

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86034971
LAW OFFICE ASSIGNED	LAW OFFICE 107
MARK SECTION	
MARK	http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=86034971
LITERAL ELEMENT	KESHET ACCESSORIES
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_701095314-112254226 . KESHET ACCESSORIES - OFFICE ACTION.pdf
CONVERTED PDF FILE(S) (8 pages)	\\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0002.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0003.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0004.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0005.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0006.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0007.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0008.JPG \\TICRS\\EXPORT16\\IMAGEOUT16\\860\\349\\86034971\\xml5\\ROA0009.JPG
DESCRIPTION OF EVIDENCE FILE	a .pdf formatted document laying out arguments to overcome the 2(d) refusal emailed on Dec. 1, 2013.
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use ACCESSORIES apart from the mark as shown.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/avann/
SIGNATORY'S NAME	Antonio G. Vann
SIGNATORY'S POSITION	Attorney of Record, VA bar member
SIGNATORY'S PHONE NUMBER	8552269661
DATE SIGNED	01/31/2014
AUTHORIZED SIGNATORY	YES

FILING INFORMATION SECTION

SUBMIT DATE	Fri Jan 31 11:30:32 EST 2014
TEAS STAMP	USPTO/ROA-XX.XXX.XX.XX-20 140131113032770725-860349 71-50035be5972ab2e7ae9c53 ec98ded57836212e4c97155a3 237418a7843a504142-N/A-N/ A-20140131112254226578

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. **86034971** KESHET ACCESSORIES(Standard Characters, see <http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=86034971>) has been amended as follows:

EVIDENCE

Evidence in the nature of a .pdf formatted document laying out arguments to overcome the 2(d) refusal emailed on Dec. 1, 2013. has been attached.

Original PDF file:

[evi_701095314-112254226 .. KESHET_ACCESSORIES - OFFICE ACTION.pdf](#)

Converted PDF file(s) (8 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

ADDITIONAL STATEMENTS**Disclaimer**

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

SIGNATURE(S)**Response Signature**

Signature: /avann/ Date: 01/31/2014

Signatory's Name: Antonio G. 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 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.

Internet Transmission Date: Fri Jan 31 11:30:32 EST 2014
TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20140131113032770
725-86034971-50035be5972ab2e7ae9c53ec98d
ed57836212e4c97155a3237418a7843a504142-N
/A-N/A-20140131112254226578

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Headsup Headcare LLC
Serial No.: 86/034971
Filed: August 12, 2013
Trademark Atty: Elizabeth N. Kajubi
Word Mark: KESHET ACCESSORIES

RESPONSE TO DECEMBER 1, 2013 OFFICE ACTION

This Response is filed in reply to the Office Action e-mailed on December 1, 2013. The Applicant respectfully submits the following response. Applicant submits that the above-identified trademark application for KESHET ACCESSORIES is in condition for allowance to publication.

I. 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 Elizabeth N. Kajubi raises a Section 2(d) refusal in a subsequent Office Action.

Applicant's Word Mark

KESHET ACCESSORIES

Class 26: Hair accessories, namely, snap clips; Hair bands; Hair bows; Hair scrunchies; Ponytail holders

Cited Registered Mark

KESHET DANCE COMPANY

Class 18: duffel bags, handbags

Class 25: Apparel, namely, hats, caps, shirts, sweatshirts, sweatpants, jackets, dance costumes; dancewear, namely, leotards and socks; and gift packages sold as a unit consisting primarily of ballet slippers, tights and dance costumes

Class 41: Entertainment services in the nature of live dance and musical performances

(specimen)



(specimen)



Preliminary Response with Reservation of Rights

The USPTO suggests that it will refuse registration of Applicant's mark, KESHET ACCESSORIES, "because of a likelihood of confusion with registered mark KESHET DANCE COMPANY, in U.S. Registration No. 3840372. "[T]he question of confusion is related not to the nature of the mark but to its effect 'when applied to the goods of the applicant.'" *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1360, 177 USPQ 563, 566 (C.C.P.A. 1973). The United States Court of Customs and Patent Appeals listed thirteen factors to weigh in the likelihood of confusion analysis and stated that all of the factors must be considered "when of record." *Id.* at 1361. 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 weigh against the Applicant's mark. However, Applicant respectfully asserts that when all factors are weighed, the majority weighs against the existence of a likelihood of confusion.

(1) Similarity of Conflicting Designations

The first factor is the similarity of the conflicting designations, including in their appearance, sound, meaning or connotation, and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). A similar phrase found in two marks is not dispositive of a confusing similarity between the marks when the marks give off different commercial expressions. *See Kellogg Co. v. Pack'em Enterprises, Inc.*, 951 F.2d 330 (Fed. Cir. 1991). When

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