IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

July 22, 2019

Trademark Examining Attorney: Troy Knight
Law Office 107
United States Patent and Trademark Office

RE: Serial No: 8331763
Mark: **BLAST**
Applicant: Chou La La Fashion Inc.
Office Action Of: June 10, 2019

APPLICANT'S RESPONSE TO OFFICE ACTION

This is response to the Office Action issued on June 10, 2019.

The Examining Attorney has issued:

- Partial Refusal Under Section 2(e)(1): Merely Descriptive
- Partial Refusal Under Sections 1 and 45: Specimen Refusal

AMENDMENT OF IDENTIFICATION OF GOODS/SERVICES

Applicant hereby amends the identification of goods and services as follows:

Class 9: Downloadable mobile applications for electronic transmission of data, ~~messages~~, graphics, images and personalized fashion information designed to simplify co-ordination of clothing and fashion accessories via computer and communication networks excluding the transmission of a message in multiple copies to numerous recipients at one time;

Downloadable mobile application that allows users to receive personalized fashion information and recommendations designed to simplify co-ordination of clothing and fashion accessories in the field of fashion excluding the transmission of a message in multiple copies to numerous recipients at one time

Class 42 Providing on-line, non-downloadable software for disseminating personalized fashion information and/or recommendations designed to simplify co-ordination of clothing and fashion accessories in the fields of shopping, clothing and apparel excluding the transmission a message in multiple copies to numerous recipients at one time;

Providing on-line, non-downloadable software for use in the selection and purchase of clothing and apparel.

PARTIAL REFUSAL UNDER SECTION 2(E)(1): MERELY DESCRIPTIVE

Examining Attorney has issued a refusal with respect the goods identified in Class 9 and the following services in Class 42 ONLY:

> "Providing on-line, non-downloadable software for disseminating information and/ or recommendations in the fields of shopping, clothing and apparel."

The basis of the refusal is that the applied-for mark merely describes the purpose of Applicant's goods and services.

In support of the alleged descriptiveness, Examining Attorney relies on:

> "attached evidence from Merriam-Webster.com defines the term "blast" as "the sending of a message (such as a fax or an e-mail) in multiple copies to numerous recipients at one time." Thus, the wording "BLAST" merely describes the purpose of applicant's identified software which is transmitting and receiving electronic messages and information. Ultimately, when purchasers encounter applicant's goods using the mark BLAST, they will immediately understand the mark as an indication the purpose of applicant's goods and not an indication that applicant is the source of the goods. Therefore, the mark is merely descriptive and registration is refused pursuant to Section 2(e)(1) of the Trademark Act. (our emphasis)

Applicant requests reconsideration of the Application in light of amendments to the identification of the goods and services, the submissions below and withdrawal of the said objection.

The purpose of Applicant's goods/services is to provide *personalized* fashion designed to simplify co-ordination of clothing and fashion accessories for children rather than the "sending of message in multiple copies to numerous recipients at one time". That is the meaning as proposed by the Examining Attorney requires the sending of the same message to multiple recipients and ignores the personalized nature of information or recommendations. Here, Applicant's goods and services do not consist of sending the same message but rather providing personalized fashion information that is designed to elicit an enjoyable experience from children.

The word BLAST was chosen because it is intended to convey the idea of empowering children to dress and express themselves each morning through their own style: one less battle to deal with! As set out on the attached Applicant's website: the term BLAST is used as:

> "I have A BLAST: when I dress to express myself"

That is, the term BLAST is used by Applicant as applied to the goods and services in the form of an enjoyable experience. This use and meaning of BLAST is consistent with a wholly different meaning as applied to the goods and services from that as understood by the Examining Attorney. In this connection, Applicant refers to the Examining Attorney's attached evidence from Merriam-Webster.com in Office Action, in particular entry #7 reproduced below:

7 : an enjoyably exciting experience, occasion, or event
// I had a *blast*.
// Their wedding was a *blast*.
especially : PARTY

APPLIED FOR MARK IS REGISTRABLE AS DOUBLE ENTENDRE

In light of the above, Applicant submits that the applied for mark has a double connotation or significance as applied to the goods or services.

Applicant submits that the mark is a "double entendre". The applied for mark is a word capable of more than one interpretation. For trademark purposes, a "double entendre" is an expression that has a double connotation or significance as applied to the goods or services.

Here, Examining Attorney has already identified one potential significance as applied to the goods and services under entry #8 from the meaning of BLAST in Merriam-Webster.com. However, entry #7 from the meaning of BLAST in Merriam-Webster.com is another equally applicable meaning. It is meaning that the public would make fairly readily, and that is readily apparent from the mark itself and as applied to the goods and services. That is, the goods or services provide an enjoyable experience with respect to personalized fashion choices.

As such a mark that comprises the "double entendre", as the case is here for the applied-for mark, will not be refused registration as merely descriptive if **one of its meanings** is not merely descriptive in relation to the goods or services, *see* TMEP 1213.05(c).

PARTIAL REFUSAL UNDER SECTIONS 1 AND 45: SPECIMEN REFUSAL

Examining Attorney has issued a refusal which applies to the services identified in Class 42 ONLY. In response, Applicant amends the filing basis to intent to use under Section 1(b), for which no specimen is required.