

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of: Guangzhou Rantion Technology Co., Ltd)	
)	Mark Type: Trademark
)	
U.S. Application Serial No: 88490916)	Examiner: Samantha L. Sherman
)	
Application Filing Date: June 26, 2019)	Register: Principal
)	
MARK: MISIKI)	Docket No.: 1-58-TUS

Response to Office action for Trademark Application

Honorable Sir:

This is a response to the Notice of office action query mailed for this application on September 20, 2019.

REMARKS

In response to the non-final Office action for Trademark Application UNDER Trademark Act Sections 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03. Applicant is addressing the following issues:

- Section 2(d) Refusal – Likelihood of Confusion
- Attorney bar information and statement of goods standing required

Section 2(d) Refusal – Likelihood of Confusion

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 4671788. Trademark Act

Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 et seq. Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. See 15 U.S.C. §1052(d).

With reference to the examining attorney's contention that the cited registration resembles the applied for trademark having U.S. Application Serial No. 88490916 (hereinafter "Applied for Mark"), the applicant respectfully submits that the cited U.S. Registration No. 4671788 (hereinafter "Cited Mark") is both visually and phonetically different from the applied for mark. A comparison of visual aspect has been presented in the following table:

U.S. Application Serial No. 88490916	U.S. Registration No. 4671788
Misiki	MISAKI

The difference in the overall pronunciation and the appearance of the mark is quite evident. In the present case there is hardly any likelihood of confusion, although the marks contain some overlapping characters they provide a different impression if considered in entirety. The alteration in spelling makes the pronunciation completely different as the replacement creates a different phonetic impression.

Moreover, the courts have consistently found that the mere presence of an identical term within two marks does not necessarily create a likelihood of

confusion. For example, the marks ROMAN and ROMANBURGER were found not to be confusingly similar when each used on food products, even though both marks contained an identical term, and even though the entirety of the mark ROMAN is found within the mark ROMANBURGER. *Mr. Hero Sandwich Systems, Inc. v. Roman Meal Co.*, 782 F.2d 884 (Fed. Cir. 1986).

In the present case, this is even not an issue as the identification of goods are related but different.

Furthermore, the marks IVY LEAGUE and IVY HALL were held not to be confusingly similar when used for clothing and neckties, respectively. *House of Worsted-Tex, Inc. v. Superba Cravats, Inc.*, 284 F.2d 528 (C.C.P.A. 1960). The marks LAWN-BOY and LAWN PUP were held not to be confusingly similar when each were used for lawnmowers. *Toro Co. v. GrassMasters Inc.*, 66 U.S.P.Q.2d 1032 (T.T.A.B. 2003). In each of the above-cited cases, the marks in question contained identical portions, and/or the entirety of one mark was found within the second mark. In each of the above-cited cases, the marks were found not to be confusingly similar, even for use on identical or overlapping goods.

Accordingly, absent an additional showing, the marks are not likely to be confused due to the differences in the recited goods, the visual and phonetic differences between the marks, and the differences in the commercial impression that they clearly convey.

Applicant submits that the applied for mark and cited registration are not confusingly similar under Section 2(d) of the Trademark Act.

Attorney bar information and statement of goods standing required

To this requirement, the undersigned hereby confirms to represent the applicant.

Regarding Payment for This Response

It is not believed that additional fees are required. However, in the event that additional fees are necessary to allow consideration of this paper, the applicant requests to kindly intimate the applicant regarding the same.

Favorable reconsideration and allowance of the present application is hereby courteously requested. Should there be any questions with regard to this response, please contact the undersigned at the email provided below.

Respectfully submitted,

/Wayne V. Harper/

Wayne V. Harper

Attorney of record, Florida Bar member

E: tm@kafiling.com

Date: 11/04/2019