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

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86137328
LAW OFFICE ASSIGNED	LAW OFFICE 101
MARK SECTION	
MARK	http://tsdr.uspto.gov/img/86137328/large
LITERAL ELEMENT	PLUSUS
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_701095314-160649702_._PLUSUS__86137328__-_OA_Response.pdf
CONVERTED PDF FILE(S) (11 pages)	\\TICRS\EXPORT16\IMAGEOUT16\861\373\86137328\xml5\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\861\373\86137328\xml5\ROA0003.JPG
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DESCRIPTION OF EVIDENCE FILE	Evidence in the nature of arguments in support of registration, namely, the applicant's response to the Section 2(d) refusal and attached exhibits in support thereof.
NEW ATTORNEY SECTION	
NAME	Tom Dunlap
FIRM NAME	DunlapWeaver PLLC
STREET	211 Church St., SE
CITY	Leesburg
STATE	Virginia

ZIP/POSTAL CODE	20175
COUNTRY	United States
PHONE	7037777319
EMAIL	ip@dunlapweaver.com
AUTHORIZED EMAIL COMMUNICATION	Yes
NEW CORRESPONDENCE SECTION	
NAME	Tom Dunlap
FIRM NAME	DunlapWeaver PLLC
STREET	211 Church St., SE
CITY	Leesburg
STATE	Virginia
ZIP/POSTAL CODE	20175
COUNTRY	United States
PHONE	7037777319
EMAIL	ip@dunlapweaver.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Seth Willig Chadab/
SIGNATORY'S NAME	Seth Willig Chadab
SIGNATORY'S POSITION	Associate Attorney, DunlapWeaver PLLC, Maryland Bar Member
SIGNATORY'S PHONE NUMBER	7037777319
DATE SIGNED	07/29/2014
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Jul 29 16:14:30 EDT 2014
TEAS STAMP	USPTO/ROA-XX.XXX.XX.XX-20 140729161430226822-861373 28-500d7c12c55ee894b86617 7c147badb732592406a25dcab 12e9696baa12f7cedb64-N/A- N/A-20140729160649702532

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Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **86137328** PLUSUS(Standard Characters, see http://tsdr.uspto.gov/img/86137328/large) has been amended as follows:

EVIDENCE

Evidence in the nature of Evidence in the nature of arguments in support of registration, namely, the applicant's response to the Section 2(d) refusal and attached exhibits in support thereof. has been attached.
Original PDF file:
evi_701095314-160649702_._PLUSUS__86137328__-_OA_Response.pdf
Converted PDF file(s) (11 pages)
Evidence-1
Evidence-2
Evidence-3
Evidence-4
Evidence-5
Evidence-6
Evidence-7
Evidence-8
Evidence-9
Evidence-10
Evidence-11

ATTORNEY ADDRESS
Applicant proposes to amend the following:
Proposed:
Tom Dunlap of DunlapWeaver PLLC, having an address of
211 Church St., SE Leesburg, Virginia 20175
United States
ip@dunlapweaver.com
7037777319

CORRESPONDENCE ADDRESS CHANGE
Applicant proposes to amend the following:
Proposed:
Tom Dunlap of DunlapWeaver PLLC, having an address of
211 Church St., SE Leesburg, Virginia 20175
United States
ip@dunlapweaver.com
7037777319

SIGNATURE(S)
Response Signature
Signature: /Seth Willig Chadab/ Date: 07/29/2014
Signatory's Name: Seth Willig Chadab
Signatory's Position: Associate Attorney, DunlapWeaver PLLC, Maryland Bar Member

Signatory's Phone Number: 7037777319

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.

Mailing Address: Tom Dunlap
DunlapWeaver PLLC
211 Church St., SE
Leesburg, Virginia 20175

Serial Number: 86137328

TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20140729161430226
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badb732592406a25dcab12e9696baa12f7cedb64
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	86137328
Mark:	PLUSUS
Applicant:	Plusus LLC
Office Action Date:	March 25, 2014

RESPONSE TO March 25, 2014 OFFICE ACTION

This Response is filed in reply to the Office Action e-mailed on March 25, 2014. The Applicant respectfully submits the following response. Applicant submits that the above-identified trademark application for PLUSUS 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 Justine D. Parker 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, PLUSUS, "because of a likelihood of confusion with the mark in U.S. Registration No. 3880780." "[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 Nemous & 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 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 PLUSUS, and Registrant's mark THE PLUS IS US are compared, the appearance is not identical or confusingly similar.

Importantly, courts across the country have long held that the addition of different terms to a

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