining a likelihood of confusion. The addition of the term CLEAN along with distinctive design elements in the Applicant's mark distinguish the marks.


Moreover, the USPTO has recognized that marks that include the word "EXPLORATION" and minor variations to identify educational services in Class 41 may co-

exist on the Register. Below is a list of registrations and approved applications for third-party marks that include “EXPLORATION” or minor variations for educational services in Class 41.


Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
<p data-bbox="186 499 591 793">AMERICAN BOARD OF NEUROPSYCHIATRY - 2000 - SUSCIPIO IN OMNIA EXCELLENTIA EXPLORATION EDUCATION EXPERIMENTATION and Design</p> 	<p data-bbox="613 499 846 569">Registered June 12, 2018</p>	<p data-bbox="868 499 1273 680">(Int'l Class: 41) educational services, namely, organization of conferences, speaking events, and seminars in the field of neuropsychiatry</p>	<p data-bbox="1300 499 1427 642">RN: 5489515 SN: 87415660</p>
<p data-bbox="186 1060 548 1136">BE BODYALIVE EXPLORATION (Stylized)</p> 	<p data-bbox="613 1060 846 1129">Registered October 30, 2018</p>	<p data-bbox="868 1060 1273 1793">(Int'l Class: 41) education services for group classes or individual sessions providing information, training and instruction in either or a combination of: somatic movement, anatomy and physiology, yoga, pranayama, meditation, chanting, massage, myofascial release, structural and postural assessment, principles of anatomical and physiological cellular consciousness, developmental movement sequencing from embryology, birth, infancy, childhood through adulthood, principles and practice of embodiment, reiki, the martial art Bujinkan Budo Taijutsu</p>	<p data-bbox="1300 1060 1427 1203">RN: 5594164 SN: 87757467</p>

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
BOLD EXPLORATIONS IN COMMUNITY	Registered July 25, 2017	(Int'l Class: 41) education services, namely, educational training and facilitation in the nature of workshops in the field of facilitation of community conversation and productive dialogue in public, community, and organizational settings; educational consultation related to the facilitation of community conversation and productive dialogue in public, community, and organizational settings	RN: 5249827 SN: 87251052
CAREER EXPLORATIONS	Renewed May 1, 2010	(Int'l Class: 41) educational services, namely providing courses of instruction for high school level students	RN: 1594616 SN: 73817283
ENGINEERING EXPLORATIONS A STEM CAMP FOR TOMORROW'S ENGINEERS	Registered March 7, 2017	(Int'l Class: 41) educational services, namely, conducting camps in the field of science, technology, engineering and mathematics (stem)	RN: 5154848 SN: 87091412
EXPLORATION CENTRAL	Allowed - Intent to Use Notice of Allowance Issued January 15, 2019	(Int'l Class: 41) Arranging and conducting guided tours of cruise ships; providing guided tours in the nature of whale-watching	SN: 87133364


Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		<p>tours; providing guided tours in the nature of hiking tours; Lending library services; Lending of books and other publications; Educational services, namely, conducting seminars, lectures, and workshops in personal awareness; Movie showing; Planning arrangement of showing movies, shows, plays or musical performances; Recreational services for educational and/or entertainment purposes in the nature of arranging and conducting guided tours as related to animal riding, aquariums, nature reserves, zoos, architecture, ATV riding, off roading, biking, boating, canoeing, culinary events, cultural events, dog sledding, dune and beach buggy riding, fishing, golfing, helicopter rides, hiking, historical places, kayaking, paddleboating, rock climbing, sailing, scuba diving, seaplanes, shopping, snorkeling, submarines, swimming with sea life, sites which have been designated as culturally, educationally, or scientifically significant, water parks, water scooter riding, and zip lining and canopy event</p>	
<p>EXPLORATION PLACE (Stylized)</p>	<p>Renewed December 28,</p>	<p>(Int'l Class: 41) educational, entertainment and</p>	<p>RN: 2303304</p>

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
	2009	recreational services, provided in a recreational complex in the nature of interactive exhibits, hands-on activities, demonstrations, and educational workshops and seminars relating to science, nature, the environment, technology and human health and development; state of the art movie theaters; providing facilities for recreational activities in the nature of picnic areas, bike paths, walking and hiking trails; and providing plaza and pavilion facilities for entertainment, sporting and recreational events	SN: 75358078
EXPLORATION PLACE	Renewed January 4, 2010	(Int'l Class: 41) educational, entertainment and recreational services, provided in a recreational complex in the nature of interactive exhibits, hands-on activities, demonstrations, and educational workshops and seminars relating to science, nature, the environment, technology and human health and development; state of the art movie theaters; providing facilities for recreational activities in the nature of picnic areas, bike paths, walking and hiking trails; and providing plaza and pavilion facilities for entertainment, sporting and recreational events	RN: 2305163 SN: 75357649


Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
EXPLORATION SPACE	Registered 8 & 15 October 19, 2016	(Int'l Class: 41) educational services, namely, providing displays, exhibits, and live presentations in the field of missions to outer space	RN: 3958776 SN: 77842064
FOUR-STEP FORUM EXPLORATION	Allowed - Intent to Use Statement of Use - Non-Final Refusal Mailed May 17, 2019	(Int'l Class: 41) Educational and training services in the fields of business management and leadership development	SN: 87029352
GHOST BIKER EXPLORATIONS	Pending - Initialized May 16, 2019	(Int'l Class: 41) Educational and entertainment services, namely, a continuing program about paranormal activity and paranormal investigations at historical location accessible by radio, television, satellite, audio, video and computer networks	SN: 88426558
HEALING THROUGH EXPLORATION	Registered March 24, 2015	(Int'l Class: 41) charitable services, namely, providing camps for children affected by cancer and other adverse medical diagnoses; charitable educational and entertainment services for children affected by cancer and other adverse medical diagnoses, namely, providing day, overnight, and specialty camps that feature classes and educational experiences in the	RN: 4707745 SN: 86350353


Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		nature of field trips in the field of science and nature which provides opportunities for children to experience, interact and connect with nature, and workshops featuring team building exercises; charitable educational services for children affected by cancer and other adverse medical diagnoses, namely, conducting programs in the fields of science, nature and wildlife preservation	
	Registered August 12, 2014	(Int'l Class: 41) conducting educational exhibitions in the nature of retail grocery store tours, cooking seminars, recipe ideas and food sampling; conducting entertainment exhibitions in the nature of cooking seminars, recipe ideas and food sampling; educational services, namely, providing retail grocery store tours and workshops in the fields of healthy living; entertainment in the nature of providing cooking seminars, food sampling and recipe ideas in the field of healthy living	RN: 4584091 SN: 86161218
HEALTHY EXPLORATIONS	Registered August 12, 2014	(Int'l Class: 41) conducting educational exhibitions in the nature of retail grocery store tours, cooking seminars, recipe ideas	RN: 4584089 SN: 86161202

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		and food sampling; conducting entertainment exhibitions in the nature of cooking seminars, recipe ideas and food sampling; educational services, namely, providing retail grocery store tours and workshops in the fields of healthy living; entertainment in the nature of providing cooking seminars, food sampling and recipe ideas in the field of healthy living	
INTERACTIVE EXPLORATIONS	Renewed May 11, 2014	(Int'l Class: 41) providing entertainment and educational information in the fields of the natural, physical and social sciences, the arts and the humanities; education and training, namely, providing academic courses at the primary, secondary, college and post-graduate level, and vocational training in the fields of the arts, sciences, humanities and vocations; educational testing; developing educational programs for others in the field of the natural, physical and social sciences, the arts and the humanities; consultation in the field of developing educational training and research programs; preparing educational audio-visual displays in the field of the natural, physical and social	RN: 2839481 SN: 76365933

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		sciences, the arts and the humanities	
	Registered November 1, 2016	(Int'l Class: 41) education services, namely, providing a learning and innovation center for teaching about agricultural history, agricultural innovation, and the exploration of agriculture in the field of agriculture	RN: 5074206 SN: 86619361
LEARNING THROUGH EXPLORATION	Registered Supplemental Register May 17, 2016	(Int'l Class: 41) educational services, namely, conducting academic enrichment programs in the fields of math, science, civics, history, economics, engineering, computer science, and business; educational services, namely, conducting continuing professional education courses and teacher training courses in the fields of teaching methods, curriculum development, and management consulting and educational consulting opportunities and strategies for teachers	RN: 4961779 SN: 86662308
MAINE EXPERIENCES. GLOBAL EXPLORATIONS.	Registered June 6, 2017	(Int'l Class: 41) educational services, namely, providing courses of instruction at the undergraduate and graduate levels in health and life sciences, medicine, social services, education, business	RN: 5219224 SN: 86756795

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		and liberal arts	
<p>PARANORMAL ACADEMY OF SUPERNATURAL SCIENCES & GHOSTLY EXPLORATION</p>	<p>Registered Supplemental Register February 7, 2017</p>	<p>(Int'l Class: 41) educational services, namely, providing live and online classes, programs, trainings, lectures, workshops, activities and events in the nature of fairs, exhibitions, and educational demonstrations, and multimedia in the nature of online and live streaming of non-downloadable videos in the fields of the supernatural, namely, paranormal, spiritual, psychic, esoteric and metaphysical sciences; entertainment services, namely, conducting live and online educational programs, events, activities, guided tours of historical and haunted locations, panel discussions for educational and entertainment purposes, fairs, educational conferences, and multimedia in the nature of online and live streaming of non-downloadable videos in the fields of the supernatural, namely, paranormal, spiritual, psychic, esoteric and metaphysical sciences</p>	<p>RN: 5139204 SN: 87000282</p>
<p>PROJECT EXPLORATION</p>	<p>Renewed October 22, 2012</p>	<p>(Int'l Class: 41) organizing exhibitions in the nature of public events, namely, exhibits of prehistoric dinosaur relics; educational</p>	<p>RN: 2640331 SN: 75939380</p>



Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		demonstrations, namely, programs allowing students to participate in paleontological field work; and conducting seminars, classes and workshops to educate students about paleontology	
PROJECT EXPLORATION	Renewed April 17, 2011	(Int'l Class: 41) educational services, namely, organizing and conducting school field trips involving students and teachers directly with scientists and their research in a variety of scientific fields	RN: 2444305 SN: 75937134
	Registered 8 & 15 May 1, 2019	(Int'l Class: 41) educational services, namely, conducting conferences in the fields of mining engineering, metallurgy, and mineral exploration and distributing course material in connection therewith	RN: 4360279 SN: 85710514
SOCIETY OF EXPLORATION GEOPHYSICISTS	Pending - Non-Final Action Mailed May 1, 2019	(Int'l Class: 41) Educational services, namely, arranging and conducting courses, seminars, non-downloadable webinars, conferences, and lectures in the field of geophysics and related geosciences; on-line non-downloadable publications in the nature of magazines, journals, abstracts, textbooks, monographs, technical	SN: 88300303

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		standards, slide sets and course notes in the field of exploration geophysics and related geosciences	
SPACE EXPLORATION BEGINS AT HOME	Registered July 15, 2014	(Int'l Class: 41) educational services, namely, providing workshops, internships, seminars and mentoring in the field of earth systems, space exploration, and humanities (Int'l Class: 42) scientific and technological services, namely, scientific research in the field of earth and space exploration	RN: 4567385 SN: 86120355
 <p>The logo for the STEM Exploration Center features the letters S, T, E, and M in a circular arrangement. 'S' is in a blue circle, 'T' is in a green circle, 'E' is in a yellow circle, and 'M' is in a red circle. Below the circles, the text 'Exploration Center' is written in blue.</p>	Registered October 13, 2015	(Int'l Class: 41) educational and entertainment services, namely, providing motivational speaking services in the field of science, technology, engineering, and math; educational services, namely, conducting programs in the field of science, technology, engineering, and math	RN: 4832924 SN: 86312694
SUMMER TALENT EXPLORATION PROGRAM - UNLEASHING POTENTIAL	Registered 8 & 15 March 23, 2018	(Int'l Class: 41) organizing and conducting educational conferences for youth featuring youth leadership training	RN: 4125177 SN: 85384791
	Registered July	(Int'l Class: 41)	RN:

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
	11, 2017	educating at senior high schools; educating at university or colleges; education and entertainment services, namely, production and distribution of ongoing television programs in the field of family management and relationships; education services, namely, mentoring in the field of electronics; education services, namely, one-on-one mentoring in the fields of electronics; education services, namely, providing hands-on opportunities for children in the field of intuitive engineering through live, broadcast, and on-line classes, seminars, workshops, training and curriculum development for children, parents and educators; education services, namely, providing kindergarten through 12th grade (k-12) classroom instruction; education services, namely, providing non-downloadable webinars in the field of electronics; education services, namely, providing on-line resources in the field of electronics; education services, namely, providing tutorial sessions in the field of electronics; education services, namely, providing tutorial sessions in the fields of electronics; education services, namely, providing tutoring in	5239290 SN: 86965608

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		<p>the field of electronics; educational and entertainment services, namely, providing motivational and educational speakers; educational services, namely, conducting programs in the field of electronics; educational services, namely, developing curriculum for educators; arranging and conducting educational conferences; computer education training; computer education training services; continuing education services, namely, providing live and on-line continuing professional education seminars in the field of electronics; entertainment and educational services in the nature of on-line competitions in the field of entertainment, education, culture, sports, and other non-business and non-commercial fields; information in the field of parenting concerning education of children; information on education; information relating to entertainment and education provided on-line from a computer database or the internet; interactive educational and entertainment services, namely, providing a web-based virtual educational theme-park featuring electronics; organizing live exhibitions and conferences in the fields of education, culture,</p>	

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		<p>sports and entertainment for non-business and non-commercial purposes; production and distribution of videos in the field of electronics; providing education courses in the field of electronics offered through online, non-downloadable videos and instructor assistance; providing education in the field of electronics rendered through correspondence courses; providing education in the field of electronics rendered through video conference; providing educational demonstrations; providing educational demonstrations in the field of electronics; providing information about education; providing information about online education; providing information in the field of literacy, reading, sign language, education, training, early childhood instruction and tutoring related to hearing and speech disabilities via the internet; providing information on teaching methodology and education issues to music educators; providing information relating to education services; providing on-line resource guides for relatives concerning children in the fields of education, recreation, and entertainment;</p>	

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		research in the field of education	
<p data-bbox="186 489 529 632">TECK-E TECHNOLOGY EXPLORATION CHALLENGING KIDS EDUCATION and Design</p> 	Registered March 18, 2014	(Int'l Class: 41) providing after school educational programs in the field of engineering and robotics for toy building blocks, an open-source electronics prototyping platform based on hardware and software, video game design, stop animation, graphic image manipulation software, electronic music, industrial design, web design, fashion design	RN: 4499336 SN: 85829318
<p data-bbox="186 1066 529 1094">WAMBI EXPLORATION</p>	Allowed - Intent to Use Notice of Allowance Issued February 19, 2019	(Int'l Class: 41) Educational services, namely, conducting seminars, lectures, retreats, workshops and private mentoring in the field of personal awareness	SN: 87424400
 <p data-bbox="212 1520 391 1541"><i>Wisdom is Simply Exploration</i></p>	Renewed July 6, 2014	(Int'l Class: 41) educational training in the field of memory improvement, stress reduction, health, self-confidence and maintaining functional skills necessary for normal every day living	RN: 2860022 SN: 78190260
<p data-bbox="186 1671 428 1734">WORLDVIEW EXPLORATIONS</p>	Registered December 30, 2014		RN: 4664265 SN: 85832781

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
WOW EXPLORATIONS	Allowed - Intent to Use 1st Extension of Time Granted January 30, 2019	(Int'l Class: 41) Educational and entertainment services for children, namely, providing interactive play areas, instructional classes in the fields of art, culture, geography, travel, history, science and language and social gatherings for children; Entertainment services in the nature of an amusement park show; Entertainment and educational services in the nature of a traveling exhibit in the fields of art, culture, geography, travel, history, science and language; Entertainment and educational services for children namely, interactive activities in the fields of art, culture, geography, travel, history, science and language; Entertainment services in the nature of festivals, parades, live shows, fairs and exhibits in the fields of art, culture, geography, travel, history, science and language; none of the aforesaid services including entertainment, educational or training services relating to wearable art, entertainment services, educational services or training services consisting of or connected with a wearable art show, wearable art competition, exhibitions	SN: 87313958

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		relating to wearable art, or an event which combines a show with a competition featuring wearable art	
XPLORATION DIY SCI	Registered April 17, 2018	(Int'l Class: 41) entertainment and educational services, namely, a television series directed to science features programs broadcasts	RN: 5448684 SN: 87977075
XPLORATION STATION	Registered March 28, 2017	(Int'l Class: 41) educational services, namely, production and distribution of pre-recorded science-related television programs; production and distribution of pre-recorded on-line videos in the field of science	RN: 5172153 SN: 86653115
YOUTH EXPLORATION SOCIETY	Registered 8 & 15 October 5, 2017	(Int'l Class: 41) providing an on-line interactive database featuring the world cultural experiences of others for educational purposes; on-line journals, namely, blogs featuring stories of adventure travel, cultural experiences, environmental issues, wildlife and endangered species; providing entertainment information in the fields of world geography, cultures and wildlife; educational services, namely, providing a website featuring photographs, videos, drawings, audio and text featuring academically	RN: 4018113 SN: 85071804

Mark	Status/Status Date	Class 41 Services	App. No./Reg. No.
		enriching stories in the fields of world geography, cultures and wildlife	

Attached at Exhibit A are TSDR records for these registrations and approved applications owned by different parties which all share the term “EXPLORATION ” combined with other word and design elements. Based on this third-party registration/application evidence showing over 35 different marks, the term “EXPLORATION” is considered a weak term when associated with education services and entitled to a narrow scope of protection: "third-party registrations may be relevant to show that a mark or a portion of a mark is descriptive, suggestive, or so commonly used in a particular industry that the public will look to other elements to distinguish the source of the goods and services.” Juice Generation, Inc. v. GS Enters. LLC, 794 F.3d 1334, 115 USPQ2d 1671, 1675 (Fed. Cir. 2015).

The Services Differ

Differences in the nature of the services, the presentation of the services in the marketplace, and the intended purpose of the services support the conclusion that consumer confusion is unlikely. All of the relevant facts in each case must be considered. See T.M.E.P. §1207.01(a)(iv). The services must be compared to determine if they are related, or if conditions surrounding their marketing are such that confusion as to origin is likely. In re August Storck

KG, 218 USPQ 823 (TTAB 1983); In re International Telephone and Telegraph Corp., 197 USPQ 910 (TTAB 1978).

In this case, the registrant's services focus on classroom teaching for particular grade levels and curriculum preparation and teacher training for providing classroom instruction. In contrast, the Applicant's EXPLORATION CLEAN & Design mark is associated with promoting STEM education and knowledge by increasing public awareness of issues behind the chemistry of cleaning products to encourage and build scientific capacity for the future of the cleaning products industry.

When the overall differences in the marks are considered along with the extensive third-party use of the term "EXPLORATION" in connection with education services and differences in the nature of the services offered under the marks, there is no likelihood of consumer confusion.

CONCLUSION

The Applicant has addressed the issues raised by the Examining Attorney and respectfully requests that the Examining Attorney withdraw the refusal and cited prior-pending applications and approve the application for publication at an early date.

Respectfully submitted,
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