To: Marquez, Jerry G (marquezjerry@gmail.com) **Subject:** U.S. TRADEMARK APPLICATION NO. 86008387 - HELLO WOODY - N/A Sent: 11/1/2013 12:32:41 PM ECOM117@USPTO.GOV Sent As: **Attachments:** Attachment - 1 Attachment - 2 Attachment - 3 Attachment - 4 Attachment - 5 Attachment - 6 Attachment - 7 Attachment - 8 Attachment - 9 Attachment - 10 Attachment - 11 Attachment - 12 Attachment - 13 Attachment - 14 Attachment - 15 Attachment - 16 Attachment - 17 Attachment - 18 Attachment - 19 Attachment - 20 Attachment - 21 Attachment - 22 Attachment - 23 Attachment - 24 Attachment - 25 Attachment - 26 Attachment - 27 Attachment - 28 Attachment - 29 Attachment - 30 Attachment - 31 Attachment - 32

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

U.S. APPLICATION SERIAL NO. 86008387

MARK: HELLO WOODY

86008387

CORRESPONDENT ADDRESS:

MARQUEZ, JERRY G

CLICK HERE TO RESPOND TO THIS LETTER:

25377 35TH ST

SAN BERNARDINO, CA 92404-2824

http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Marquez, Jerry G

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

marquezjerry@gmail.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: 11/1/2013

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.

SUMMARY OF ISSUES that applicant must address:

- Refusal under Section 2(a) on the basis the mark is scandalous or immoral.
- Requirement for clarification of the description of the mark.

Search

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).

Mark is Scandalous or Immoral

Registration is refused, however, because the applied-for mark consists of or includes immoral or scandalous matter. Trademark Act Section 2(a), 15 U.S.C. §1052(a); see TMEP §1203.01.

The words "immoral" and "scandalous" may have somewhat different connotations; however, immoral matter has been included in the same category as scandalous matter. TMEP §1203.01; *see In re McGinley*, 660 F.2d 481, 484 n.6, 211 USPQ 668, 673 n.6 (C.C.P.A. 1981) (Because of the court's holding that appellant's mark was scandalous, "it [was] unnecessary to consider whether appellant's mark [was] 'immoral.' [The court] note[d] the dearth of reported trademark decisions in which the term 'immoral' [had] been directly applied.").

For a mark to be "scandalous," the evidence must show that the mark would be considered shocking to the sense of decency or propriety, giving offense to the conscience or moral feelings, or calling out for condemnation. *In re Fox*, 702 F.3d 633, 635, 105 USPQ2d 1247, 1248 (Fed. Cir. 2012) (quoting *In re Mayety Media Grp. Ltd.*, 33 F.3d 1367, 1371, 31 USPQ2d 1923, 1925 (Fed. Cir. 1994)); *see* TMEP §1203.01.

A mark is scandalous when the evidence demonstrates that a substantial composite of the general public (although not necessarily a majority) would consider the mark to be scandalous in the context of contemporary attitudes and the relevant marketplace. *See In re Fox*, 702 F.3d at 635, 105 USPQ2d at 1248 (quoting *In re Mavety Media Grp. Ltd.*, 33 F.3d at 1371, 31 USPQ2d at 1925-26); *In re The Boulevard Entm't, Inc.*, 334 F.3d 1336, 1340, 67 USPQ2d 1475, 1477 (Fed. Cir. 2003); TMEP §1203.01.

Moreover, the pictorial depiction of scandalous or immoral matter may be considered the visual equivalent of the wording it represents. *See In re Luxuria s.r.o.*, 100 USPQ2d 1146, 1151 (TTAB 2011) (holding scandalous a mark comprising a bottle in the shape of a hand with the middle finger extended upwards; "the gesture depicted by applicant's mark [was] the visual equivalent of an extremely offensive expletive. Just as [those] words would be considered scandalous and immoral if used as a trademark . . . the visual depiction of [those] words by the finger gesture shown in applicant's mark [was] equally scandalous and immoral.").

Evidence that a mark is vulgar is sufficient to establish that the mark is scandalous within the meaning of Trademark Act Section 2(a). *In re Fox*, 702 F.3d 633, 635, 105 USPQ2d 1247, 1248. (Fed. Cir. 2012) (citing *In re The Boulevard Entm't, Inc.*, 334 F.3d 1336, 1340, 67 USPQ2d 1475, 1477 (Fed. Cir. 2003)); *see* TMEP §1203.01.

In this case, applicant seeks registration for a mark that is comprised in large part of the design of an erect penis and the term "WOODY." The attached definitions establish that "WOODY" is a vulgar term referring to an erect penis. The attached Internet excerpts also establish that pictures of male genitals are often considered vulgar or scandalous. Finally, courts have commonly held pictures involving nudity to be immoral or scandalous. See In re McGinley, 660 F.2d 481, 484 n.6, 211 USPQ 668, 673 n.6 (C.C.P.A. 1981) (holding scandalous a mark comprising a photograph of a nude, reclining man and woman, kissing and embracing, for a "newsletter devoted to social and interpersonal relationship topics" and for "social club services").

The examining attorney notes that applicant may have intended the mark to be a parody on the well-known "HELLO KITTY" trademark. However, "whether applicant intended the mark to be humorous, or even whether some people would actually find it to be humorous, is immaterial." *In re Star Belly Stitcher, Inc.*, 107 USPQ2d 2059, 2060 (TTAB 2013) (quoting *In re Luxuria, s.r.o.*, 100 USPQ2d 1146, 1149 (TTAB 2011)); *see also In re Fox*, 702 F.3d 633, 639, 105 USPQ2d 1247, 1251 (Fed. Cir. 2012) ("the fact that something is funny does not mean that it cannot also be 'scandalous"). The evidence here shows that the term "WOODY" and design of the penis would be considered vulgar and scandalous.

Further, there is nothing in applicant's mark that would change or detract from the vulgar meaning inherent in the term "WOODY" or picture of the penis, which together overwhelmingly call to mind an erect penis. Thus, to the extent there is any parody here, the mark remains vulgar. Registration is, therefore, refused under Trademark Act Section 2(a), 15 U.S.C. §1052(a); *see* TMEP §1203.01.

<u>PLEASE NOTE:</u> A mark that is deemed scandalous under Trademark Act Section 2(a) is not registrable on either the Principal or Supplemental Register. TMEP §1203.01; *see* 15 U.S.C. §1052(a).

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

Applicant must respond to the requirement(s) set forth below.

Description of the Mark

Applications for marks depicted in color must include (1) a complete list of all the colors claimed as a feature of the mark and (2) a mark description of the literal and design elements that specifies where all the colors appear in those elements. 37 C.F.R. §§2.37, 2.52(b)(1); see TMEP §807.07(a)-(a)(ii). Generic color names must be used to describe the colors in the mark, e.g., magenta, yellow, turquoise. TMEP §807.07(a)(i)-(ii). If black, white, and/or gray are not being claimed as a color feature of the mark, applicant must exclude them from the color claim and include in the mark description a statement that the colors black, white, and/or gray represent background, outlining, shading, and/or transparent areas and are not part of the mark. See TMEP §807.07(d).

Here, applicant must provide a more concise description of the mark that simply identifies the design and literal elements. It also must be clearer where the colors appear in the mark. The following mark description is suggested, if accurate:

Mark description: The mark consists of the design of an erect penis and attached scrotums over the stylized wording "hello woody." Each scrotum has a dot on it and there are curved lines where they meet, all of which could be perceived as two eyes and a nose. Several lines depicting hair appear on the scrotums. The design of a bow also appears at the bottom of the right scrotum. The hairs, the outlines of the bow, the penis, and scrotums, and the definitional lines in the penis and scrotums, including the dots and curved lines, are black. The color blue appears in the body of the bow and in the outline of the wording in the mark. The wording itself is white. The interior background of the penis and the scrotums also are white. The remainder of the white in the drawing represents background area only and is not part of the mark.

See TMEP §807.07(b).

General Response Guidelines

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

If applicant does not respond to this Office action within six months of the issue/mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to active status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §\$2.6, 2.66(b)(1).

Please do not hesitate to contact the undersigned with any questions.

/MaureenDallLott/

Maureen Dall Lott

Trademark Examining Attorney, Law Office 117

United States Patent and Trademark Office

571-272-9714

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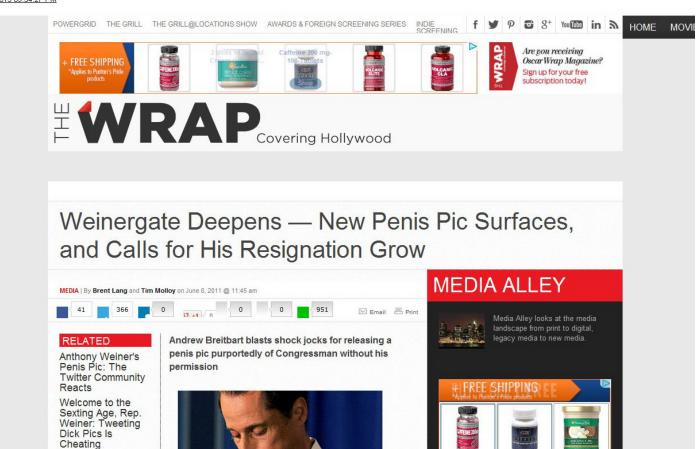
All informal e-mail communications relevant to this application will be placed in the official application record.

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/.

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

Rep. Weiner:



With 6 Women



Updated, 7:05 p.m. PT

The media and political worlds were thrown into upheaval — yet again — on Wednesday with the release of another graphic picture, this one supposedly of Rep. Anthony Weiner's penis, followed by reports that his wife, Hillary Clinton aide, Huma Abedin, is pregnant.

By the end of the day, it seemed increasingly unlikely that the embattled Weiner would be able to hold onto his congressional seat.

There are growing calls from both sides of the aisle for the New York congressman to resign from office

Also Read: Andrew Breithart 'There Are Other Anthony Weiners Out There' Also Read: Andrew Breitbart, 'There Are Other Anthony Weiners Out There'

The scandal deepened when an image of Rep. Weiner's nether regions was leaked by a pair of radio shock jocks against the wishes of conservative blogger Andrew Breitbart. Breitbart had pledged to keep the picture out of the public sphere after Weiner confessed to sexting with six women.

Click here to see the photo (Warning: NSFW)

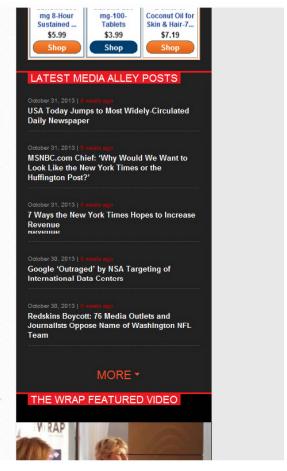
Breitbart apparently showed the radio hosts the image on his cell phone. They then captured a picture of the photo on Breitbart's phone and posted it on their **Twitter feed**.

Also Read: Anthony Weiner's Penis Pic: The Twitter Community Reacts

Breitbart said Weiner sent the shot to one of the women with whom he admitted online exchanges.

The rightwing provocateur accused the radio hosts of breaching an agreement that the photo would not be made public.

"It was a complete violation of trust," Breitbart told Fox News' Eric Shawn.



Also read: Transcript of Anthony Weiner Facebook Sex Chat With Lisa Weiss

A spokesman for Weiner would neither confirm nor deny that the picture was of the congressman, according to Politico.

Calls for Weiner's resignation are growing louder, even from those within the Democratic congressman's own party. Among the Democrats agitating for Weiner to step down are former DNC Chairman Tim Kaine; Pennsylvania Rep. Allyson Schwartz, Massachusetts Rep. Niki Tsongas, Arkansas Sen. Mark Pryor and Vermont Sen. Patrick Leahy.

On the Republican side of the aisle, Kentucky Sen. Rand Paul and House Majority Leader Eric Cantor are some of the big names who have called for the congressman to give up his seat.

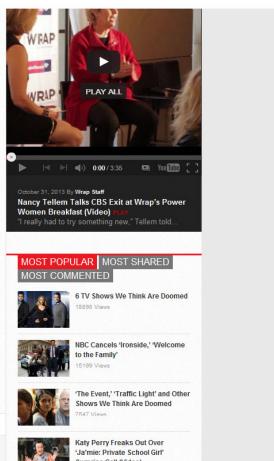
White House Press Secretary Jay Carney said there would be **no comment** from the president on the matter.

For his part, Weiner has been trying to mend fences with colleagues, reaching out to party leaders and to former President Bill Clinton, to apologize for his actions. Many outlets are speculating that Weiner has found himself with few supporters on Capital Hill, because his hard-charging style did not endear him to his fellow House members.

A slim majority of New York city voters think Weiner should hold onto his seat, according to a Marist College poll conducted hours after the story broke on Monday. Fifty-one percent of those surveyed believe Weiner should not resign from Congress, 30 percent disagree and think he should step down, and 18 percent are unsure.

Weiner, who has said he will continue in his post, is believed to be the first member of Congress in our great nation's history to have his junk posted on the Internet.





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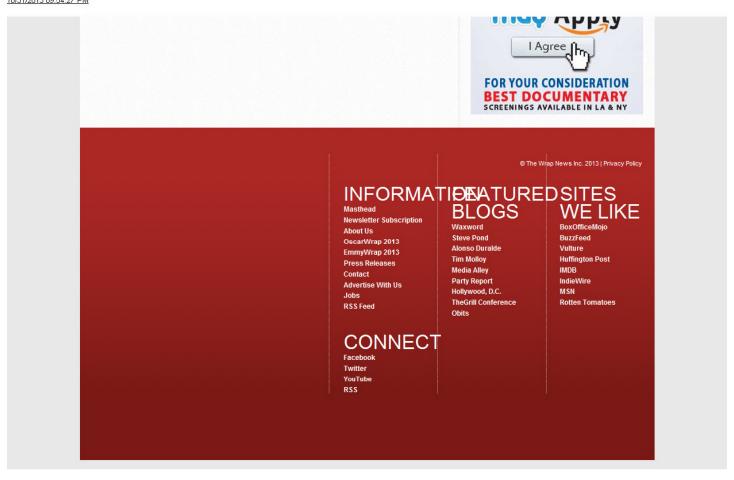
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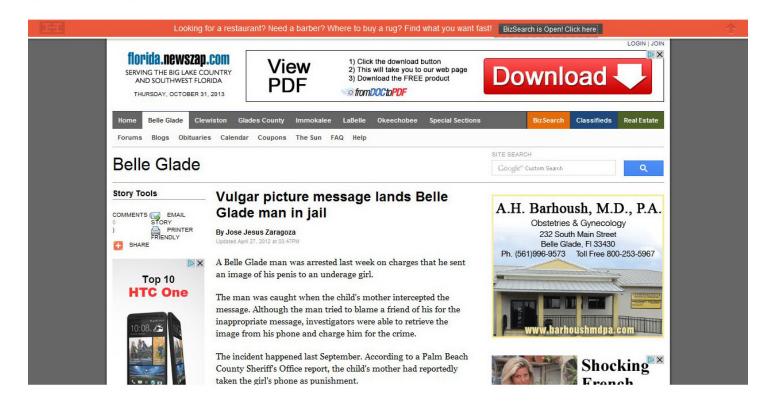


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taken the giri s phone as punishment.

While looking through the text messages on the phone, a message was received from a "Duke." It contained the picture. The girl eventually told her mother that Duke was a neighbor who was in his 20s.

The mother saw more messages from Duke asking the girl to come outside to meet with him. She continued the text conversation while also calling 911.

Deputies arrived to find the man, Curtis Thornton, 22, sitting on a curb across the street from the girl's apartment. He said he knew the girl, had her number, but denied having a conversation with her that day. He said he was sitting outside because he was waiting on his girlfriend to pick him up and provided a false cell phone number. Deputies called the number listed on the girl's phone and Thornton's phone lit up.

The girl later positively identified Thornton as the person who had sent her the texts. She said he had sent her other messages before of a sexual nature. She added that she only recently started texting him after he moved into the apartment next door.

In a taped statement, Thornton offered that he had loaned the phone to his friend earlier that day and that he may have sent those messages, not Thornton. The friend told deputies that he did use Thornton's phone that day to text and call his own girlfriend, but denied texting the minor, adding that he did not know who she was. The time frame he offered for having used the phone was hours before the message in question was sent.



French Video

If you do not know French, you should really see this video.

You'll be absolutely shocked!

Watch Video





Armed with the information, investigators obtained a search warrant for Thornton's phone and phone records. A computer crimes detective managed to retrieve the deleted picture and the text conversation with time and date stamps, consistent with when the victim and caller had mentioned.

Curtis Lee Thornton was arrested March 9 and faces felony charges of cruelty towards child - transmit info harmful to minors, obscene material to minor, and obscene communication use of computer to seduce, solicit or lure a child.

You are encouraged to leave relevant comments but engaging in personal attacks, threats, online bullying or commercial spam will not be allowed. All comments should remain within the bounds of fair play and civility. (You can disagree with others courteously, without being disagreeable.) Feel free to express yourself but keep an open mind toward finding value in what others say. To report abuse or spam, click the X in the upper right corner of the comment box. For more information, please visit our FAQ page.







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BBC apologizes for broadcasting obscene Prince William doodle during morning show

The screen grab features a penis drawn on the head of the prince. 'We failed to spot the offending material ... we apologize for this,' the news company said.

Comments (2)

THE ASSOCIATED PRESS

THURSDAY, AUGUST 1, 2013, 4:42 PM



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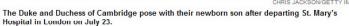
A video from Barbershopera shows a penis drawn on Prince William's face.

LONDON — The BBC has apologized for accidentally broadcasting a picture of Prince William in which an obscene doodle has been drawn onto his head.

Eagle-eyed viewers caught a glimpse of a picture of the prince with a penis drawn on his head on Thursday morning.

PHOTOS: ROYAL BABY PHOTO ALBUM





The image flashed up during a music video for a song titled "I Could Have Married Kate" by comedy

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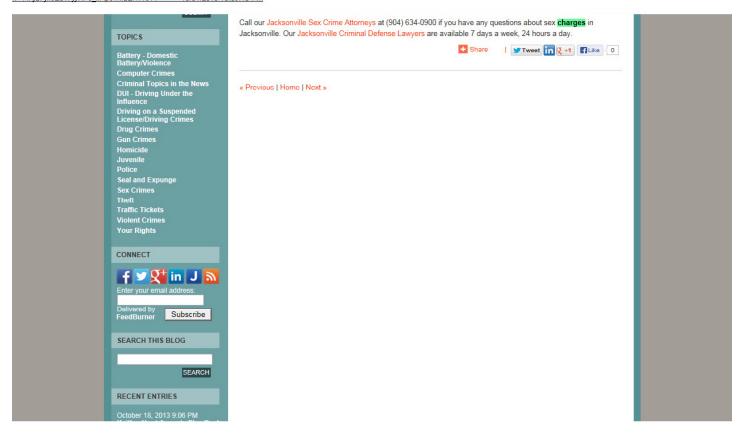
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Bing is not responsible for the content of this page.







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You searched for: genitalia pictures vulgar arrested We have highlighted matching words that appear in the page below.



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Conn. Officer **Arrested** in **Genitals** Photo Case

Published June 03, 2010 / Associated Press

Print

STAMFO

arrested
motorist

Stamford

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and relea

STAMFORD, Conn. -- A Connecticut police officer has been arrested on a misdemeanor charge for allegedly showing a female motorist a cell phone picture of his **genitals** during a traffic stop.

Stamford Officer Paul Mabey, who was named the city's "Officer of the Year" in 2006, was charged with disorderly conduct Wednesday and released on a promise to appear in Superior Court at a later date. He was suspended with pay on Friday.

Police say a 26-year-old Norwalk woman came forward last week with allegations that Mabey made inappropriate passes at her and showed her the cell phone picture during a traffic stop on May 26.

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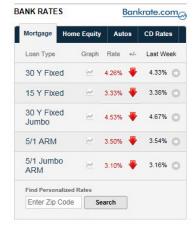
Showed her the contention picture during a traine step on may 20.

The 40-year-old Mabey couldn't be reached for comment Thursday. There's no phone listing for him. The 14-year police veteran is married with a baby.

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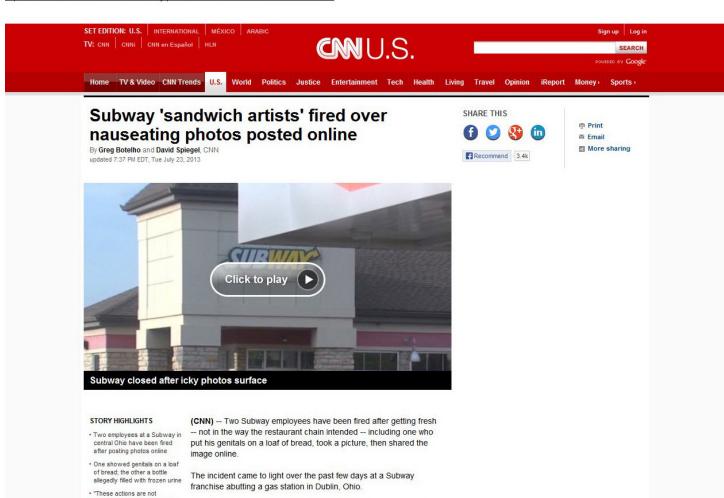
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tolerated," Subway says in a statement



Specifically, the uproar centers around two images that were posted

After hearing what happened, a to a social networking site and eventually picked up by other sites,

customer says, "I think I want to including Gawker. go home and consider puking"

360 Savings Capital One

One shows a male putting his genitals on what appears to be a loaf of Subway bread. In the other, a hand is shown holding what used to be a water bottle that's half-filled with a cream-colored substance. Under it is the caption: "Today at work I froze my pee."

Using the slogan "Eat Fresh," Subway boasts being the world's largest restaurant chain, with about 38,000 locations in 100 countries. The company released a statement Tuesday about what it called an "isolated incident (that) is not representative of Subway sandwich artists," the latter term being what Subway calls those who make sandwiches at its restaurants.

"These actions are not tolerated and the franchisee took immediate action to terminate the two employees involved," Subway said.

Gilligan Oil, the company that owns and operates the Subway franchise in question, did not respond immediately Tuesday to CNN's request for comment.

But its director of operations, Bob Gierhart, did tell CNN affiliate WBNS that the restaurant was closed Monday so all its bread could be thrown out and all its surfaces could be sanitized.

"We do our best to hire properly," Gierhart said. "We had a couple of kids who don't understand the ramifications of what they do and what they post."

According to Columbus Public Health, whose inspectors routinely check on restaurants in the area, the Subway franchise did not have any critical violations in its last two inspections that took place this past March and in October 2012.

The restaurant did have violations before then, according to information posted online, though all of these were corrected at the time of the inspections. The violations included things like problems with temperatures at which foods were being held, unsafe food not being properly discarded and employees failing to properly wash their hands

Prospective customers, meanwhile, expressed disgust after hearing of the employees' behavior

"I think I want to go home and consider puking," Jason South told WBNS. "... Sometimes these things kind of go on in fast-food restaurants, and most of us just really don't want to know about it." restaurants, and most of us just really don't want to know about it.

Patrick Gibson told the same station that he used to go to that Subway franchise because his co-workers told him it was "the cleanest one around." But that's hard for him to swallow now, nor does he understand why the offending employees did what they did.

"I don't get what the joke is," Gibson said. "I don't get that it's funny."

Read more: 10 people who learned social media can get you fired

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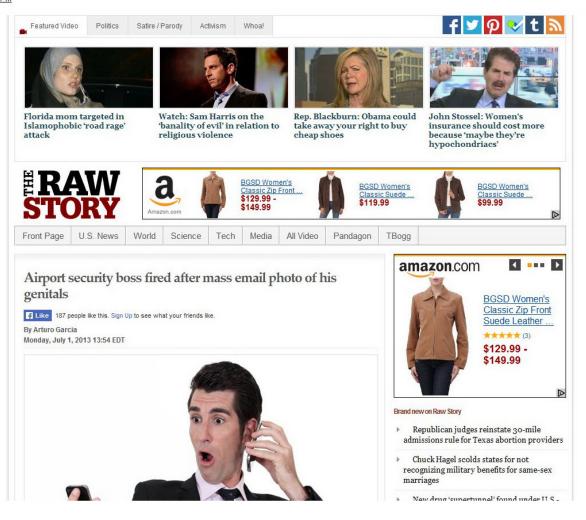
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Topics: FJC Security ♦ Gerard Robson ♦ new york post ♦ security supervisor

A security supervisor at JFK Airport in New York City was fired after mistakenly emailing a photo of himself naked from the waist down to about 20 colleagues and supervisors, the *New York Post* reported on Monday.

Gerard Robson was quickly suspended from his job as a project manager at FJC Security, an airport security contractor, after the June 21 mishap, which ocurred while he was trying to document a minor car accident involving a security vehicle. Instead, a picture reportedly showing his genitals, went out to supervisors at both his company and the Port Authority, as well as subordinates.

Though Robson immediately sent an apology via email and moved to delete the embarassing photo from computers at his office, FJC barred him from entering the airport and suspended him before terminating him.

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"Who knows? Maybe he'll run for mayor," FJC spokesperson Mike McKeon told the newspaper, a reference to former Rep. Anthony Weiner (D-NY).

[Image: "Businessman Holding Two Cell Phones" **via Shutterstock**]

Arturo Garcia



Arturo R. García is the managing editor at Racialicious.com. He is based in San Diego, California and has written for both print and broadcast media, including contributions to GlobalComment.com, The Root and Comment Is Free. Follow him on Twitter at @ABoyNamedArt

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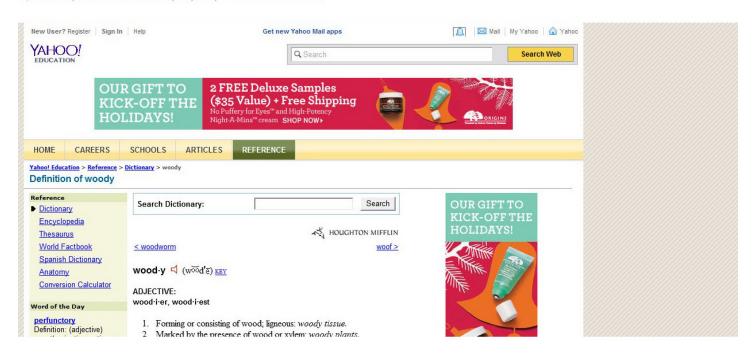
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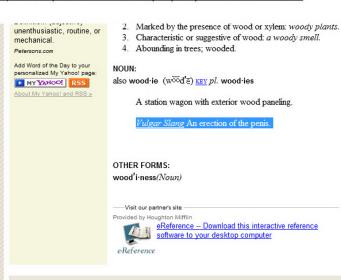
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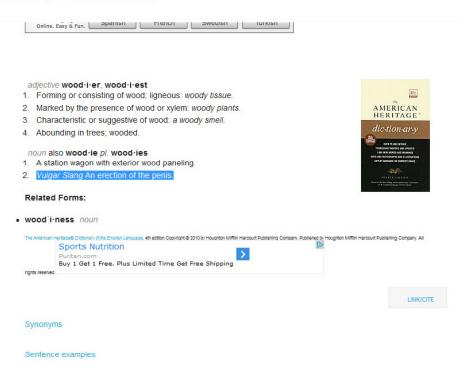
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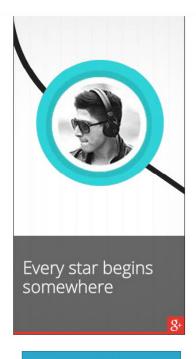
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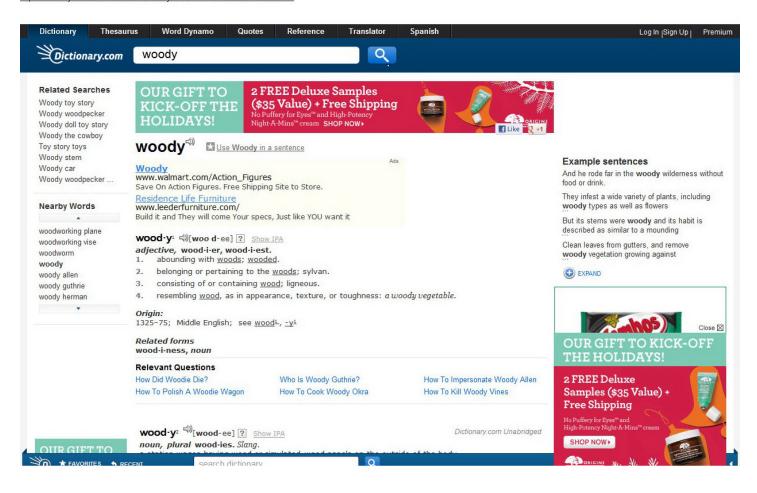
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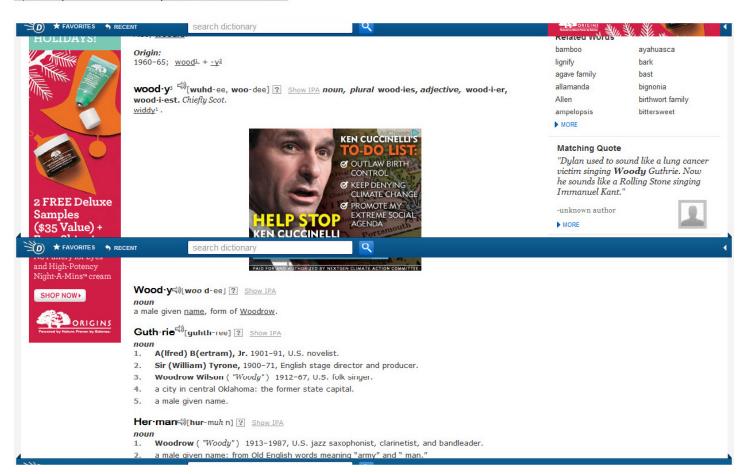
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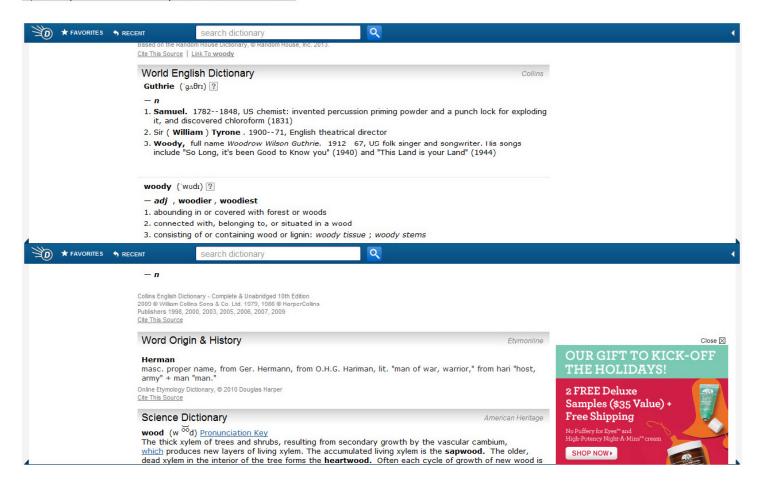
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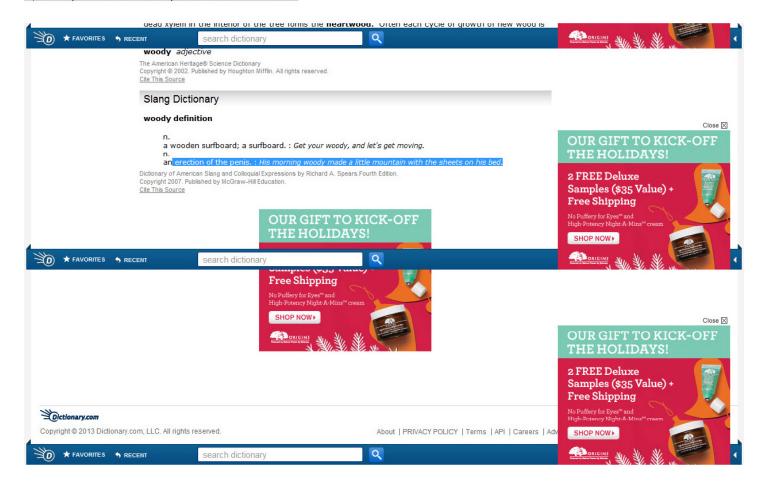
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To: Marquez, Jerry G (marquezjerry@gmail.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86008387 - HELLO WOODY - N/A

Sent: 11/1/2013 12:32:42 PM **Sent As:** ECOM117@USPTO.GOV

Attachments:

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