


I. Because the Element “FOR WORKERS” Is Not Highly Descriptive, but Rather Is Suggestive of the Subject Goods, A Disclaimer is Not Necessary.

As an initial matter, and as noted above, Applicant’s allowed application for CARHARTT FOR WORKERS (App. No. 88042864) does not have a disclaimer “FOR WORKERS” despite having the same identification of goods. Applicant respectfully requests that the Trademark Examining Attorney maintain consistency with the Trademark Office’s allowance of this prior mark. .

The Trademark Examining Attorney has indicated in this Office Action that “FOR WORKERS” describes a purpose or characteristic of clothing, specifically that it describes an intended user or group of users. However, “FOR WORKERS,” when applied to clothing, requires a reasoning process in order to determine the attributes of the goods, and is merely *suggestive* of a single attribute of the goods. (emphasis added) See, e.g. *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); TMEP Section 1209.01(a) (“Suggestive marks are those that, when applied to the goods or services at issue, require imagination, thought or perception to reach a conclusion as to the nature of those goods or services.”). The element “FOR WORKERS” also has multiple meanings associated with the Mark when used in connection with the goods. According to Dictionary.com, the term “WORKER” can mean either a laborer or employee or a person engaged in a particular field, activity or cause. See Exhibit 1. As evidenced by these definitions, the mark CFW CARHARTT FOR WORKERS & Design  is suggestive of different meanings, either of which can create a different commercial impression. One such meaning suggests that the goods associated with the Mark are meant for use by individuals who are laborers in their profession such as manual or industrial laborers as the Examining Attorney suggests. These are the only examples

provided by the Examining Attorney. Another important interpretation of the element however, suggests that the Mark's goods are intended for individuals in a non-employer/employee setting for more day-to-day type of activities such as yard work or running errands. The commercial impression created under this interpretation is intended to denote an image of higher quality clothing that can withstand all elements, not just clothing that a laborer would wear to work. Carhartt's products are created for a variety of consumers, not just one set of individuals. A reasoning process and some perception by the consumer is required to understand what the Applicant is trying to suggest about the nature or quality of the goods associated with the Mark.

“As has often been stated, there is a thin line of demarcation between a suggestive mark and a merely descriptive one, with the determination of which category a mark falls into frequently being a difficult matter involving a good measure of subjective judgment.” *In re WGI Innovations, Ltd.*, Ser. No. 85245646, (TTAB, February 14, 2013) (citing *In re Atavio*, 25 USPQ2d 1361 (TTAB 1992); *In re TMS Corp. of the Americas*, 200 USPQ 57, 58 (TTAB 1978). Any doubt in the question of mere descriptiveness should be resolved in favor of applicant. *In re Gourmet Bakers, Inc.*, 173 USPQ 565 (TTAB 1972).

In fact in addition to Applicant's own CARHARTT FOR WORKERS, multiple third party registrations or allowed applications that incorporate “WORKER” for clothing related goods and services are present in the Principal Register. In each of these marks, the Trademark Office did not require the owner to disclaim the WORKER element in order to be registered or approved for publication. In other words, ‘WORKER’ was not deemed descriptive for clothing related goods or services. These third party marks include (see Exhibit 2):

MARK	App/Reg Number
CARHARTT FOR WORKERS	App 88042864
UNITY AND STRENGTH FOR WORKERS	Reg. 3610419
USA WORKER (disclaims "USA")	Reg. 5577308
AMERICAN WORKER HEAD TO TOE WORK WEAR (disclaims "AMERICAN" and "WORK WEAR")	Reg. 3941630
AMERICAN WORKER HEAD-TO-TOE CASUAL & WORK WEAR and Design (disclaims "AMERICAN" OR "CASUAL & WORK WEAR")	Reg. 3696624
WORKER PLAYGROUND	App. 87819629
CELEBRATING THE AMERICAN WORKER	Reg. 5571629
GREEN COLLAR WORKER	Reg. 4827391
LIGHT WORKER ON DUTY. IGNITE THE LIGHT.	Reg. 5676372
PIECE WORKER CONSTRUCTION OF DENIM and Design (disclaims "DENIM")	Reg. 5589047
S.W.C STEPNEY WORKERS CLUB (Stylized)	Reg. 5543046
STEPNEY WORKERS CLUB	Reg. 5542986

The "FOR WORKERS" element of Applicant's Mark should likewise not be deemed descriptive for clothing under the Applicant's Mark because it is suggestive of the subject goods instead.

II. Additional Information Required.

The Examining Attorney has also required Applicant to submit additional product information about Applicant's goods and has also requested that Applicant respond to the following issue: "[a]re or will the applicant's goods be suitable for wear by employees in manual and industrial positions?"

As noted above, the Applicant's products are for everyone. The Applicant's goods are suitable for wear by a wide variety of individuals, including children, and for a wide variety of activities no matter the occasion. More importantly, Applicant's goods

are available and marketed to any individual who is looking for high quality, durable clothing for both work and *every day* uses whether it be work, hiking, fishing, gardening, or just simple every day wear. Examples that demonstrate the diversity of Applicant's goods and users are included in Exhibit 3.

III. Mark Description

The Trademark Examining Attorney stated Applicant must submit an amended description of the Mark that agrees with the Mark on the drawing. To comply with this request, Applicant will accept the suggested description amendment as follows:

The mark consists of the stylized word "CARHARTT" above the stylized letters "CFW" with the stylized wording "FOR WORKERS" appearing beneath "CFW".

Applicant has submitted this amendment accordingly.

IV. Identification of Goods

The Trademark Examining Attorney indicated the identification of goods is indefinite and must be clarified, specifically with respect to "caps." Applicant respectfully requests that this requirement be withdrawn. Applicant maintains several other active applications and registrations containing "caps" in the identification of goods and none have required further clarification of the term. A chart of these marks and corresponding identification of goods is included below for the Trademark Examining Attorney's convenience:

Mark	Identification of Goods/Services	App/Reg Number
C CARHARTT & Design	(Int'l Class: 25) clothing, namely, coats, shirts, t-shirts, underwear, long underwear, tops, bottoms, bib overalls, pants, jackets,	Reg. 4385038

Mark	Identification of Goods/Services	App/Reg Number
	vests, coveralls, jeans, sweat pants, sweat shirts, shorts, parkas, denim jackets, sweaters, hats, caps , belts, suspenders, bandanas, hoods, rainwear, gloves, socks, headbands, scarves, gaiters; headwear; footwear; boots	
<p>C CARHARTT COMPANY GEAR & Design</p> <p>Disclaims "COMPANY GEAR"</p>	<p>(Int'l Class: 09) flame-resistant clothing, namely, bib overalls, coveralls, sweaters, t-shirts, shirts, tops, bottoms, dungarees, pants, jeans, vests, jackets, coats, parkas, sweatshirts, hoods, helmet liners, caps, neck gaiter, balaclava, thermal underwear top and bottom</p> <p>(Int'l Class: 25) clothing, namely, bib overalls, coveralls, sweaters, t-shirts, shirts, dungarees, pants, jeans, tops, bottoms, vests, jackets, coats, parkas, sweatshirts, shorts, hoods, hats, face mask, gaiters, rainwear; footwear; boots; headwear</p> <p>(Int'l Class: 35) Online retail store services featuring clothing and flame-resistant clothing</p>	Allowed App. 87927402
<p>C CARHARTT COMPANY GEAR & Design</p> <p>Disclaims "COMPANY GEAR"</p>	<p>(Int'l Class: 09) Flame-resistant clothing, namely, bib overalls, coveralls, sweaters, t-shirts, shirts, tops, bottoms, dungarees, pants, jeans, vests, jackets, coats, parkas, sweatshirts, hoods, helmet liners, caps, neck gaiter, balaclava, thermal underwear top and bottom</p> <p>(Int'l Class: 25) Clothing, namely, bib overalls, coveralls, sweaters, t-shirts, shirts, dungarees, pants, jeans, tops, bottoms, vests, jackets, coats, parkas, sweatshirts, shorts, hoods, hats, face mask, gaiters, rainwear; footwear; boots; headwear</p> <p>(Int'l Class: 35) Online retail store services featuring clothing and flame-resistant clothing</p>	Allowed App 88210167
<p>CARHARTT C & Design</p>	<p>(Int'l Class: 25) clothing, namely, coats, shirts, t-shirts, underwear, long underwear, tops, bottoms, bib overalls, pants, jackets, vests, coveralls, jeans, sweat pants, sweat shirts, shorts, parkas, jean jackets, sweaters, hats, caps, belts, suspenders, bandanas, hoods, rainwear, gloves, socks, headbands, scarves, gaiters; headwear; footwear; boots</p>	Reg. 4302600
<p>CARHARTT FOR WORKERS</p>	<p>(Int'l Class: 25) Clothing, namely, bib overalls, coveralls, sweaters, t-shirts, shirts, long underwear, thermal underwear, dungarees, leggings, tops, bottoms, jeans, jerseys, pants, jackets, vests, coats, parkas, sweatshirts, shorts, underwear, hats, socks, boots, shoes, belts, suspenders, sweatpants, hoods, caps, gaiters,</p>	Allowed App 88042864

Mark	Identification of Goods/Services	App/Reg Number
	rainwear, bandanas, headbands, scarves, gloves; footwear; headwear	
CARHARTT WIP	(Int'l Class: 25) clothing, namely, coats, overalls, jeans, thermal underwear, long underwear, underwear, t-shirts, rover shirts, tops, bottoms, bib overalls, coveralls, pants, jackets, suspenders, vests, shirts, sweatshirts, sweatpants, shorts, hoods; belts; hats; caps ; socks; shoes; gloves; boots and gaiters (Int'l Class: 35) retail store services featuring clothing, headwear, footwear, sunglasses, eyewear and related products	Reg 5469865
CARHARTT WORK IN PROGRESS	(Int'l Class: 09) sunglasses; eyewear (Int'l Class: 25) clothing, namely, coats, overalls, jeans, thermal underwear, long underwear, underwear, t-shirts, rover shirts, tops, bottoms, bib overalls, coveralls, pants, jackets, parkas, suspenders, vests, sweatshirts, sweatpants, shorts, hoods; beanies; scarfs; belts; hats; caps ; socks; shoes; gloves; boots and gaiters (Int'l Class: 35) retail store services featuring clothing, headwear, footwear, sunglasses, eyewear and related products	Reg 4667821
FULL SWING	(Int'l Class: 25) clothing for adults and children, namely, coats, t-shirts, rover shirts, tops, bottoms, bib overalls, pants, jackets, vests, coveralls, shirts, sweatshirts, shorts, hats, caps	Reg 4905822

Copies of these registrations and allowed applications are included in Exhibit 4. Applicant respectfully requests that the Trademark Examining Attorney maintain consistency with the Trademark Office's prior registrations and allowed applications.

V. Conclusion

Applicant respectfully requests that the Examiner withdraw the refusal and allow the mark to register.

Respectfully submitted,

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