

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Mark: CPSC	)	Law Office: 128
	)	
Serial No. 88/472,713	)	
	)	
Applicant: The Institute for Professional	)	Examining Attorney
Advancement, Inc.	)	Bridget Watson
	)	
	)	
Filing Date: June 13, 2019	)	
	)	

**REMARKS**

On September 12, 2019, the Trademark Office issued an Office Action refusing registration of Applicant’s mark CPSC under Section 2(a) of the Lanham Act. As basis for the refusal, the Trademark Office argued that Applicant’s mark, CPSC, may falsely suggest a connection with the Consumer Product Safety Commission, which also uses the abbreviation CPSC. In addition to the Section 2(a) refusal, the Trademark Office asked Applicant to clarify whether there is any connection between Applicant and the Consumer Product Safety Commission, and also asked Applicant to amend its certification statement and its identification of services.

In response, Applicant respectfully submits that its use of CPSC will not suggest a connection with the Consumer Product Safety Commission because Applicant’s services are so different from those provided by the Consumer Product Safety Commission that no one will assume a relationship exists between the two. For this reason and those set forth more fully below, Applicant believes that its mark is ready for registration and requests that its mark be allowed to proceed to publication on the Principal Register.

## I. REQUEST FOR INFORMATION

In response to the Trademark Office's request for information, Applicant submits that there is no affiliation or connection between Applicant and the Consumer Product Safety Commission.

## II. CERTIFICATION STATEMENT

The Trademark Office has requested that Applicant amend its certification statement to specify what the Applicant is or will be certifying with greater specificity. The Applicant proposes the following amended certification statement:

The certification mark, as used by persons authorized by the certifier, certifies that **the services are provided by** manufacturers' representatives or **independent outsourced sales** professionals **who** have **met established standards set by the certifier for** acceptable sales skills on the basis of work experience, education, coursework and service to the industry

## III. IDENTIFICATION OF SERVICES STATEMENT

The Trademark Office further requested that Applicant amend its identification of services, which is currently listed as "sales of products by independent professional providers of field sales on behalf of product manufacturers or supplie[r]s," to better specify its services. The Applicant proposes the following amended identification of services:

**Sales promotion of products by independent professional salespeople and direct professional salespeople on behalf of product manufacturers or suppliers**


## IV. APPLICANT'S MARK WILL NOT SUGGEST A FALSE CONNECTION WITH THE CONSUMER PRODUCT SAFETY COMMISSION

Finally, the Trademark Office has argued that registration must be denied based on Section 2(a) of the Lanham Act. Applicant respectfully disagrees.

While Applicant does not dispute that its mark is identical to the abbreviation used by the Consumer Product Safety Commission, this does not mean that consumers who encounter

Applicant’s mark will presume that Applicant is affiliated with, or sponsored or endorsed by, the Consumer Product Safety Commission. Respectfully, the parties’ services are too different.

When services are unrelated and distinct, consumers are unlikely to assume a connection. TMEP § 1203.03(c)(i). This is reflected not only in the TMEP, but also by certain marks registered on the Principal Register. For example, even though FBI is a very well-known abbreviation for the Federal Bureau of Investigation, third parties unaffiliated with the FBI have registered FBI. The Trademark Office has allowed these registrations because the third parties’ services are so different from the FBI’s services that consumers are not likely to assume an affiliation or connection, even though the marks are identical. Illustrative registrations are outlined below:

Mark	Reg. No.	Goods/Services
FBI	4,037,542	IC 35: distributorships in the field of home health equipment IC 44: health care services in the nature of home infusion therapy; providing medical information and medical assistance services for patients, rental of medical equipment.
FBI	2,275,355	IC 37: residential and commercial building construction IC 42: architectural design and construction engineering for others
	2,248,888	IC 37: residential and commercial building construction IC 42: architectural design and construction engineering for others
FBI	4,725,460	IC 14: horological and chronometric instruments

TESS printouts for the above registrations are also attached hereto as Exhibit A. In addition to this understanding being reflected in registrations on the Principal Register, the TMEP provides that with regard to a Section 2(a) inquiry, “the question is whether, as used on the goods or services in question, consumers would view the mark as pointing to [the government agency], or whether they

would perceive it to have a different meaning.” TMEP § 1203.03 (c)(i) (emphasis added). Applicant respectfully submits that here, consumers will perceive CPSC to have a different meaning.

As the Trademark Office found with FBI, consumers are not likely to assume any connection exists between Applicant and the Safety Commission, due to shared use of CPSC, because the parties’ services are too different. The Consumer Product Safety Commission investigates, recalls, and bans, if necessary, unsafe products that pose an unreasonable risk of injury to the public. The Consumer Product Safety Commission therefore focuses entirely on product safety and consumer protection. Applicant, by contrast, does not plan to provide any services related to product or consumer safety. Rather, Applicant plans to use the CPSC mark (short for Certified Professional Sales Consultant) to certify sales consultants who have successfully completed Applicant’s sales training course and/or met the established standards set by Applicant to be a successful sales representative. Since Applicant’s services are not provided in the consumer product safety industry, nor are they for the purpose of consumer product safety compliance, Applicant’s use of the CPSC mark will not suggest any affiliation with the Commission, nor will it be misleading to consumers.

Allowing Applicant’s application to proceed to publication in this case would also not go against Trademark Office practice. The Trademark Office has allowed other third party applications for CPSC to register. *See* Exhibit B, TESS printout for U.S. Reg. No. 1,074,567 for CPSC registered for use with plastic vials for containing medicines (now abandoned). The same would be appropriate here.

**V. CONCLUSION**

In light of the foregoing, Applicant respectfully requests that the Trademark Office withdraw its refusal and allow Applicant's mark to proceed to publication.

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