

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86159610
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION	
MARK	http://tsdr.uspto.gov/img/86159610/large
LITERAL ELEMENT	MATTHEW'S CUSTOM CALLS
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_701095314-160309753_-_MATTHEWS_CUSTOM_CALLS_-_Response_to_OA.pdf
CONVERTED PDF FILE(S) (4 pages)	\\TICRS\EXPORT16\IMAGEOUT16\861\596\86159610\xml4\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\861\596\86159610\xml4\ROA0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\861\596\86159610\xml4\ROA0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\861\596\86159610\xml4\ROA0005.JPG
DESCRIPTION OF EVIDENCE FILE	a .pdf of arguments against the section 2(d) refusal and disclaimer modification.
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use CUSTOM CALLS apart from the mark as shown.
NEW ATTORNEY SECTION	
NAME	Anotnio Vann
FIRM NAME	DunlapWeaver, PLLC
STREET	Tom Dunlap
CITY	Leesburg
STATE	Virginia
ZIP/POSTAL CODE	20175
COUNTRY	United States
PHONE	855.226.9661
EMAIL	ip@dunlapweaver.com
AUTHORIZED EMAIL COMMUNICATION	Yes

CORRESPONDENCE SECTION	
ORIGINAL ADDRESS	MATTHEW'S CUSTOM CALLS 120 HILLSBORO AVE ELMONT New York (NY) US 11003-1724
NEW CORRESPONDENCE SECTION	
NAME	Anotnio Vann
FIRM NAME	DunlapWeaver, PLLC
STREET	Tom Dunlap
CITY	Leesburg
STATE	Virginia
ZIP/POSTAL CODE	20175
COUNTRY	United States
PHONE	855.226.9661
EMAIL	ip@dunlapweaver.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
RESPONSE SIGNATURE	/avann/
SIGNATORY'S NAME	Antonio G. Vann
SIGNATORY'S POSITION	Attorney of Record, VA Bar Member
SIGNATORY'S PHONE NUMBER	855.226.9661
DATE SIGNED	05/01/2014
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu May 01 16:17:05 EDT 2014
TEAS STAMP	USPTO/ROA-XX.XXX.XX.XX-20 140501161705956761-861596 10-500f5e825c498d8b2a22f9 3a877f9dd85dd19410ac6d233 eff5eb16e07148105f-N/A-N/ A-20140501160309753945

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **86159610** MATTHEW'S CUSTOM CALLS(Standard Characters, see <http://tsdr.uspto.gov/img/86159610/large>) has been amended as follows:

EVIDENCE

Evidence in the nature of a .pdf of arguments against the section 2(d) refusal and disclaimer modification. has been attached.

Original PDF file:

[evi_701095314-160309753_.MATTHEWS_CUSTOM_CALLS_-_Response_to_OA.pdf](#)

Converted PDF file(s) (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

ATTORNEY ADDRESS

Applicant proposes to amend the following:

Proposed:

Anotnio Vann of DunlapWeaver, PLLC, having an address of
Tom Dunlap Leesburg, Virginia 20175
United States
ip@dunlapweaver.com
855.226.9661

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current:

MATTHEW'S CUSTOM CALLS
120 HILLSBORO AVE
ELMONT
New York (NY)
US
11003-1724

Proposed:

Anotnio Vann of DunlapWeaver, PLLC, having an address of
Tom Dunlap Leesburg, Virginia 20175
United States
ip@dunlapweaver.com
855.226.9661

ADDITIONAL STATEMENTS

Disclaimer

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

SIGNATURE(S)

Response Signature

Signature: /avann/ Date: 05/01/2014

Signatory's Name: Antonio G. Vann

Signatory's Position: Attoney of Record, VA Bar Member

Signatory's Phone Number: 855.226.9661

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: Anotnio Vann

DunlapWeaver, PLLC
Tom Dunlap
Leesburg, Virginia 20175

Serial Number: 86159610
Internet Transmission Date: Thu May 01 16:17:05 EDT 2014
TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20140501161705956
761-86159610-500f5e825c498d8b2a22f93a877
f9dd85dd19410ac6d233eff5eb16e07148105f-N
/A-N/A-20140501160309753945

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matthew's Custom Calls
Serial No.: 86/159610
Filed: January 7, 2014
Trademark Atty: Daniel F. Capshaw
Word Mark: MATTHEW'S CUSTOM CALLS

RESPONSE TO APRIL 14, 2014 OFFICE ACTION

This Response is filed in reply to the Office Action e-mailed on April 14, 2014. The Applicant respectfully submits the following response. Applicant submits that the above-identified trademark application for MATTHEW'S CUSTOM CALLS is in condition for allowance to publication.

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 Daniel F. Capshaw raises a Section 2(d) refusal in a subsequent Office Action.

APPLICANTS WORD MARK

MATTHEW'S CUSTOM CALLS

Class 028: Hunting game calls

CITED REGISTERED MARKS

MATHEWS

MISSION BY MATHEWS

Reg. No. 2382629

Reg. No. 3655531

Class 028: Archery Equipment; namely, Bows, bowstrings, Arrow rests, and quivers

Class 028: Archery Bows

Preliminary Response with Reservation of Rights

The USPTO suggests that it will refuse registration of Applicant's mark, MATTHEW'S CUSTOM CALLS, "because of a likelihood of confusion with the above cited registered marks. "[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 weigh 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

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