

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark: LA Stylized Design



Applicant: Alpha Entertainment LLC

U.S. Serial No.: 88/585,869

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Examining Attorney: Anne M. Farrell, Law Office 118

RESPONSE TO JUNE 22, 2020 OFFICE ACTION

In the Office Action dated June 22, 2020, the Examining Attorney refused the registration of Applicant's LA Stylized Design Mark on the grounds that (i) "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); (ii) the goods and services are indefinite; and (iii) information required.

Elsewhere in its response, Applicant has amended its identification of goods and services as instructed by the Examining Attorney. Applicant asserts these amendments do not expand the scope of the goods and services identified in the original Application and therefore requests the amendments be accepted.

Additionally, in response to the Examining Attorney's information request, Applicant states that the goods and services will be sold in as well as have other connections with Los Angeles.

Finally, elsewhere in this response, Applicant has entered the following disclaimer:

No claim is made to the exclusive right to use "LA" apart from the mark as shown.

For the reasons set forth herein, Applicant respectfully submits that its disclaimer of “LA” resolves the outstanding refusal and that the mark should be allowed to register on the Principal Register.

ARGUMENT

An application as a whole may be registered with a disclaimer of the unregistrable component if the descriptive wording is presented in a distinctive display or design. TMEP § 1209.03(w); *see also In re Sadoru Grp., Ltd.*, 105 U.S.P.Q.2d 1484, 1486-88 (T.T.A.B. 2012). Although an entire mark usually cannot be disclaimed and also registered, when the literal components of a mark that are disclaimed are combined with a distinctive design or display, the mark can be registrable as a whole. *See In re Jackson Hole Ski Corp.*, 190 U.S.P.Q. 175, 176 (T.T.A.B. 1976) (finding the stylization of “JACKSON HOLE” is distinctive enough to be registrable even though the entire literal element of the mark is disclaimed, in part because the letters J and H are partly joined together). In other words, the stylization of the mark “is in essence a recognizable and distinctive design in its own right, regardless of the literal meaning conveyed by the word so displayed.” *In re One Nation Enterprises*, 2016 WL 4437719, at *4 (T.T.A.B. 2016) (not precedential).

The determination of whether the stylization of a term that is otherwise unregistrable is inherently distinctive is a subjective one based on the first impression of the viewer. *In re Jackson Hole Ski Corp.*, 190 U.S.P.Q. at 176 (“[D]istinctive display’ is in the eyes of the beholder, and usually depends upon the viewer’s first impression of the matter in question”). However, it appears that the Board has consistently found where the stylization of the lettering is not merely presented in plain lettering, or where the arrangement or formation of the letters is unusual, then the marks’ stylization is distinctive and is registrable without proof of acquired distinctiveness. For example,

the following marks were found to be registrable because the stylization is displayed in a distinctive way:

In re Jackson Hole Ski Corp., 190 U.S.P.Q. at 176:

The logo for Jackson Hole features the word "JACKSON" in a bold, serif font above the word "HOLE" in a similar font. The letters "J" and "H" are significantly larger and more stylized, with the "H" having a unique, blocky shape.

In re Venturi, Inc., 197 U.S.P.Q. 714 (T.T.A.B. 1977):

The logo for "the pipe" features the words "the pipe" in a bold, lowercase, sans-serif font. The word "the" is smaller and positioned to the left of "pipe". The entire logo is enclosed in a thin black rectangular border.

In re Clutter Control Inc., 231 U.S.P.Q. 588, 589 (T.T.A.B. 1986):

The logo for "CONSTRUCT-A-LOSET" features the words "CONSTRUCT-A-LOSET" in a bold, uppercase, sans-serif font. The letters are thick and blocky, with a slightly irregular, hand-drawn appearance. The entire logo is enclosed in a thick black rectangular border.

In re Sobon Wine Company LLC, 2013 WL 2951786 (T.T.A.B. 2013) (not precedential):

The logo for "REZERVE IN" features the word "REZERVE" in a serif font above the word "IN" in a similar font. The letter "Z" in "REZERVE" is significantly larger and more stylized, with a unique, blocky shape. The entire logo is enclosed in a thin black rectangular border.

In re Kar Auction Services, Inc., 2011 WL 6780732 (T.T.A.B. 2011) (not precedential):


The logo for "KAR AUCTION SERVICES" features the word "KAR" in a bold, uppercase, sans-serif font above the words "AUCTION SERVICES" in a similar font. The letters are thick and blocky, with a slightly irregular, hand-drawn appearance. The entire logo is enclosed in a thin black rectangular border.


Here, Applicant’s stylization of its LA trademark is distinctive and should be registered on the principal register with a disclaimer of “LA.” Applicant’s Stylized Mark:






Applicant’s mark is fanciful, eye catching, and imaginative. Further, the arbitrary stylization does not contain visual references to or connotations with Los Angeles. Moreover, the arrangement of the letters “L” and “A” creates an interlocking design, similar to the JACKSON HOLE registration. *See In re Jackson Hole*, 190 U.S.P.Q. at 176. This interlocking design paired with the with additional flourishes off the “A” help create an overall commercial impression that is at least as distinctive as the arrangement of the marks noted above.

Finally, a review of Trademark Office records discloses the existence of numerous other stylized marks for the Application’s goods and services where the only literal element “LA” is disclaimed. Previous U.S. stylized trademark registrations where the only literal element is “LA” for similar goods and services is persuasive evidence that marks similar to Applicant’s LA Stylized design mark are registrable. For example, the Office has considered the following marks as distinctive in their stylization of “LA”:

Mark / Disclaimer	AN/RN	Goods/Services	Owner
 Disclaimer: "LA"	SN: 88844407	(Int'l Class: 09) Football helmets; cell phone covers; decorative magnets; dvds featuring the sport of football; computer mouse pads; sunglasses; downloadable software in the nature of mobile applications for displaying information relating to football exhibitions, football schedules, media guides; audio and visual recordings featuring football exhibitions (Int'l Class: 14) Jewelry; watches; clocks; pins being jewelry; lapel pins; earrings; necklaces; bracelets; jewelry charms; tie pins; rings; collectible coins; commemorative coins; carrying cases specially adapted to hold collectible coins	The Los Angeles Rams LLC

Mark / Disclaimer	AN/RN	Goods/Services	Owner
		<p>(Int'l Class: 16) Posters; calendars; trading cards other than for games; printed books in the field of football; notepads; stickers; bumper stickers; printed tickets to sports games and events; pens and pencils; pencil cases; note paper; pictorial prints; art pictures; stationery; envelopes; wrapping paper; paper napkins; printed paper party invitations; paper gift bags; paper party decorations; collectible trading cards; collectible trading cards and memorabilia holders, namely, carrying cases specially adapted to hold collectible trading cards, holders for collectible paper money; souvenir programs concerning sports events; money clips made primarily for precious metals</p> <p>(Int'l Class: 28) toys and sporting goods, namely, plush toys, toy stuffed animals, play figures, golf balls, golf bags, golf club covers, footballs, toy banks, board games relating to football, playing cards, Christmas tree ornaments, balloons, jigsaw puzzles, toy and decorative wind socks, toy cars and trucks, billiard balls, dart boards, miniature toy helmets</p> <p>(Int'l Class: 35) Marketing services, namely, promoting the goods and services of others by arranging for sponsors to affiliate their goods and services with various football personalities and/or the sport of football; dissemination of advertising for others via on-line electronic communications networks</p>	
 <p>Disclaimer: "FOOTBALL CLUB" AND "LA"</p>	RN: 5658708 SN: 86868211	<p>(Int'l Class: 09) fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for electronic devices, namely, MP3 players, mobile telephones, smart telephones, tablets, laptop, and wireless speakers; computer and video game software and programs; magnets; sunglasses, pre-recorded DVDs in the field of soccer; downloadable image files containing artwork, text, audio, video, games, and internet weblinks in the field of soccer; downloadable video clips from soccer games via mobile communication devices; computer keyboards; mouse pads; computer memory devices; blank USB flash drives</p> <p>(Int'l Class: 16) posters; decals; trading cards; stickers; bumper stickers; printed paper signs; printed media guides relating to a professional soccer team; souvenir soccer programs; yearbooks in the field of soccer; printed event admission tickets; calendars; paper mats for beer glasses; photo prints; magazines featuring information in the field of soccer; paper hangtags; pencils; notebooks; binders</p> <p>(Int'l Class: 28)</p>	Major League Soccer, L.L.C.

Mark / Disclaimer	AN/RN	Goods/Services	Owner
		<p>toy figurines; soccer ball bags; soccer balls; plush toys; puzzles; toy foam novelty items, namely, foam heads and fingers; foosball tables and figurines; golf accessories, namely, golf balls, divot repair tools, bag tags, ball markers, tees, gloves; Christmas tree ornaments; building blocks toys; game tables, tailgating games, namely, bag toss games, washer game sets, tumbler towers game, and game tables for tailgates; fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for electronic devices, namely, gaming devices, namely, hand-held video gaming devices and video game consoles (Int'l Class: 41)</p> <p>Entertainment services, namely, soccer exhibitions rendered live in a stadium, and through the media of television and radio and via the internet; provision of entertainment in the nature of non-downloadable pre-recorded film clips from soccer games, presented via mobile communication devices; provision of information in the field of soccer via the internet and mobile devices</p>	
 <p>Disclaimer: "LA"</p>	<p>RN: 6108133 SN: 86868214</p>	<p>(Int'l Class: 09)</p> <p>Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for electronic devices, namely, MP3 players, mobile telephones, smart telephones, tablets, laptop, and wireless speakers; computer and video game software and programs; magnets; sunglasses, pre-recorded DVDs in the field of soccer; downloadable image files containing artwork, text, audio, video, games, internet weblinks in the field of soccer; downloadable video clips from soccer games via mobile communication devices; computer keyboards; mouse pads; computer memory devices; blank USB flash drives (Int'l Class: 16)</p> <p>Posters; decals; trading cards; stickers; bumper stickers; printed paper signs; printed media guides relating to a professional soccer team; souvenir soccer programs; yearbooks in the field of soccer; printed event admission tickets; calendars; paper mats for beer glasses; photo prints; magazines featuring information in the field of soccer; paper hangtags; pencils; notebooks; binders (Int'l Class: 41)</p> <p>Entertainment services, namely, soccer exhibitions rendered live in a stadium, and through the media of television and radio and via the internet; provision of entertainment in the nature of non-downloadable pre-recorded film clips from soccer games, presented via mobile communication devices; provision of information in the field of soccer via the internet and mobile devices</p>	<p>Major League Soccer, L.L.C.</p>

Mark / Disclaimer	AN/RN	Goods/Services	Owner
 Disclaimer: "LA"	RN: 2288127 SN: 75255499	(Int'l Class: 16) publications and printed matter, namely, [basketball trading cards, dance team trading cards, mascot trading cards, entertainment trading cards, stickers, decals, commemorative basketball stamps, collectible cardboard trading discs, post cards, place mats of paper and plastic, note cards, memo pads, ball point pens, pencils, 3-ring binders, stationery folders, wirebound notebooks, portfolio notebooks, unmounted and mounted photographs,] posters, [calendars, bumper stickers, book covers, wrapping paper, children's activity books, statistical books, guide books and reference books for basketball,] magazines in the field of basketball, commemorative game programs, [paper pennants, stationery, stationery-type portfolios, and] statistical sheets for basketball topics, newsletters and pamphlets[in the field of basketball] for distribution to the television and radio media	Wnba Enterprises, LLC
 Disclaimer: "LA"	Pending SN: 88844422	(Int'l Class: 41) Education and entertainment services in the nature of professional football games and exhibitions; providing sports and entertainment information via a global computer network, commercial on-line computer service, cable, satellite, television and/or radio; arranging and conducting athletic competitions, namely, professional football games and exhibitions; football fan club services; entertainment services, namely, musical and dance performances provided during intervals at sports events; educational services, namely, physical education programs; production of radio and television programs; presentation of live show performances featuring football games, football exhibitions, and football competitions; presentation live show performances featuring music and dance performances; organizing sporting and cultural events in the field of football	The Los Angeles Rams LLC

Copies of the Trademark Office electronic records from the TSDR database for these marks are attached hereto as **Exhibit A** for the Examining Attorney's reference and are made of record. TMEP § 710.03.

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 sufficiently distinctive to justify registration on the Principal Register with a disclaimer of "LA."

CONCLUSION

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