

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cost Del Mar, Inc.

Serial No.: 88/330,185

Mark: Miscellaneous Design

Law Office 115
Udeme Attang, Examiner

2800 S.W. Third Avenue
Historic Coral Way
Miami, Florida 33129

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir:

Responsive to the Office Action dated May 24, 2019, Applicant submits the following:

A M E N D M E N T

It is initially noted that the Examiner has conducted a search of the Office's database of registered and pending marks, and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). Accordingly, the application should be in condition for publication upon entry of the following amendments.

The Examiner has refused registration according to a finding that the applied-for mark is merely a decorative or ornamental feature of the goods. While the Applicant disagrees, and notes that the topographic design of its mark serves as a unique source identifier, the Applicant has elected to amend this application to

seek registration on the Supplemental Register in order to facilitate prosecution on the merits.

Next, the Examiner has required amendments to the description of the mark, which was originally presented as follows:

The mark consists of debossed lines arranged near the end eyewear temple bars. The debossed lines are configured and arranged so as to resemble the contour lines of a topographical map. The dashed lines in the drawing represent the relative location of the Applicant's trade dress near the end of the temple bar, and are not claimed as part of the mark.

In accordance with the Examiner's suggestions, the mark description is amended as follows:

The mark consists of a three-dimensional configuration of the goods having debossed lines arranged near the end of eyewear temple bars. The debossed lines are configured and arranged so as to resemble the contour lines of a topographical map. The solid lines in the drawing are claimed as part of the Applicant's trade dress. The dashed lines in the drawing represent the relative location of the Applicant's trade dress near the end of the temple bar, and are not claimed as part of the mark.

Finally, the Examiner has requested responses to the following three inquiries, which are included in line below.

1. Does the design on the arm of the eyeglasses function as a type of grip for the eyeglasses to prevent the eyeglasses from slipping?

While it is known that "ridges" enhance grip between surfaces, the specific arrangement of Applicant's trade dress, namely, debossed lines resembling a topographical map, does not enhance

grip beyond any of the myriad other configurations of debosses or "ridges" available. Moreover, Applicant's trade dress can be debossed into rubber pads, the specific composition of which is intended to enhance grip.

2. If the design is not merely decorative, please indicate the specific purpose, use and/or function of the design.

Applicant uses the design as a unique indicator of the source of its goods. The design services no other purpose, use, or function.

3. Has the applied-for mark, or any feature(s) thereof, been the subject of a design or utility patent application, including expired patents and abandoned applications. Applicant must also provide copies of the patent and/or patent application documentation.

The applied-for mark has never been the subject of a utility patent application, but is the subject of a U.S. design patent application. In particular, a copy of the specification filed in connection with U.S. Application Serial No. 29/615,804, filed on August 31, 2017, is attached herewith. The Examiner is kindly requested to contact the undersigned should any further details be necessary.

It is respectfully submitted that the application is now in condition to be passed to publication and the same is respectfully solicited.

Respectfully submitted,

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Date: November 25, 2019