

To: Parody Products LLC (Steve@Parodyproducts.net)
Subject: U.S. TRADEMARK APPLICATION NO. 85715993 - CELL FLASK - N/A
Sent: 12/25/2012 9:23:09 PM
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85715993

MARK: CELL FLASK

85715993

CORRESPONDENT ADDRESS:

PARODY PRODUCTS LLC
PARODY PRODUCTS LLC
1700 7TH AVE
SEATTLE, WA 98101-1397

CLICK HERE TO RESPOND TO
<http://www.uspto.gov/trademarks/teas/r>

APPLICANT: Parody Products LLC

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

Steve@Parodyproducts.net

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO
MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS**

OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 12/25/2012

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

The referenced application 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(a), 2.65(a); TMEP §§711, 718.03.

SEARCH OF OFFICE'S DATABASE OF MARKS

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

SECTION 2(e)(1) REFUSAL - MERELY DESCRIPTIVE

The examining attorney refuses registration on the Principal Register because the proposed mark merely describes the goods. Trademark Act Section 2(e)(1), 15 U.S.C. Section 1052(e)(1); TMEP section 1209 *et seq.*

A mark is merely descriptive under Trademark Act Section 2(e)(1), 15 U.S.C. 1052(e)(1), if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986); *In re MetPath Inc.*, 223 USPQ 88 (TTAB 1984); *In re BrightCrest, Ltd.* 204 USPQ 591 (TTAB 1979); TMEP section 1209.01(b). It is not necessary that a term describe all of the purposes, functions, characteristics or features of the goods to be merely descriptive. It is enough if the term describes one attribute of the goods. *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

The applicant has applied to register the mark "CELL FLASK" for "flasks".

The term "CELL" is short for a "cellular telephone." *American Heritage® Dictionary of the English Language* ©2009 Yahoo! Inc. (copy attached).

The term "FLASK" is defined as, among other things, "a small container, such as a bottle, having a narrow neck and usually a cap, especially: a flat, relatively thin container for liquor." *American*

The term "CELL FLASK" is used to describe flasks that are in the shape of or appear to be cell phones. The examining attorney refers to the attached excerpts from a representative sampling of webpages retrieved from the Internet.

The Trademark Trial and Appeal Board has held that materials obtained through computerized text searching are competent evidence to show the descriptive use of terms under Trademark Act Section 2(e)(1), 15 U.S.C. Section 1052(e)(1). *In re National Data Corp.*, 222 USPQ 515, 517 n.3 (TTAB 1984).

The applicant's mark merely describes the characteristics of the goods, namely a flask in the shape of a cell phone. Consequently, the mark is unregistrable on the Principal Register.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

TRADEMARK ATTORNEY SUGGESTED

Because of the legal technicalities and strict deadlines involved in the USPTO application process, applicant may wish to hire a private attorney specializing in trademark matters to represent applicant in this process and provide legal advice. Although the undersigned trademark examining attorney is permitted to help an applicant understand the contents of an Office action as well as the application process in general, no USPTO attorney or staff is permitted to give an applicant legal advice or statements about an applicant's legal rights. TMEP §§705.02, 709.06.

For attorney referral information, applicant may consult the American Bar Association's Consumers' Guide to Legal Help at <http://www.abanet.org/legalservices/findlegalhelp/home.cfm>, an attorney referral service of a state or local bar association, or a local telephone directory. The USPTO may not assist an applicant in the selection of a private attorney. 37 C.F.R. §2.11.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. See 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. See TMEP §§705.02, 709.06.

/Alec Powers/
Trademark Examining Attorney
Trademark Law Office 101
Direct: 571-272-9309
Alexander.Powers@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System

(TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

This is Google's cache of <http://www.binocktails.com/>. It is a snapshot of the page as it appeared on Dec 13, 2012 02:11:43 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)
Tip: To quickly find your search term on this page, press **Ctrl+F** or **⌘F** (Mac) and use the find bar.

These search terms are highlighted: **cell phone flasks**

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