

Serial No. 88/340089

Mark: KAIROS

REMARKS

The applicant responds to the Office Action dated May 23, 2019.

The trademark examining attorney refused registration under Section 2(d) because of a likelihood of confusion with the mark KAIROS in U.S. Registration No. 3782062.

Applicant seeks registration of the mark KAIROS for “fragrances and perfumery”, in Class 36.

The cited mark KAIROS is registered for “hair care products, namely, hair shampoo, hair conditioner, non-mediated preparations for the care of the scalp, namely, a scalp wash, body wash, hair styling fixative in the nature of spiking gel, soft curl styling gel, thermal barrier hair spray” in Class 3, and for “medicated shampoos, medicated hair conditioners, medicated anti-acne scalp and body wash and acne treatment preparations, medicated hair lotions; medicated facial skin care preparations, medicated skin moisturizers, intended for use by acne patients, medicated cosmetics, namely, facial makeup preparations: in Class 5.

The trademark examining attorney finds the marks and goods are similar.

Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). The trademark examining attorney notes that not all *du Pont* factors are relevant, but asserts similarities in the compared marks and the services are two key considerations, on which the examiner bases the refusal.

The applicant respectfully traverses and requests reconsideration in view of the following comments.

The goods of the cited mark is identified as a variety of hair and skin care products. The Applicant’s goods are not hair or skin care products, but rather perfume. There is a vast difference between products to treat the hair or skin and a perfume.

In view of the foregoing, applicant’s goods differ from those of the cited mark.

The proposed mark is distinctive over the cited mark such that confusion of consumers would not be likely.

For the foregoing reasons, the applicant’s mark distinguishes over the cited registration, as confusion to consumers would not be likely, and the applicant urges passage to publication.

The undersigned believes the present Response responds fully to the issues raised in the Office Action.