

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

San Diego County Credit Union

Serial No: 88/413,448

Filed: May 2, 2019

Class: 36

Mark: Teal Color

Examining Attorney

Susan K. Lawrence

Law Office: 116

**RESPONSE TO OFFICE ACTION**

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

Applicant hereby timely responds to the Office Action dated August 29, 2019.

The Office Action refuses to register its Teal color mark in International Class 36 under Trademark Act Sections 1, 2, 3 and 45 as allegedly being non-descriptive trade dress.

Applicant respectfully traverses the rejection as follows.

**REMARKS**

The Office Action advises that Applicant may respond to the refusal by submitting evidence and arguments against the refusal, by amending the application to seek registration under Trademark Act Section 2(f), or by amending the application to seek registration on the Supplemental Register. In order to advance prosecution of this case, Applicant hereby amends its Application to seek registration under Trademark Act Section 2(f). As indicated in the original trademark application and declaration of use

signed by Applicant's Executive Vice President of Marketing, Nathan Schmidt, Applicant has been using the mark in commerce in connection with its credit union services, as shown in its specimen, since at least as early as January 2013.

### **REQUIREMENT FOR INFORMATION**

Applicant hereby provides the additional information requested by the Office Action as follows:

**(1) An explanation as to whether the identified color serves any purpose as used in connection with the services**

RESPONSE: Applicant has used, and continues to use, the teal color, as applied for, consistently across all of its marketing material, including its website at [www.sdccu.com](http://www.sdccu.com), since at least as early as January 2013. Consumers have come to identify SDCCU's credit union services together with SDCCU's teal color. Apart from this marketing and source identifying use, the teal color does not serve any additional purpose.

**(2) An explanation as to whether the identified color is a natural by-product of the manufacturing process for the automatic teller machines.**

RESPONSE: The teal color is not a by-product of the manufacturing process for the automatic teller machines. Instead, is added as a marketing overlay around the external surface of the machines.

**(3) Any available advertising, promotional or explanatory literature concerning the goods and services, particularly any material that relates specifically to the applied-for color mark**

RESPONSE: Applicant consistently uses the teal color on all of its marketing materials, including its website and billboards, as attached hereto as Exhibits A, B, and C.

**(4) An explanation as to whether any statutes, regulations, ordinances, codes or industry standards require, regulate and/or standardize the use of the identified color in connection with the services.**

RESPONSE: There are no statutes, regulations, ordinances, codes, or industry standards that require, regulate, and/or standardize the use of the teal color in connection with credit union services.

**(5) An explanation as to the use of the identified color in applicant's industry and any other similar use of color in applicant's industry**

RESPONSE: Applicant is unaware of any other use of any color similar to Applicant's identified color for credit union services in Applicant's industry.

**(6) An explanation describing any other similar use of color by applicant**

RESPONSE: Applicant consistently uses the teal color on all of its marketing materials, including its website and billboards, as attached hereto as Exhibits A, B, and C.

**(7) An explanation as to whether competitors use the same color or other colors in connection with the same services**

RESPONSE: Applicant is unaware of any other use of any color similar to Applicant's identified color for credit union services in Applicant's industry.

**(8) Color photographs and color advertisements showing competitive services in applicant's industry.**

RESPONSE: Applicant is unaware of any other use of any color similar to Applicant's identified color for credit union services in Applicant's industry.

**CONCLUSION**

Having supplied the above information and consent agreement, Applicant respectfully requests the withdrawal of the refusal to register Applicant's mark.

Respectfully submitted,

Dated: March 2, 2020

/Jesse A. Salen/  
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# EXHIBIT A

San Diego County Credit Union: | x +

sdccu.com

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You must enroll in the new Internet Branch to use online banking.

- 1. You need your account number. It only takes a few minutes!**
- 2. Joint Accountholders**  
Joint accountholders will create their own Username and Password by clicking [Joint Accountholder](#)

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The SDCCU Biggest Used Car Sale is back! March 14-15 at the Del Mar Fairgrounds. Get rates as low as 2.99% APR\*

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#### Financial Wellness Wednesdays

Join us for free Financial Wellness Wednesdays seminars at a library near you.

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#### Online Romance Scam Seminars

Valentine's Day brings out the romantics and the scammers, too. If you're not careful, your quest for love may end in fraud instead.

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# EXHIBIT B





# EXHIBIT C



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WELL THAT WAS EASY.**

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