

**To:** Revell, Clifford L. ([revellc@cfl.rr.com](mailto:revellc@cfl.rr.com))  
**Subject:** TRADEMARK APPLICATION NO. 76560844 - DAILY NEWS TUBE STUFFER - N/A  
**Sent:** 6/21/04 12:46:30 PM  
**Sent As:** ECom110  
**Attachments:**

## UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 76/560844

**APPLICANT:** Revell, Clifford L.

**\*76560844\***

**CORRESPONDENT ADDRESS:**  
CLIFFORD L. REVELL  
912 LINDEN STREET  
CLERMONT FL 34711

**RETURN ADDRESS:**  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

**MARK:** DAILY NEWS TUBE STUFFER

**CORRESPONDENT'S REFERENCE/DOCKET NO :** N/A

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**  
[revellc@cfl.rr.com](mailto:revellc@cfl.rr.com)

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## FIRST OFFICE ACTION

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/560844

The assigned examining attorney has reviewed the referenced application and determined the following.

### **No Conflicting Marks Noted**

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 704.01.

This application may not proceed to publication, however, until the applicant responds to the following informalities.

### **Disclaimer**

Applicant must disclaim the descriptive wording "DAILY NEWS TUBE STUFFER" apart from the mark as shown because it merely describes the services, namely, that the services provided are the delivery of newspapers featuring daily news, through stuffing the newspapers in a newspaper tube. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a).

The term "tube" is a term of art describing the round, tube-shaped container that frequently appears next to mailboxes for the delivery of newspapers. The applicant applied to register the mark DAILY NEWS TUBE STUFFER and design for delivery of newspapers. The term TUBE, as stated previously refers to a tube shaped container used to hold newspapers. The examining attorney refers to the excerpted articles from a search in the Lexis/Nexis ® computerized database in which the term TUBE in relation to NEWSPAPER appeared in 327 articles. A dozen representative articles are attached. *See* attachments.

The term STUFFER refers to the individual or instrument that stuffs the newspaper into the tube.

The Office can require an applicant to disclaim exclusive rights to an unregistrable part of a mark, rather than refuse registration of the entire mark. Trademark Act Section 6(a), 15 U.S.C. §1056(a). Under Trademark Act Section 2(e), 15 U.S.C. §1052(e), the Office can refuse registration of the entire mark where it is determined that the entire mark is merely descriptive, deceptively misdescriptive, or primarily geographically descriptive of the goods. Thus, the Office may require the disclaimer of a portion of a mark which, when used in connection with the goods or services, is merely descriptive, deceptively misdescriptive, primarily geographically descriptive, or otherwise unregistrable (e.g., generic). TMEP §1213.03(a). If an applicant does not comply with a disclaimer requirement, the Office may refuse registration of the entire mark. TMEP §1213.01(b).

A “disclaimer” is thus a written statement that an applicant adds to the application record that states that applicant does not have exclusive rights, separate and apart from the entire mark, to particular wording and/or to a design aspect. The appearance of the applied-for mark does not change.

#### **Suggested Disclaimer**

The computerized printing format for the Office’s *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

No claim is made to the exclusive right to use “DAILY NEWS TUBE STUFFER” apart from the mark as shown.

*See In re Owatonna Tool Co.*, 231 USPQ 493 (Comm’r Pats. 1983).

#### **Drawing Contains Stippling**

Applicant must submit a statement that the stippling shown in the drawing is a feature of the mark. Presumably, the stippling is intended to represent a newspaper. 37 C.F.R. §2.37; TMEP §807.09(e). The applicant may submit the following statement:

The stippling shown in the drawing is a feature of the mark and not intended to indicate color.

#### **Drawing Too Large**

Applicant must submit a substitute drawing showing the mark no larger than 3.15 inches (8 cm) high by 3.15 inches (8 cm) wide. 37 C.F.R. 2.52(b). The image submitted does not meet these drawing size limitations. Specifically, the drawing is 3.54 by 2.16 inches.

#### **Special Form Drawing – Paper Requirements**

The requirements for a special-form drawing are as follows:

- The drawing must appear in black and white if color is not claimed as a feature of the mark, or in color if color is claimed as a feature of the mark.
- Drawings must be typed or made with a pen or by a process that will provide high definition when copied. A photolithographic, printer’s proof copy, or other high quality reproduction of the mark may be used. All lines must be clean, sharp and solid, and must not be fine or crowded.
- The image must be no larger than 3.15 inches (8 cm) high by 3.15 inches (8cm) wide.
- If reduction of the mark to the required size renders any details illegible, then applicant may insert a statement in the application to describe the mark and these details.

37 C.F.R. §§2.52(b); *See* TMEP §§807.01(b) and 807.07(a).

If submitted on paper, the Office prefers that the drawing be depicted on a separate sheet of non-shiny, white paper that is 8 to 8.5 inches wide and 11 to 11.69 inches long (20.3 to 21.6 cm. wide and 27.9 to 29.7 cm. long). One of the shorter sides of the sheet should be regarded as its top edge. In addition, the drawing should include the caption “DRAWING PAGE” at the top of the drawing beginning one-inch (2.5 cm) from the top edge. 37 C.F.R. §2.54.

The Office strictly enforces these drawing requirements.

#### **Special Form Drawing Through TEAS – Requirements**

To submit a special form drawing electronically, applicant must attach a digitized image of the mark to the submission. The Office will only accept an image in .jpg format. The image must be formatted at no less than 300 dots per inch and no more than 350 dots per inch; and with a length and width of no less than 250 pixels and no more than 944 pixels. All lines in the image must be clean, sharp and solid, and not fine or crowded, and produce a high quality image when copied. 37 C.F.R. §2.53

### Change of Correspondence Address

Applicants may now file changes of correspondence address via a new form on TEAS. Address changes may be performed on up to 20 cases at a time. The Trademark Office strongly encourages applicants to use this time-saving form which is available online at: <http://eteas.uspto.gov/V2.0/ca200/WIZARD.htm>

### Applicant May Wish To Seek Trademark Counsel

The applicant may wish to hire a trademark attorney because of the technicalities involved in the application. The Patent and Trademark Office cannot aid in the selection of an attorney.

### Applicant's Response

No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.

In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, and the mailing date of this Office action.

To avoid lateness due to mail delay, the applicant should add the following certificate to the response to the Office action, retaining a photocopy of the response with the completed certificate in case the response becomes lost.

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name of the person signing the certificate)

The certificate-of-mailing procedure does **not** apply to the filing of trademark applications.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Andrea Koyner Nadelman/  
Andrea Koyner Nadelman  
Trademark Attorney  
Law Office 110  
(703) 308-9110 ext. 422  
(703) 746-8110 FAX

### **How to respond to this Office Action:**

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

MAIL-IT REQUESTED: JUNE 21, 2004

10083K

CLIENT:  
LIBRARY: NEWS  
FILE: USPAPR

YOUR SEARCH REQUEST AT THE TIME THIS MAIL-IT WAS REQUESTED:  
TUBE W/2 NEWSPAPER

NUMBER OF STORIES FOUND WITH YOUR REQUEST THROUGH:  
LEVEL 1... 327

LEVEL 1 PRINTED

THE SELECTED STORY NUMBERS:  
1-4,6-12,15

DISPLAY FORMAT: 50 VAR KWIC

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