

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85899815
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION	
MARK FILE NAME	http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=85899815
LITERAL ELEMENT	ÉLAN FURNITURE
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
COLOR(S) CLAIMED (If applicable)	Color is not claimed as a feature of the mark.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the stylized text "élan furniture" with "élan" on top in large letters, and "furniture" centered below in smaller letters.
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_701095314-123325715_.ELANFURNITURE-Response_to_OA.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\858\998\85899815\xml4\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\858\998\85899815\xml4\ROA0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\858\998\85899815\xml4\ROA0004.JPG
DESCRIPTION OF EVIDENCE FILE	arguments to overcome the 2(d) likelihood of confusion against a cited registered mark for ELAN
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use furniture apart from the mark as shown.

RESPONSE SIGNATURE	/avann/
SIGNATORY'S NAME	Antonio Vann
SIGNATORY'S POSITION	Attorney of Record, VA bar member
SIGNATORY'S PHONE NUMBER	8552269661
DATE SIGNED	01/27/2014
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Jan 27 12:37:33 EST 2014
TEAS STAMP	USPTO/ROA-70.109.53.14-20 140127123733497137-858998 15-5006850c2574494b67893f 1464c5b8e485930ab956cdace 3dfa45618d613b13f58-N/A-N /A-20140127123325715839

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 07/31/2017)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **85899815** ÉLAN FURNITURE (Stylized and/or with Design, see <http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=85899815>) has been amended as follows:

EVIDENCE

Evidence in the nature of arguments to overcome the 2(d) likelihood of confusion against a cited registered mark for ELAN has been attached.

Original PDF file:

[evi_701095314-123325715_ÉLANFURNITURE-Response_to_OA.pdf](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

ADDITIONAL STATEMENTS

Disclaimer

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

SIGNATURE(S)

Response Signature

Signature: /avann/ Date: 01/27/2014

Signatory's Name: Antonio Vann

Signatory's Position: Attorney of Record, VA bar member

Signatory's Phone Number: 8552269661

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85899815

Internet Transmission Date: Mon Jan 27 12:37:33 EST 2014

TEAS Stamp: USPTO/ROA-70.109.53.14-20140127123733497

137-85899815-5006850c2574494b67893f1464c

5b8e485930ab956cdace3dfa45618d613b13f58-

N/A-N/A-20140127123325715839

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Heritage Business Group, LLC
Serial No.: 85899815
Trademark Atty: Daniel F. Capshaw
Word Mark: ÉLAN FURNITURE

IN RESPONSE TO THE OFFICE ACTION OF July 25, 2013

This Response is filed in reply to the Office Action e-mailed on July 25, 2013. The Applicant respectfully submits the following response. Applicant submits that the above-identified trademark application

Potential Section 2(d) – Likelihood of Confusion

Applicant submits a preliminary response to the potential section 2(d) refusal; however, Applicant reserves all rights to provide a detailed and more descriptive response if Examining Attorney Daniel F. Capshaw raises a Section 2(d) refusal in a subsequent Office Action.

Applicant's Word Mark

ÉLAN FURNITURE

Class 020

Furniture, namely, dining tables, dining chairs, lounge chairs, benches, side tables, coffee table, chaise lounges, sofas, counter tables, bar tables, counter chairs, bar chairs, bar stools, counter stools and dining stools

Cited Registered Mark

ELAN

Class 020

metal daybeds and bed frames

Preliminary Response with Reservation of Rights

The USPTO suggests that it will refuse registration of Applicant's mark, ÉLAN FURNITURE, "because of a likelihood of confusion with registered mark ELAN. The Examining Attorney has

indicated that similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and /or services are grounds for the 2(d) refusal of the Applicant's mark.

The Cited Registration Has Not Been Renewed

The cited registered mark, ELAN was registered on October 21, 2003. Therefore, the cited registered mark was due for renewal on October 21, 2013. A review of the US Patent & Trademark Office reflects no filing of a Section 8 & 9 for the cited registration. Therefore, the cited registration has lapsed. Taking into consideration that the ELAN mark has lapsed, Applicant respectfully argues that 2(d) refusal must be withdrawn, or in the alternative, the Applicant's mark should be suspending pending the final outcome of the cited registration.

Disclaimer

Applicant adopts the standard disclaimer format used by the U.S. Patent & Trademark Office, namely:

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

Conclusion

Applicant has fully responded to the July 25, 2013 Office Action. Applicant respectfully submits in good faith that all potential 2(d) refusals, rejections, and/or objections have been overcome and that the applied for mark is in condition for publication.

Respectfully submitted,
/Antonio G. Vann/
Antonio G. Vann (VSB # 79765)

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