

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86137115
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION	
MARK	http://tsdr.uspto.gov/img/86137115/large
LITERAL ELEMENT	INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE . DESIGN IN A DAY . ROOM JACKET
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_701095314-160603352_ . Inspirational Interior Designs - OA Response.pdf
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT16\IMAGEOUT16\861\371\86137115\xml4\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\861\371\86137115\xml4\ROA0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\861\371\86137115\xml4\ROA0004.JPG
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DESCRIPTION OF EVIDENCE FILE	A PDF of arguments to overcome the Section 2(d) refusal
GOODS AND/OR SERVICES SECTION (024)(current)	
INTERNATIONAL CLASS	024
DESCRIPTION	
Fabric drapes; Duvet covers; Bed skirts; Comforters; Blankets; Table cloth of textile; Table runner; Place mats of textile material; Furnishing and upholstery fabrics; Table napkins of textile	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 11/12/2013
FIRST USE IN COMMERCE DATE	At least as early as 11/12/2013
GOODS AND/OR SERVICES SECTION (024)(proposed)	
INTERNATIONAL CLASS	024
TRACKED TEXT DESCRIPTION	
Fabric drapes; Duvet covers; Bed skirts; Comforters; Blankets ; Blankets, namely bed blankets and throw blankets ; Table cloth of textile; Table	

FINAL DESCRIPTION	
Fabric drapes; Duvet covers; Bed skirts; Comforters; Blankets, namely bed blankets and throw blankets; Table cloth of textile; Fabric table runner; Place mats of textile material; Furnishing and upholstery fabrics; Table napkins of textile	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 11/12/2013
FIRST USE IN COMMERCE DATE	At least as early as 11/12/2013
GOODS AND/OR SERVICES SECTION (042)(no change)	
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use INTERIOR DESIGNS, FULL SERVICE and DESIGN IN A DAY apart from the mark as shown.
ACTIVE PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 4487841.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Seth Willig Chadab/
SIGNATORY'S NAME	Seth Willig Chadab
SIGNATORY'S POSITION	Authorized US Attorney, MD bar member
SIGNATORY'S PHONE NUMBER	8552269661
DATE SIGNED	05/15/2014
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu May 15 17:04:29 EDT 2014
TEAS STAMP	USPTO/ROA-XX.XXX.XX.XX-20 140515170429505461-861371 15-500b99581577872b5021d8 34aecdf9b6c1453ae6849447d 4f8d1af26d1241d4d-N/A-N/A -20140515160603352174

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. **86137115** INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE . DESIGN IN A DAY . ROOM JACKET(Standard Characters, see <http://tsdr.uspto.gov/img/86137115/large>) has been amended as follows:

EVIDENCE

Evidence in the nature of A PDF of arguments to overcome the Section 2(d) refusal has been attached.

Original PDF file:

[evi_701095314-160603352_ . Inspirational Interior Designs - OA Response.pdf](#)

Converted PDF file(s) (6 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 024 for Fabric drapes; Duvet covers; Bed skirts; Comforters; Blankets; Table cloth of textile; Table runner; Place mats of textile material; Furnishing and upholstery fabrics; Table napkins of textile

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 11/12/2013 and first used in commerce at least as early as 11/12/2013 , and is now in use in such commerce.

Proposed:

Tracked Text Description: Fabric drapes; Duvet covers; Bed skirts; Comforters; ~~Blankets~~; [Blankets, namely bed blankets and throw blankets](#); Table cloth of textile; ~~Table runner~~; [Fabric table runner](#); Place mats of textile material; Furnishing and upholstery fabrics; Table napkins of textile

Class 024 for Fabric drapes; Duvet covers; Bed skirts; Comforters; Blankets, namely bed blankets and throw blankets; Table cloth of textile; Fabric table runner; Place mats of textile material; Furnishing and upholstery fabrics; Table napkins of textile

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 11/12/2013 and first used in commerce at least as early as 11/12/2013 , and is now in use in such commerce.

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use INTERIOR DESIGNS, FULL SERVICE and DESIGN IN A DAY apart from the mark as shown.

Claim of Active Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 4487841.

SIGNATURE(S)

Response Signature

Signature: /Seth Willig Chadab/ Date: 05/15/2014

Signatory's Name: Seth Willig Chadab

Signatory's Position: Authorized US Attorney, MD 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: 86137115

Internet Transmission Date: Thu May 15 17:04:29 EDT 2014

TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20140515170429505

461-86137115-500b99581577872b5021d834aec

df9b6c1453ae6849447d4f8d1af26d1241d4d-N/

A-N/A-20140515160603352174

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alyson Craig Interior Designs LLC
Serial No.: 86/137115
Filed: December 6, 2013
Trademark Atty: Melissa Vallillo
Word Mark: INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE .
DESIGN IN A DAY . ROOM JACKET

RESPONSE TO MARCH 20, 2014 OFFICE ACTION

This Response is filed in reply to the Office Action e-mailed on March 20, 2014. The Applicant respectfully submits the following response. Applicant submits that the above-identified trademark application for INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE. DESIGN IN A DAY. ROOM JACKET. is in condition for allowance to publication.

Potential Section 2(d) Refusal: 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 Melissa Vallillo raises a Section 2(d) refusal in a subsequent Office Action.

Preliminary Response with Reservation of Rights

The USPTO suggests that it will refuse registration of the Applicant's mark, INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE . DESIGN IN A DAY . ROOM JACKET, "because of a likelihood of confusion with the mark in U.S. Registration No. 4323378." "[T]he question of confusion is related not to the nature of the mark but to its effect 'when applied to the applicant.'" *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1360-61 (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 and nature of the goods and/or services, and similarity of the 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 Applicant's mark (INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE . DESIGN IN A DAY . ROOM JACKET), and Registrant's mark (INSPIRATIONS INTERIOR DESIGN, INC.) are compared, the appearance is not similar despite the shared terms. The terms that the marks share are variations of the terms "INSPIRATION" and "INTERIOR DESIGN." It is important to note that the cited registration has disclaimed the term "INTERIOR DESIGN, INC."

The overall appearance of the marks, as a whole, is dissimilar. The Applicant uses the terms INSPIRATIONAL, FULL SERVICE, DESIGN IN A DAY, and ROOM JACKET, while the cited registration uses solely INSPIRATIONS. Phonetically the marks differ in sound, as the Applicant's mark consists of nineteen syllables and the Registrant's mark consists of only ten syllables.

When viewed in their entireties, despite the common elements, the marks as a whole differ. In *In re Electrolyte Labs*, 929 F.2d 645, U.S.P.Q. 2d 1239 (Fed. Cir. 1990), the Federal Circuit reversed the Trademark Trial and Appeal Board, and held that the marks "K+ and Design" and "K+EFF" for "competitive dietary supplements" were not likely to be confused even if consumers would say "KPlus" and "K-Plus EFF" when calling for products." *Id.* The Court held that the "EFF" in the Registrant's mark was a significant difference, and ruled that "No element of a mark is ignored simply because it is less dominant, or would not have trademark significance if used alone." *Id.* Furthermore, to ignore the role of additional elements would fly in the face of the well-known rule that, in assessing the likelihood of confusion, marks should be considered in their entireties. In the present case, the Applicant's mark includes substantially more additional elements to significantly reduce any likelihood of confusion. The Cited Registration consists of three words, whereas the Applicant's mark consists of **eleven** words. To this end, the marks substantially differ when viewed in their entireties.

Visually, the phrase INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE . DESIGN IN A DAY . ROOM JACKET is easily distinguished from the phrase INSPIRATIONS INTERIOR DESIGN, INC. The structure and format are unique to the commercial impression of the Registrant's mark. These terms further create a distinct commercial impression that is different from the Applicant's mark. For at least these reasons, Applicant asserts that the mark INSPIRATIONAL INTERIOR DESIGNS FULL SERVICE . DESIGN IN A DAY . ROOM JACKET. is significantly different than the mark INSPIRATIONS INTERIOR DESIGN, INC. This factor weighs in the Applicant's favor.

(2) Similarity or Dissimilarity and the Nature of the Goods or Services

The second factor is the similarity or dissimilarity and the nature of the goods or services as described in an application or registration or in connection with a prior use of the mark. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). Both marks cover interior design services. Under this factor, Applicant agrees that this factor weighs in favor of a likelihood of confusion.

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