

RESPONSE TO OFFICE ACTION

Serial Number: 77000769
Mark: MEET (second e is backwards)
Applicant: Global Publishing Sales LLC
Filing Date: August 7, 2007
Examining Attorney: Tejbir Singh
Law Office: 106

Summary of Office Action

In the above referenced Office Action, the Examining Attorney refused registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d); TMEP §§1207.01 *et seq.*, alleging a potential likelihood of confusion with Registration No. 2822643. The Examining Attorney further states that Applicant must address two prior pending applications, Serial Nos. 78863186 and 78863181. The Office Action also describes Applicant's recitation of services as indefinite and instructs Applicant to clarify same. Finally, Applicant has been instructed to submit a substitute specimen and to include a drawing color claim.

Section 2(d) – Likelihood of Confusion Refusal

The Examining Attorney has refused registration based on a potential likelihood of confusion with the U.S. Registration No. 2822643, MEET PUERTO RICO. Applicant's mark is MEET with design (the "Mark"). The Examining Attorney states that in both MEET PUERTO RICO and the Mark, "MEET" is the dominant feature. The Examining Attorney goes on to state more generally that two marks may be confusingly similar in appearance when similar terms or phrases or similar parts of terms or phrases appear in each mark.

The Examining Attorney asserts that "MEET" is the dominant feature of both marks, and that it is the wording that consumers would use when calling for services. The examining attorney states that consumers would believe that Applicant's Mark is connected to the registrant of MEET PUERTO RICO (the "Registrant") due to the shared dominant wording "MEET." The Examining Attorney further notes that Applicant's services are broadly described as "promoting and advertising various cities and states as destinations for tourism, conventions, meetings, and events." In comparison, Registrant's services are "promoting the public awareness concerning Puerto Rico as a conventions and meetings" destination. The Examining Attorney notes that both descriptions offer a type of promotional service for conventions and meetings. The Examining Attorney concluded that because the marks share dominant wording, and the services are related, consumer confusion is likely. refused registration based on the Trademark Act Section 2(d).

Applicant respectfully asserts that its Mark is aesthetically different and distinguishable from MEET PUERTO RICO due to the design element, specifically the fact that the second "e" is drawn backwards. Additionally, Applicant concedes that both marks are used in the promotion of convention venues, but the Applicant argues that the source of the mark would not be confused by consumers because of the differing locations in which the respective marks are used.

Applicant does not use its Mark for the promotion of conventions and meetings in Puerto Rico, and does not intend to use its Mark to promote Puerto Rico as a venue for conventions and meetings, and as such, the likelihood of confusion is even further lessened. Furthermore, it is unlikely the Registrar will use its MEET PUERTO RICO mark to promote venues outside of Puerto Rico as a place to hold meetings and conventions.

The Examining Attorney stated in the Office Action that Applicant's identification of services is indefinite and must be clarified. Application proposes to clarify its identification of services by revising the same to state that the services covered by the Mark include promotion and advertising St. Louis, Branson, Kansas City, Florida, Ohio, and Missouri as destinations for tourism, conventions, meetings and events. Once Applicant completes the request the Examining Attorney will again review the Registration No. 282264 to realize that there are no similarities.

Prior Pending Applications

In the Office Action the Examining Attorney also referenced two prior applications: Serial No. 78863186 MEET MINNEAPOLIS THE OFFICIAL CONVENTION & VISITORS ASSOCIATIONS MEET MINNEAPOLIS and Serial No. 78863181 MEET MINNEAPOLIS (collectively, the "Minneapolis Marks"). The Examining Attorney feels that there may be a likelihood of confusion between the Mark and the Minneapolis Marks under Trademark Act Section 2(d).

Applicant respectfully asserts that its Mark is aesthetically different and distinguishable from the Minneapolis Marks due to the design element, specifically the fact that the second "e" is drawn backwards. Additionally, Applicant's Mark does not contain the word "Minneapolis" nor does the Applicant use, or intend to use, its Mark for the promotion of Minneapolis as a venue for any purpose, including meetings, conventions, events, or tourism. Furthermore, it is unlikely the owner of the Minneapolis Marks will use its Minneapolis marks in a way that would be confusingly similar to the services represented by the Mark. As such, Applicant respectfully suggests that there is no potential likelihood of confusion between the Mark and the Minneapolis Marks.

Again the Examining Attorney stated in the Office Action that Applicant's identification of services is indefinite and must be clarified. Application proposes to clarify its identification of services by revising the same to state that the services covered by the Mark include promotion and advertising St. Louis, Branson, Kansas City, Florida, Ohio, and Missouri as destinations for tourism, conventions, meetings and events. Once Applicant completes the request the Examining Attorney will again review Serial Nos. 78863186 and 78863181 to realize that there are no similarities.

Recitation of Services

The Examining Attorney stated that Applicant's identification of goods and services is indefinite and must be clarified. The Examining Attorney instructed that the Applicant must specify the common commercial or generic name for the services. The Examining Attorney further stated that if the services have no common commercial or generic name, that the Applicant must

describe the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s).

Applicant respectfully requests to stay within International Class 35 and amends its recitation of services to the following:

“For promoting and advertising St. Louis, Branson, Kansas City, Florida, Ohio and Missouri as destinations for tourism, conventions, meetings and events.”

Drawing – Color Claim

The drawing Applicant submitted shows the mark in black and/or white and gray. The application does not specify whether color is a feature of the mark or the mark is intended to be represented only in black and white. In the Office Action the Examining Attorney instructed that Applicant must state whether the mark features color or is intended to be in black and white.

Applicant states that color is a feature of the proposed mark. The following is a statement listing the colors claimed and where all the colors appear in the mark:

“The colors included in the mark are white, blue and a lighter shade of blue. The color white appears in the wording MEET and in the design the color blue is used on the outline of the box surrounding the word MEET, just within that area is an outline of a smaller box in a lighter shade of blue. The bottom of the box is blue and fades to a lighter shade of blue toward the top of the box.”

Drawing does not match specimen

The Examining Attorney requested that the Applicant submit a substitute specimen stating a concern that the mark on the drawing page does not agree with the mark as it appears on the specimen.

In response thereto, Applicant has attached a substitute specimen and an affidavit stating that the substitute specimen was in use in commerce at least as early as the filing date of the application, as required under the statute when submitting a substitute specimen.

Specimen

The Examining Attorney requested that the Applicant submit a specimen that shows the applied-for mark in use in commerce.

In response thereto, Applicant has attached a substitute specimen and an affidavit stating that the substitute specimen was in use in commerce at least as early as the filing date of the application, as required under the statute when submitting a substitute specimen.

Conclusion

Applicant respectfully submits that for the reasons set forth above, the applied-for mark is not confusingly similar to any registered or pending mark and is therefore registerable. Applicant

believes it has complied with all of the proper requirements of the Examining Attorney and believes that the present application is proper in all respects and requests that the mark be published for opposition.

If the Examining Attorney has any further questions or if additional materials are required, he is encouraged to contact the undersigned.