

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : IMG Worldwide, LLC
Serial No. : 88/359,236 Examiner: Sean M. Crowley
Filed : March 27, 2019 Law Office 116
Mark : **FYRE FESTIVAL**

APPLICANT’S RESPONSE TO OFFICE ACTION DATED JUNE 11, 2019

The Examining Attorney has refused registration of the above-referenced trademark application (the “Application”) for the mark **FYRE** (“Applicant’s Mark”) in International Classes 9, 41 and 43 (“Applicant’s Goods and Services”) on the grounds that registration of the mark is likely to cause confusion because it is similar to (i) three prior pending applications and (ii) one prior registration with respect to Cl. 9 only. The Examining Attorney is also requiring amendment of the description of the Applicant’s Goods and Services in the Application. Finally, the Examining Attorney is requiring a disclaimer of the term **FESTIVAL**. Applicant’s response is set forth below.

I. IDENTIFICATION OF GOODS AND SERVICES

Applicant amends its description of goods in Class 41 to the following:

Entertainment services in the nature organizing live musical concerts, arts events, and festivals featuring live musical performances and art; entertainment services, namely, organizing and producing live musical concerts, live music festivals, and arts events; providing podcasts in the field of music and entertainment; multimedia entertainment services in the nature of development, recording, production and post-production services in the fields of music, video and films; provision of information relating to live performances, road shows, live stage events, theatrical performances, live music concerts and audience participation in such events; providing a website featuring information on music, musical and arts events and festivals.

II. DISCLAIMER

Applicant amends its application to including the following disclaimer:

No claim is made to the exclusive right to use “FESTIVAL” apart from the mark as shown.

III. LIKELIHOOD OF CONFUSION

The Examining Attorney has potentially refused registration of Applicant’s Mark on the grounds that the mark, when used in connection with Applicant’s Goods and Services, so resembles three prior-filed applications, namely, Serial Nos. 87/981,042, 88/249,114, and 88/072,850 (the “Cited Applications”) that it may be likely to cause confusion, mistake, or to deceive. Similarly, the Examining Attorney has refused registration of Applicant’s Mark with respect to Class 9 on the grounds that Applicant’s Mark, when used in connection with Applicant’s Goods in Cl. 9, so resembles Reg. No. 4,392,719 (the “Cited Registration”) that it may be likely to cause confusion, mistake, or to deceive.

Applicant notes that the owner of the Cited Registration has not filed the required Declaration of Continued Use by the August 27, 2019 deadline and that the Cited Registration will be canceled if such Declaration is not filed by the end of the 6-month grace period. Applicant respectfully requests that the Examining Attorney put the Application under suspension, and Applicant expressly reserves the right to submit arguments and address any issues later if the Cited Applications are eventually registered and a formal refusal under Section 2(d) issues, and if the Cited Registration does not expire.

III. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that its amendments be allowed and that the Examining Attorney suspend the Application. If any unresolved issues still

remain, the Examining Attorney is respectfully requested to telephone the undersigned in order to resolve said issues.

Respectfully submitted,

Dated: December 6, 2019

KELLEY DRYE & WARREN LLP
Attorneys for Applicant

By: /s/ Patricia L. Werner
Andrea L. Calvaruso
Patricia L. Werner
Kelli D. Ortega
101 Park Avenue, New York, NY 10178
212-808-7800