

RESPONSE

Applicant seeks registration of the mark STIX as applied to:

Women's home healthcare products, namely pregnancy kits for home use and ovulation kits for home use (Class 5)

and

On-line store for women's home healthcare products, including pregnancy test kits for home use and ovulation kits for home use; subscription order fulfillment services in the field of women's home healthcare products, including pregnancy test kits for home use and ovulation kits for home use (Class 35)

(As amended)

Descriptiveness

Registration has been refused on the grounds that the mark merely describes the Applicant's goods and services. The examining attorney includes dictionary excerpts and web pages to attempt to demonstrate that Applicant's mark is descriptive. None of that evidence includes the Applicant's mark STIX. Instead, the information pertains to the word STICKS, which is not Applicant's mark.

The terms STIX has meanings other than as indicated by the examining attorney. According to the Urban Dictionary, the term STIX is an underground name for Xanax pills. See <https://www.urbandictionary.com/define.php?term=stix> According to Investopedia, STIX is a term that "refers to a short term trading oscillator keyed to volume." See <https://www.investopedia.com/terms/s/stix.asp> The term STIX has numerous meanings according to Wikipedia. See <https://en.wikipedia.org/wiki/Stix>

A mark is descriptive under Section 2(e)(1) when it "merely describes" the Applicant's goods and or services. Here, the other uses of STIX establish without more that the term STIX does not merely describe Applicant's goods and services.

Information

The examining attorney requested information about Applicant's use of the mark based upon her conclusion that the mark is descriptive. While Applicant's disagrees with the conclusion that the mark is descriptive, information from Applicant's web site is attached.

Disclaimer

The examining attorney requested a disclaimer of the term STICKS. Applicant has not applied to register that mark, and thus the request for a disclaimer would seem to be in error.