

To: Parodi & Parodi Ltda (bruno@lambertpatentlaw.com)
Subject: TRADEMARK APPLICATION NO. 77202820 - TACHÃO DE UBATUBA - 07-070-FP
Sent: 11/7/2008 12:20:58 PM
Sent As: ECOM116@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/202820

MARK: TACHÃO DE UBATUBA

77202820

CORRESPONDENT ADDRESS:

GARY E. LAMBERT
LAMBERT & ASSOCIATES
92 STATE ST
BOSTON, MA 02109-2004

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Parodi & Parodi Ltda

CORRESPONDENT'S REFERENCE/DOCKET NO :
07-070-FP

CORRESPONDENT E-MAIL ADDRESS:
bruno@lambertpatentlaw.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: **11/7/2008**

The statement of use has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

Specimen Omitted – Did Not Transmit or Upload

The specimen is not acceptable because the digitized image cannot be printed or did not print legibly due to technical difficulties and does not clearly show the applied-for mark in use in commerce for the identified goods and/or services. In fact, no image at all was received of the specimen. A statement of use must include a specimen showing the applied-for mark in use in commerce for each class of goods and/or services in the statement of use. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.56, 2.88(b)(2); TMEP §§904, 904.07(a), 1109.09(b).

If applicant submits a response via electronic means, the substitute specimen must be submitted in jpg or pdf format. 37 C.F.R. §2.56(d)(4); TMEP §904.02(a).

Therefore, applicant must satisfy one of the following:

- (1) Submit a true copy of the originally submitted specimen and a statement by the person who transmitted the statement of use that the resubmitted specimen is a true copy of the specimen that was submitted with the statement of use. TMEP §904.02(a)-(b).

(2) Submit a substitute specimen showing use of the mark for each class of goods and/or services in the statement of use, and the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“The substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use.”** 37 C.F.R. §2.59(b)(2); TMEP §904.05. If submitting a specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c).

Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale. TMEP §§904.03 *et seq.* Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the sale or advertising of the services. TMEP §§1301.04 *et seq.*

Pending a proper response, registration is refused because applicant has not provided evidence of use in commerce of the applied-for mark. 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv) 2.56, 2.88; TMEP §§904, 904.07(a), 1109.09(b)

Applicant may not withdraw the statement of use. 37 C.F.R. §2.88(g); TMEP §1109.17.

The following is a sample declaration under 37 C.F.R. §2.20 with a supporting statement for a substitute specimen:

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting there from, declares that *the substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use*; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

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

/Karen Bracey/
Examining Attorney
Law Office 116
571-272-9132

RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For technical assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 11/7/2008 FOR
APPLICATION SERIAL NO. 77202820

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77202820&doc_type=OOA&mail_date=20081107 (or copy and paste this URL into the address field of your browser), or visit <http://tmportal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 11/7/2008.

Do NOT hit “Reply” to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**

- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**