

To: The Parody Store, LLC (info@theparodystore.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85721882 - THE PARODY STORE - N/A
Sent: 1/11/2013 1:30:51 PM
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Attachments: [Attachment - 1](#)
[Attachment - 2](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85721882

MARK: THE PARODY STORE

85721882

CORRESPONDENT ADDRESS:

THE PARODY STORE, LLC
2300 5TH AVE N
ST PETERSBURG, FL 33713-7006

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APPLICANT: The Parody Store, LLC

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

N/A

CORRESPONDENT E-MAIL ADDRESS:
info@theparodystore.com

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: 1/11/2013

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

Registration is refused because the applied-for mark merely describes the provider/source of applicant's goods. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

Terms that describe the provider of a product or service may also be merely descriptive of the product and/or service. *See In re Major League Umpires*, 60 USPQ2d 1059, 1060 (TTAB 2001) (holding MAJOR LEAGUE UMPIRE merely descriptive of clothing, face masks, chest protectors and shin guards); *In re The Phone Co.*, 218 USPQ 1027, 1028 (TTAB 1983) (holding THE PHONE COMPANY merely descriptive of telephones and telephone instruments); TMEP §1209.03(q).

The determination of whether a mark is merely descriptive is made in relation to an applicant's goods and/or services, not in the abstract. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012); *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b); *see, e.g., In re Polo Int'l Inc.*, 51 USPQ2d 1061, 1062-63 (TTAB 1999) (finding DOC in DOC-CONTROL would refer to the "documents" managed by applicant's software rather than the term "doctor" shown in a dictionary definition); *In re Digital Research Inc.*, 4 USPQ2d 1242, 1243-44 (TTAB 1987) (finding CONCURRENT PC-DOS and CONCURRENT DOS merely descriptive of "computer programs recorded on disk" where the relevant trade used the denomination "concurrent" as a descriptor of a particular type of operating system).

"Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

"A mark may be merely descriptive even if it does not describe the 'full scope and extent' of the applicant's goods or services." *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)); TMEP §1209.01(b). It is enough if a mark describes only one significant function, attribute, or property. *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b); *see In re Oppedahl & Larson LLP*, 373 F.3d at 1173, 71 USPQ2d at 1371.

It is not necessary that a term or phrase describe every quality, purpose, function, characteristic, or feature, of the goods/services to be merely descriptive; rather, it is sufficient for the purpose if the proposed mark describes a *single* significant quality, feature, function, etc. about the goods/services. *See In re Patent and Trademark Services*, 49 USPQ2d 1537, 1539 (TTAB 1998); *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985); *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

Applicant has applied for the mark "THE PARODY STORE" for "Digital media, namely, downloadable audio files featuring parodies". The term STORE is defined in the attached as "a place that sells goods". The goods in this case are "audio files featuring parodies". The phrase PARODY STORE is merely descriptive of the source/provider of applicant's goods, which are parodies.

Lastly, adding the term THE to a descriptive or generic term generally does not add any source-indicating significance or otherwise affect the term's descriptiveness or genericness. *See In re The Place Inc.*, 76 USPQ2d 1467, 1468 (TTAB 2005) (holding THE GREATEST BAR merely descriptive of restaurant and bar services; "the definite article THE . . . add[s] no source-indicating significance to the mark as a whole"); *Conde Nast Publ'ns Inc. v. Redbook Publ'g Co.*, 217 USPQ 356, 357, 360 (TTAB 1983) (holding THE MAGAZINE FOR YOUNG WOMEN a "common descriptive or 'generic' name of a class or type of magazine" and incapable of indicating source; "[t]he fact that the slogan also includes the article 'The' is insignificant. This word cannot serve as an indication of origin, even if applicant's magazine were the only magazine for young women."); *In re The Computer Store, Inc.*, 211 USPQ 72, 74-75 (TTAB 1981) (holding THE COMPUTER STORE merely descriptive of, and the common descriptive name for, computer-related services); *see also In re G. D. Searle & Co.*, 143 USPQ 220 (TTAB 1964), *aff'd*, 360 F.2d 1966, 149 USPQ 619 (C.C.P.A. 1966) (holding "THE PILL" a common descriptive name for pharmaceutical preparations in tablet form, and thus does not serve as an indicator of source or origin in applicant).

Accordingly, the mark is refused registration on the Principal Register under Section 2(e)(1).

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

PRO SE APPLICANT MAY WISH TO SEEK TRADEMARK COUNSEL

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.

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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/>.

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- 1 **AMERICAN** a place that sells goods
Some stores are overcharging their customers.
a grocery store
If you have any comments, could you please speak to the store manager.
 Thesaurus entry for this meaning of store
 - a. [ONLY BEFORE NOUN] relating to a store
 Thesaurus entry for this meaning of store
- 2 a supply of something that is kept to be used later
a store of food for the winter
 Thesaurus entry for this meaning of store
 - a. a place where a supply of something is kept until it is needed
The building was used as a weapons store.
 Thesaurus entry for this meaning of store
- 3 **stores** [PLURAL] supplies of food and equipment used by an army
 Thesaurus entry for this meaning of store
 - a. the place where these supplies are kept
 Thesaurus entry for this meaning of store
- 4 a large amount of something that is kept in your memory
She has acquired such a vast store of knowledge.
 Thesaurus entry for this meaning of store

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store VERB
 in-store ADJECTIVE
 store up PHRASAL VERB
 chain store NOUN
 cold store NOUN
 dime store NOUN
 store away PHRASAL VERB

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PHRASES

- **in store (for someone)**
 if something is in store for you, it will happen to you in the future
None of us knew what lay in store.
 Thesaurus entry for this meaning of store
- **set/put/lay (great) store by/on something**
 to think that something is very important
I've never set much store by money and possessions.
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