

To: Parodi, Monica (trademarks@rajpatent.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85945829 - IT'S TIME TO EAT OUTSIDE THE BOX. - 66939
Sent: 9/22/2013 9:15:25 PM
Sent As: ECOM107@USPTO.GOV
Attachments:

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

U.S. APPLICATION SERIAL NO. 85945829

MARK: IT'S TIME TO EAT OUTSIDE THE BOX.

85945829

CORRESPONDENT ADDRESS:

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CLICK HERE TO RESPOND TO THIS LETTER
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Parodi, Monica

CORRESPONDENT'S REFERENCE/DOCKET

NO:

66939

CORRESPONDENT E-MAIL ADDRESS:

trademarks@rajpatent.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: 9/22/2013

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 Records

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).

SUMMARY OF ISSUES that applicant must address:

- Identification of goods and/or services clarification
- Proper classification of goods and/or services
- Multiple classification application requirements
- Sufficient fees requirement

Identification of goods and/or services clarification

The wording "Education services, namely, providing classes, seminars, workshops in the fields of health, nutrition and lifestyle wellness; Providing a web site featuring educational information regarding nutrition; Counseling services in the fields of health, nutrition and lifestyle wellness" in the identification of services needs clarification because it is too broad and could include services classified in other international classes. *See* TMEP §§1402.01, 1402.03. Specifically, educational services belong in Class 41, but educational information and counseling are classified by subject matter. The subject matter of nutrition, health and lifestyle wellness relates to Class 44 services. Thus, the website featuring educational information and counseling services belong in Class 44.

For the applicant's convenience, the trademark examining attorney suggests an amendment of applicant's identification of services that complies with the above-mentioned clarification requirements, with any material additions and deletions highlighted in ***bold and italicized type***. Applicant may adopt the following identification, if accurate:

International Class 41: "Education services, namely, providing classes, seminars, workshops in the fields of health, nutrition and lifestyle wellness"

International Class 44: "Providing a web site featuring educational information regarding nutrition; Counseling services in the fields of health, nutrition and lifestyle wellness"

An applicant may amend an identification of goods and services only to clarify or limit the goods and services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07 *et seq.*

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual* at <http://tess2.uspto.gov/netahtml/tidm.html>. *See* TMEP §1402.04.

Proper Classification Required

If applicant adopts the suggested amendment of the goods and/or services, then applicant must amend the classification to International Classes 41 and 44. *See* 37 C.F.R. §§2.32(a)(7), 2.85; TMEP §§805, 1401.

Applicant must adopt the appropriate international classification number for the goods and/or services identified in the application. The United States follows the *International Classification of Goods and Services for the Purposes of the Registration of Marks*, established by the World Intellectual Property Organization, to classify goods and services. 37 C.F.R. §2.85(a); TMEP §§1401.02, 1401.02(a).

Proper classification of goods and services is a purely administrative matter within the sole discretion of the United States Patent and Trademark Office. *In re Tee-Pak, Inc.*, 164 USPQ 88, 89 (TTAB 1969).

Multiple Class Application Requirements

The application identifies goods and/or services that are classified in at least 2 classes; however, applicant submitted a fee(s) sufficient for only 1 class(es). In a multiple-class application, a fee for each class is required. 37 C.F.R. §2.86(a)(2); TMEP §§810.01, 1403.01.

Therefore, applicant must either (1) restrict the application to the number of classes covered by the fees already paid, or (2) submit the fees for each additional class.

The filing fees for adding classes to an application are as follows:

(1) A \$325 fee per class, when the fees are submitted with an electronic response filed online at http://www.uspto.gov/trademarks/teas/response_forms.jsp, via the Trademark Electronic Application System (TEAS).

(2) A \$375 fee per class, when the fees are submitted with a paper response.

37 C.F.R. §2.6(a)(1)(i)-(ii); TMEP §§810, 1403.02(c).

Sufficient Fees Required

For an application with more than one international class, called a “multiple-class application,” an applicant must meet all the requirements below for those international classes based on an intent to use the mark in commerce under Trademark Act Section 1(b):

- (1) LIST GOODS AND/OR SERVICES BY INTERNATIONAL CLASS: Applicant must list the goods and/or services by international class.
- (2) PROVIDE FEES FOR ALL INTERNATIONAL CLASSES: Applicant must submit an application filing fee for each international class of goods and/or services not covered by the fee(s) already paid (confirm current fee information at http://www.uspto.gov/trademarks/tm_fee_info.jsp).

See 15 U.S.C. §§1051(b), 1112, 1126(e); 37 C.F.R. §§2.34(a)(2)-(3), 2.86(a); TMEP §§1403.01, 1403.02(c).

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.

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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>.

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **9/22/2013** FOR U.S. APPLICATION SERIAL NO. 85945829

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **9/22/2013** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the

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