

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark: LA Stylized Design



Applicant: Alpha Entertainment LLC

U.S. Serial No.: 88/585,803

Filed: August 20, 2019

Examining Attorney: Amer Raja, Law Office 121

RESPONSE TO NONFINAL OFFICE ACTION

In the Nonfinal Office Action dated November 21, 2019, the Examining Attorney refused registration due to the following reasons:

- I. Requirement for identification of goods and services;
- II. Requirement for amended description of mark; and,
- III. “LA” is primarily geographically descriptive of Applicant’s goods and services under Trademark Act Section 2(e)(2), 15 U.S.C. § 1052(e)(2)

Elsewhere in this Response, Applicant has amended the identification of goods and services and entered an amended description of mark.

For the reasons set forth in this Response, Applicant respectfully submits that its mark is not primarily geographically descriptive because (a) any geographic meaning of the term “LA” is secondary to the stylized nature of the design and as such the primary significance of the mark is not geographically descriptive, and (b) this doubt as to primarily geographic descriptiveness should be resolved in favor of Applicant.

Applicant therefore requests that the refusals be removed and the application approved for publication.

A. The stylized nature of the design would be the primary impression in the minds of consumers—not any geographic meaning of the letters “L” and “A.”

Applicant asserts that the primary significance of Applicant’s mark is its stylized design, and the geographic meaning of the letters “L” and “A,” if any, would be secondary to that stylization.

An application may be refused registration if the primary meaning of the mark is a geographic meaning. TMEP § 1210.02. “However, if the most prominent meaning or significance of the mark is not geographic, or if the mark creates a separate readily understood meaning that is not geographic, registration must not be refused under §2(e)(2), §2(e)(3), or §2(a).” TMEP § 1210.02(b)(i). In particular, when a term with geographic significance is combined with additional matter such as a design element, the examining attorney must determine the primary significance of the composite mark, not just the literal elements alone. *See* TMEP §§ 1210.02(b), 1210.02(c)–1210.02(c)(iii). For example, the Board found that the commercial impression of the following mark was *not* primarily geographically descriptive of services related to skiing:



In re Jackson Hole Ski Corp., 190 USPQ 175, 176 (TTAB 1976). In this case, the Board agreed with the applicant’s arguments that the letters “JH” were displayed in a manner sufficiently distinctive to create a commercial impression separate and apart from the disclaimed words “JACKSON HOLE.” In particular:

[The] mark consists not only of the mere geographical designation but also of the letters “JH” displayed in a distinctive and prominent fashion so as to create a commercial impression in and of themselves, asserts that the letters “JH” are twice the size of the other letters; that unlike any of the other letters, they are partly joined together, creating the visual impression of a monogram; and that they are set down from the rest of the letters, which positioning has the effect of highlighting the “JH” couplet.

In re Jackson Hole Ski Corp., 190 USPQ at 176.

As in the *Jackson Hole* application, the stylized design of Applicant’s mark also dominates the commercial impression of the mark. It is fanciful, eye catching, and imaginative. Further, the arbitrary stylization does not contain visual references to or connotations with Los Angeles. The arrangement of the letters L and A create an interlocking design with additional flourishes that are create an overall commercial impression that is at least as distinctive as the arrangement of the lettering JACKSON HOLE mark:



Therefore, the stylization of Applicant’s mark is sufficient to create a distinctive commercial impression separate and apart from any literal meaning of the letters “L” and “A;” thus, Applicant’s mark is not primarily geographically descriptive and is sufficient to justify registration on the Principal Register.

B. Doubts regarding geographic descriptiveness must be resolved in favor of the applicant.

If there are any doubts in connection with a geographic descriptiveness determination, those doubts must be resolved in favor of the applicant. *In re Int’J Taste Inc.*, 53 USPQ2d 1604, 1606 (TTAB 2000); *In re John Harvey & Sons Ltd.*, 32 USPQ2d 1451, 1455 (TTAB 1993). Applicant believes that when the evidence of record is considered, including the

additional evidence submitted herewith, the Trademark Office has not met his burden in establishing that Applicant's LA Stylized Design mark is primarily geographically descriptive within the meaning of Section 2(e)(2) of the Lanham Act. At minimum, the stylized nature of the mark and the arguments in these Remarks establish some doubt on the issue, and any such doubts must be resolved in favor of Applicant.

CONCLUSION

In view of the above arguments, Applicant respectfully requests that the refusals to register be withdrawn and that the application be approved for publication.

Dated: May 20, 2020

Respectfully Submitted,

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