

AMENDMENTS

In the Application:

In the identification of the Applicant, please insert

--The trustees of Mata Amritanandamayi Math, a trust of India, comprising Her Holiness Mata Amritanandamayi, an individual citizen of India, Swami Amritaswarupananda, an individual citizen of India, Swami Purnamritananda, an individual citizen of India, Swami Ramakrishnananda, an individual citizen of India, Swami Amritatmananda, an individual citizen of India, Swami Pranavamritananda an individual citizen of India and Swami Turiyamritananda, an individual citizen of India.--

In the Identification of Goods and/or Service, please delete the entire Identification of Goods and/or Service and insert the following:

--providing in-person energy healing services, namely, providing in-person energy focus services to the body, mind, soul or a combination thereof to adjust the balance of prana therein and/or promote or assist in purifying accumulated negative energy therein in order to enhance inner peace, improve concentration, awaken one's natural healing ability, improve mental, emotional and/or physical well-being or a combination thereof; providing long-distance energy healing services, namely, providing long distance energy focus services to the body, mind, soul or a combination thereof to adjust the balance of prana therein and/or promote or assist in purifying accumulated negative energy therein in order to enhance inner peace, improve concentration, awaken one's natural healing ability, improve mental, emotional and/or physical well-being or a combination thereof in Class 44--

REMARKS

Likelihood of Confusion Refusal

In the Office Action, registration of the applied-for mark was refused as to Applicant's "meditation training" and "holistic health and wellness services" because of an alleged likelihood of confusion with the mark(s) in U.S. Registration Nos. 4687868, 1459623, and 1522128 under Trademark Act Section 2(d), 15 U.S.C. §1052(d). Those services have now been removed from the present application. Consequently, this refusal is moot and the Examining Attorney is respectfully requested to withdraw it.

Prior-filed, Pending Application

The Office Action also states that if the mark in pending U.S. Application Serial No. 87191092 registers, Applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks and action on this application may be suspended pending final disposition of the earlier-filed application. The Office Action also states that Applicant may present arguments in support of registration by "addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application".

However, the Office Action does not identify the potential conflict. Since this contention in the Office Action directly follows the above Section 2(d) refusal in the Office Action, Applicant assumes this potential conflict is also based upon Applicant's prior-listed "holistic health and wellness services". Since those services have been removed from the present

application, this potential refusal/suspension is now moot and the Examining Attorney is respectfully requested to withdraw it.

If the potential conflict is based upon Applicant's other services, Applicant submits that those services are in no way similar to the services in the prior pending application of "education services, namely, online and telephone coaching regarding the treatment of rheumatoid arthritis and medical information services in the field of rheumatoid arthritis" and there is no likelihood of confusion. Consequently, Applicant respectfully requests this potential refusal/suspension be withdrawn.

Mark is Merely Descriptive

In the Office Action, registration is refused because the applied-for mark merely describes a feature, ingredient, characteristic, purpose, function, user, use or provider of Applicant's goods and/or services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1). After careful consideration of the Examining Attorney's arguments, Applicant respectfully responds that its mark is not merely descriptive of the subject services and respectfully traverses this rejection.

It has been repeatedly held that marks that do not clearly and immediately convey an understanding about an ingredient, quality or other characteristic of the relevant goods or services cannot be found descriptive. See e.g., BellSouth Corp. v. Planum Technology Corp., 14 U.S.P.Q.2d (BNA) 1555 (TTAB 1988) (PHONE FORWARD not descriptive of automatic telephone call diverters); In re Diet Tabs, Inc., 231 U.S.P.Q. (BNA) 587, 588 (T.T.A.B. 1986) (DIET-TABS held not merely descriptive for vitamin supplement tablets); In re Polytop Corp., 167 U.S.P.Q. (BNA) 383 (T.T.A.B. 1970) (LOC-TOP not descriptive of bottle closure caps); In re Colgate-Palmolive Co., 149 U.S.P.Q. (BNA) 793 (T.T.A.B. 1966) (HANDI WIPES not

descriptive of non-woven rayon cut clothes for dusting, drying and household cleaning). In addition, the immediate idea must be conveyed with a "degree of particularity." In re TMS Corp. of the Americas, 200 U.S.P.Q. (BNA) 57, 59 (T.T.A.B. 1978). See also, Plus Products v. Medical Modalities Associates, Inc., 211 U.S.P.Q. (BNA) 1199, 1204-05 (T.T.A.B. 1981); In re Diet Tabs, Inc., 231 U.S.P.Q. (BNA) 587, 588 (T.T.A.B. 1986). If the average prospective purchaser would need to "exercise imagination, thought or perception to reach a conclusion as to the product", then the mark is not merely descriptive. In re The Noble Company, 225 U.S.P.Q. (BNA) 749, 750 (T.T.A.B. 1985); See also, In re WSI Corp., 1 U.S.P.Q. 2d (BNA)1570, 1572 (T.T.A.B. 1986). Also, importantly with respect to the present case, "where the question to be resolved is one of descriptiveness of a mark, all doubt is resolved in favor of publishing the mark for opposition." In re The Noble Company, 225 U.S.P.Q. at 750 (emphasis added). See also, In re Shutts, 217 U.S.P.Q. (BNA) 363 (T.T.A.B. 1983).

In the present case, the refusal to register should be withdrawn because Applicant's mark does not **clearly, immediately** and **with particularity** convey an understanding about an ingredient, quality or other characteristic of the (amended) services. Even under the meaning of the terms RADIANCE and SPIRITUAL as proposed in the Office Action, for example, the phrase "RADIANCE SPIRITUAL" does not immediately, clearly and with particularity convey that in-person, or long distance, energy focus services are being conveyed to the body, mind, soul or a combination thereof to adjust the balance of prana therein and/or promote or assist in purifying accumulated negative energy therein in order to enhance inner peace, improve concentration, awaken one's natural healing ability, improve mental, emotional and/or physical well-being or a combination thereof.

At best, a typical prospective purchaser of the services would require thought, imagination and/or supposition to draw any specific or meaningful conclusion as to a quality or characteristic of the services based upon the mark. Therefore, the mark is (at least) suggestive and registerable on this independent basis. It should be noted that Applicant need not prove that the mark is suggestive to overcome the present refusal to register. The mark is thus not merely descriptive and should, on this basis alone, be approved for publication. Consequently, the Examining Attorney is respectfully requested to withdraw the refusal to register under §2(e)(1) and approve the mark for immediate publication.

Entity/Owner Information

The Office Action states that Applicant is a trust and must identify the trustee(s) as the applicant as well as indicate the name of the trust. TMEP §803.03(e). Additionally, applicant must state the names of the trustees, their legal entity type (such as individual, corporation, company) and their national citizenships (for individuals) or foreign countries of organization/incorporation (for businesses), as appropriate. If there are more than ten trustees, then applicant need list only the first ten trustees. Applicant has amended the application as suggested in the Office Action. Consequently, the Examining Attorney is respectfully requested to withdraw this request.

Identification of Services

The Office Action contents that some of the wording in the identification of services is indefinite and must be clarified. Specifically, the Office Action requires that Applicant must specify the “common commercial name or nature” of many of the services listed in the present

application. Applicant respectfully submits that the common commercial name or nature of those services is, in fact, provided in the description of services and no clarification is necessary. However, to expedite processing of this application, Applicant has amended the description of services in large part as suggested in the Office Action. For example, the phrase “energy healing services” was added, as suggested in the Office Action. Applicant has added this term to satisfy the Office Action’s requirement for a “common commercial name” because it is the *closest* broad category, or generic catch-all phrase, in the USPTO’s online searchable U.S. Acceptable Identification of Goods and Services Manual that Applicant can find for Applicant’s services. However, Applicant does not represent or warrant that its services will, in and of themselves, “heal” anything or anybody. For example, as stated in the description of services, at least some of the services may “**promote and/or assist** in . . . awakening one's natural healing ability” (Bold Emphasis Added).

Advisory

The Office Action states that the wording “prana” in the identification of services is a registered mark used in connection with yoga goods/services, and the registered mark does not appear to be owned by Applicant. The Office Action also states that “identifications of goods and/or services should generally be comprised of generic everyday wording for the goods and/or services” and exclude proprietary or potentially-proprietary wording. Applicant respectfully disagrees.

The term “prana” is a noun defined, for example, in the on-line Merriam-Webster dictionary as “a life breath or vital principle in Vedic and later Hindu religion”, see <https://www.merriam-webster.com/dictionary/prana>. Copyright 2019 Merriam-Webster,

Incorporated. Merriam Webster quotes Norine Dworkin as stating “Eastern philosophy holds that yoga heals by releasing *prana*, the body's vital energy.” Id. Definitions.net describes *prana* as:

Prana is the Sanskrit word for "life force"; in yoga, Oriental medicine, and martial arts, the term refers to a cosmic energy believed to come from the sun and connecting the elements of the universe. The universal principle of energy or force, responsible for the body's life, heat and maintenance, *prana* is the sum total of all energy that is manifest in the universe. This life energy, *prana* has been vividly invoked and described in Vedas. In Ayurveda, tantra and Tibetan medicine "*praṇā vāyu*" is the basic *vāyu* from which all the other *vāyus* arise.

See <https://www.definitions.net/definition/prana>, © 2001-2019 STANDS4 LLC. Thus, Applicant submits that “*prana*” can be used in its description of services like any other noun regardless of the fact that it has been registered by someone for yoga products/services. In fact, the undersigned found 50 U.S. trademark registrations that include the noun “*prana*”.

Information Requirement

The Office Action provides that to permit proper examination of the application, applicant must respond to the following questions.

- 1) Do applicant’s services feature radiant energy?
- 2) If the services do not feature radiant energy, then what type of energy is featured?
- 3) What is “divine light” as applied to applicant’s services?

Regarding item 1, Applicant is not sure what the Office Action means by “radiant energy”. Radiant energy is defined at <https://www.yourdictionary.com/radiant-energy> as

“energy that travels by waves or particles, particularly electromagnetic radiation such as heat or x-rays. An example of radiant energy is the source of energy used in radiation therapy.” Under that definition, Applicant’s services do not feature radiant energy.

Regarding items 2 & 3, what type of energy is featured, Applicant’s services feature energy in the form of divine light. Divine light, as applied to Applicant’s services, it is the radiant white light that permeates the universe.

In view of the foregoing, Applicant respectfully requests that its mark be published for opposition purposes so that a Notice of Allowance may be issued.

Respectfully submitted,

By: /ers/
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