

Filing Receipt for Response to Office Action Form and Next Steps in the Application Process

Application serial no. 88437575.

Mark. FLAMINGO ESTATE (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/>)

Thank you for submitting your form to the U.S. Patent and Trademark Office (USPTO). Please read this filing receipt and keep a copy for your records. If you find an error, the [After You File](#) page gives information about corrections.

Next steps

- 1. In four to five days, please confirm that we received the documents submitted with this form by [Status and Document Retrieval](#) (TSDR).** If your documents do not appear in TSDR after four to five days, please contact the TSDR help desk.
- 2. Within one to two months, the examining attorney will review your submission.**

If your submission is accepted, you will receive a notice that your mark will be published in the [Official Gazette](#). For more information on publication, click on [Box 5a, USPTO Publishes Marks](#) on our website. For more information on the application timeline, click on [Application Timeline](#).

If your submission is not accepted, you will receive an Office action explaining why it was not accepted. The Office action will list your options for responding.

- 3. Continue to check [TSDR](#) every three to four months for any updates to your application status.**
- 4. Keep your addresses current in USPTO records using the [address forms](#) on our website.**
- 5. Questions?** Please visit [our website](#), [email us](#), or call us at 1-800-786-9199 and select option 1.

The information submitted in the form appears below:

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PTO Form 1957 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88437575
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION	

MARK FILE NAME	https://tmng-al.uspto.gov/resting2/api/img/88437575/large
LITERAL ELEMENT	FLAMINGO ESTATE
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
COLOR(S) CLAIMED (If applicable)	Color is not claimed as a feature of the mark.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the word "FLAMINGO" in all capital letters in an arc on the top, "ESTATE" in all capital letters in an arc on the bottom, fanciful images of flowers with bees on each side, and fanciful images of a bee, a sitting flamingo, a dog, and an elephant between the flowers and between the words "FLAMINGO" and "ESTATE", the entire shape of an oval.
ARGUMENT(S)	
Please see the actual argument text attached within the Evidence section.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	evi_10817011634-20190925093719823256_._FLAMINGO_ESTATE_reply.pdf
	evi_10817011634-20190925093719823256_._3973601.pdf
	evi_10817011634-20190925093719823256_._4753827.pdf
	evi_10817011634-20190925093719823256_._4913115.pdf
	evi_10817011634-20190925093719823256_._Pink_Flamingo_Tea.pdf
	evi_10817011634-20190925093719823256_._Flamingo_Fresca.pdf
	evi_10817011634-20190925093719823256_._Flamingo_Juice_-_Flavourly_-_Untappd.pdf
	evi_10817011634-20190925093719823256_._Juice_Boxes___Flamingo_Orchard.pdf
	evi_10817011634-20190925093719823256_._Water___Florida_Royal_Spirits.pdf
	evi_10817011634-20190925093719823256_._Design_Works_14_oz_Soy_Wax_Candle__Flamingo__Hc
	evi_10817011634-20190925093719823256_._te_Barn_Flamingo_Beach_3_Wick_Scented_Candle__Hc
	evi_10817011634-20190925093719823256_._Black_Flamingo_Candle_Co._-_Home
	evi_10817011634-20190925093719823256_._Flamin__Flamingo_Candles_-_Home

	evi_10817011634-20190925093719823256_.Flamingo_Beach_-_Bath__Body_Works__Candlefind.pdf
	evi_10817011634-20190925093719823256_.Flamingo_Candle_-_Dark_Pink__cin
	evi_10817011634-20190925093719823256_.Final_Markdowns__Final_Markdowns__Collections__
	evi_10817011634-20190925093719823256_.go_Candle_and_Soap_Gift_Set_-_The_Old_Farmer_s_General_Store.pdf
	evi_10817011634-20190925093719823256_.Flamingo_Candles_Pink_Lemonade_C
	evi_10817011634-20190925093719823256_.Flamingo_Island_Scented_Candle_-_Top_Quality_by_AVON.pdf
	evi_10817011634-20190925093719823256_.Maison_La_Bougie_-_Miami_Flamingo_Candle__Candle_Delirium.pdf
	evi_10817011634-20190925093719823256_.LD_FLAMINGO_10-OZ_GLASS_JAR_CANDLE_WITH_BAHAMIAN_STRAW_PLAIT.pdf
DESCRIPTION OF EVIDENCE FILE	Remarks, and three trademark registrations and eighteen websites showing the use of 1 being commonly used as a brand name for items in Classes 4 and 30.
GOODS AND/OR SERVICES SECTION (001)(no change)	
GOODS AND/OR SERVICES SECTION (004)(no change)	
GOODS AND/OR SERVICES SECTION (008)(current)	
INTERNATIONAL CLASS	008
DESCRIPTION	
Gardening tools, namely, trowels, weeding forks, spades, hoes, gardening gloves, shovels, diggers, plante	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (008)(proposed)	
INTERNATIONAL CLASS	008
TRACKED TEXT DESCRIPTION	
Gardening tools, namely, trowels, weeding forks, spades, hoes, gardening gloves, shovels, diggers, plante Gardening tools, namely, trowels, weeding forks, spades, hoes, shovels, weed diggers, bulb planters, rake	
FINAL DESCRIPTION	
Gardening tools, namely, trowels, weeding forks, spades, hoes, shovels, weed diggers, bulb planters, rake	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (025)(no change)	

GOODS AND/OR SERVICES SECTION (030)(no change)**GOODS AND/OR SERVICES SECTION (031)(current)**

INTERNATIONAL CLASS 031

DESCRIPTION

Agricultural grains for planting; Fresh fruits; Fresh vegetables; Live flowers; Seeds for agricultural purposes; Seeds for horticultural purposes; Seeds for planting; Agricultural seeds; Crop seeds; Flower seed planting; Plant seeds; Vegetable seeds for planting

FILING BASIS Section 1(b)

GOODS AND/OR SERVICES SECTION (031)(proposed)

INTERNATIONAL CLASS 031

TRACKED TEXT DESCRIPTION

Agricultural grains for planting; ~~Fresh fruits~~; Fresh vegetables; Live flowers; Seeds for agricultural purposes; Seeds for horticultural purposes; Seeds for planting; Agricultural seeds; Crop seeds; Flower seeds; Herb Plant seeds; Vegetable seeds for planting

FINAL DESCRIPTION

Agricultural grains for planting; Fresh vegetables; Live flowers; Seeds for agricultural purposes; Seeds for horticultural purposes; Seeds for planting; Agricultural seeds; Crop seeds; Flower seeds; Herb seeds for planting; Vegetable seeds for planting

FILING BASIS Section 1(b)

GOODS AND/OR SERVICES SECTION (041)(current)

INTERNATIONAL CLASS 041

DESCRIPTION

Entertainment services in the nature of television or internet streaming series related to gardening

FILING BASIS Section 1(b)

GOODS AND/OR SERVICES SECTION (041)(proposed)

INTERNATIONAL CLASS 041

TRACKED TEXT DESCRIPTION

~~Entertainment services in the nature of television or internet streaming series related to gardening~~; [Entertainment services in the nature of an ongoing series related to gardening provided through television and the internet](#)

FINAL DESCRIPTION

Entertainment services in the nature of an ongoing series related to gardening provided through television

FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (044)(no change)	
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	To the best of applicant's knowledge, "Flamingo" and/or "Estate" have not been used as a varietal or cultivar name. To the best of applicant's knowledge, "Flamingo" and/or have not been used and will not be used in connection with a plant patent, utility patent, or certificate of variety protection. It is applicant's understanding that that the requirements set forth in 37 CFR 2.101(b)(1) and (2) for Applicant with U.S. Street Address & U.S. Licensed Attorney" have been waived by the USPTO for now.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/David P. Gordon/
SIGNATORY'S NAME	David P. Gordon
SIGNATORY'S POSITION	Attorney of record, New York and CT bar member
SIGNATORY'S PHONE NUMBER	203-323-1800
DATE SIGNED	09/25/2019
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Sep 25 10:13:22 EDT 2019
TEAS STAMP	USPTO/ROA-108.170.116.34-20190925101322504698-88437575-61032e656e5ad19f32777a14fc433dcff1f9fb7c95730371af9de527b71dc2c-N/A-N/A-20190925093719823256

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OMB No. 0651-0050 (Exp 09/20/2020)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **88437575** FLAMINGO ESTATE (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/88437575/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Please see the actual argument text attached within the Evidence section.

EVIDENCE

Evidence in the nature of Remarks, and three trademark registrations and eighteen websites showing the use "Flamingo" being commonly used as a brand name for items in Classes 4 and 30. has been attached. 1 [evi_

20190925093719823256_. _FLAMINGO_ESTATE_reply.pdf]

2 [evi_10817011634-20190925093719823256_. _3973601.pdf]

3 [evi_10817011634-20190925093719823256_. _4753827.pdf]

4 [evi_10817011634-20190925093719823256_. _4913115.pdf]

5 [evi_10817011634-20190925093719823256_. _Pink_Flamingo_Tea.pdf]

6 [evi_10817011634-20190925093719823256_. _Flamingo_Fresca.pdf]

7 [evi_10817011634-20190925093719823256_. _Flamingo_Juice_-_Flavourly_-_Untappd.pdf]

8 [evi_10817011634-20190925093719823256_. _Juice_Boxes___Flamingo_Orchard.pdf]

9 [evi_10817011634-20190925093719823256_. _Water___Florida_Royal_Spirits.pdf]

10 [evi_10817011634-20190925093719823256_. _Design_Works_14_oz_Soy_Wax_Candle__Flamingo_

11 [evi_10817011634-20190925093719823256_. _te_Barn_Flamingo_Beach_3_Wick_Scented_Candle__H

12 [evi_10817011634-20190925093719823256_. _Black_Flamingo_Candle_Co._-_Home___Facebook.pdf

13 [evi_10817011634-20190925093719823256_. _Flamin__Flamingo_Candles_-_Home___Facebook.pdf]

14 [evi_10817011634-20190925093719823256_. _Flamingo_Beach_-_Bath___Body_Works___Candlefind

15 [evi_10817011634-20190925093719823256_. _Flamingo_Candle_-_Dark_Pink___cinder___salt.pdf]

16 [evi_10817011634-20190925093719823256_. _Final_Markdowns___Final_Markdowns___Collections_

17 [evi_10817011634-20190925093719823256_. _go_Candle_and_Soap_Gift_Set_-_The_Old_Farmer_s_(

18 [evi_10817011634-20190925093719823256_. _Flamingo_Candles_Pink_Lemonade_Classic.pdf]

19 [evi_10817011634-20190925093719823256_. _Flamingo_Island_Scented_Candle_-_Top_Quality_by_A

20 [evi_10817011634-20190925093719823256_. _Maison_La_Bougie_-_Miami_Flamingo_Candle___Can

21 [evi_10817011634-20190925093719823256_. _LD_FLAMINGO_10-
OZ_GLASS_JAR_CANDLE_WITH_BAHAMIAN_STRAW_PLAIT.pdf]

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 008 for Gardening tools, namely, trowels, weeding forks, spades, hoes, gardening gloves, sl
planters, rakes, shears

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the applica
applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with
goods/services in the application. **For a collective trademark, collective service mark, or collective member
application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to e
control over the use of the mark in commerce by members on or in connection with the identified goods/ser
membership organization. **For a certification mark application:** As of the application filing date, the applic
intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorize
with the identified goods/services, and the applicant will not engage in the production or marketing of the g
the mark is applied, except to advertise or promote recognition of the certification program or of the goods/

certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Gardening tools, namely, trowels, weeding forks, spades, hoes, gardening gloves, rakes, shears;~~ Gardening tools, namely, trowels, weeding forks, spades, hoes, shovels, weed diggers, shears

Class 008 for Gardening tools, namely, trowels, weeding forks, spades, hoes, shovels, weed diggers, bulb pliers, and shears.

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with goods/services in the application. **For a collective trademark, collective service mark, or collective membership application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise control over the use of the mark in commerce by members on or in connection with the identified goods/services of the membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized persons with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services and certification standards of the applicant.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 031 for Agricultural grains for planting; Fresh fruits; Fresh vegetables; Live flowers; Seeds for agricultural purposes; Seeds for flowers; Seeds for horticultural purposes; Seeds for planting; Agricultural seeds; Crop seeds; Herb seeds for planting; Plant seeds; Vegetable seeds for planting

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with goods/services in the application. **For a collective trademark, collective service mark, or collective membership application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise control over the use of the mark in commerce by members on or in connection with the identified goods/services of the membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized persons with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services and certification standards of the applicant.

Proposed:

Tracked Text Description: Agricultural grains for planting; ~~Fresh fruits;~~ Fresh vegetables; Live flowers; Seeds for agricultural purposes; Seeds for flowers; Seeds for horticultural purposes; Seeds for planting; Agricultural seeds; Crop seeds; Herb seeds for planting; Plant seeds; Vegetable seeds for planting

Class 031 for Agricultural grains for planting; Fresh vegetables; Live flowers; Seeds for agricultural purposes; Seeds for horticultural purposes; Seeds for planting; Agricultural seeds; Crop seeds; Flower seeds; Herb seeds; Vegetable seeds for planting

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with goods/services in the application. **For a collective trademark, collective service mark, or collective membership application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise control over the use of the mark in commerce by members on or in connection with the identified goods/services of the membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized persons with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services and certification standards of the applicant.

control over the use of the mark in commerce by members on or in connection with the identified goods/ser membership organization. **For a certification mark application:** As of the application filing date, the applica intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorize with the identified goods/services, and the applicant will not engage in the production or marketing of the g the mark is applied, except to advertise or promote recognition of the certification program or of the goods/ certification standards of the applicant.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 041 for Entertainment services in the nature of television or internet streaming series related Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the applica applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with goods/services in the application. **For a collective trademark, collective service mark, or collective member application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to e control over the use of the mark in commerce by members on or in connection with the identified goods/ser membership organization. **For a certification mark application:** As of the application filing date, the applica intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorize with the identified goods/services, and the applicant will not engage in the production or marketing of the g the mark is applied, except to advertise or promote recognition of the certification program or of the goods/ certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Entertainment services in the nature of television or internet streaming series r~~
[Entertainment services in the nature of an ongoing series related to gardening provided through television an](#)

Class 041 for Entertainment services in the nature of an ongoing series related to gardening provided through internet

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the applica applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with goods/services in the application. **For a collective trademark, collective service mark, or collective member application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to e control over the use of the mark in commerce by members on or in connection with the identified goods/ser membership organization. **For a certification mark application:** As of the application filing date, the applica intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorize with the identified goods/services, and the applicant will not engage in the production or marketing of the g the mark is applied, except to advertise or promote recognition of the certification program or of the goods/ certification standards of the applicant.

ADDITIONAL STATEMENTS

Miscellaneous Statement

To the best of applicant's knowledge, "Flamingo" and/or "Estate" have not been used and will not be used a name. To the best of applicant's knowledge, "Flamingo" and/or "Estate" has never been used and will not be with a plant patent, utility patent, or certificate for plant-variety protection. It is applicant's understanding th requirements set forth under "Foreign Applicant with U.S. Street Address & U.S. Licensed Attorney" have l Trademark Office for now.

Response Signature

Signature: /David P. Gordon/ Date: 09/25/2019

Signatory's Name: David P. Gordon

Signatory's Position: Attorney of record, New York and CT bar member

Signatory's Phone Number: 203-323-1800

The signatory has confirmed that he/she is a U.S.-licensed attorney who is an active member in good standing in the highest court of a U.S. state (including the District of Columbia and any U.S. Commonwealth or territory); is not the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her U.S.-licensed attorney not currently associated with his/her company/firm previously represented the owner, the owner/holder has revoked their power of attorney by a signed revocation or substitute power of attorney and the USPTO has granted that attorney's withdrawal request; the owner/holder has filed a power of attorney appointing this attorney in this matter; or the owner's/holder's appointed U.S.-licensed attorney has filed a power of attorney appointing him/herself as attorney in this matter.

Thank you,

The TEAS support team

Wed Sep 25 10:13:22 EDT 2019

STAMP: USPTO/ROA-108.170.116.34-20190925101322504698-88437575-

61032e656e5ad19f32777a14fc433dcff1f9fb7c95730371af9de527b71dc2c-N/A-N/A-201909250937198232