

To: Palm Beach Science Festival, Inc. (gmlfkowitz@duanemorris.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86502600 - PALM BEACH SCIENCE FESTIVAL - PBSF-00101
Sent: 11/5/2015 3:13:34 PM
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[Attachment - 2](#)
[Attachment - 3](#)

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

U.S. APPLICATION SERIAL NO. 86502600

MARK: PALM BEACH SCIENCE FESTIVAL

86502600

CORRESPONDENT ADDRESS:

GREGORY M. LEFKOWITZ
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30 South 17 Street
Philadelphia PA 19103

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APPLICANT: Palm Beach Science Festival, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO :

PBSF-00101

CORRESPONDENT E-MAIL ADDRESS:

gmlfkowitz@duanemorris.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: 11/5/2015

The Office has reassigned this application to the undersigned trademark examining attorney.

INTRODUCTION

This Office action is in response to applicant's communication filed on October 19, 2015 , where applicant:

- Provided arguments against the Section 2(e)(2) Refusal

The trademark examining attorney has thoroughly reviewed applicant's response and has determined the following:

- Applicant's arguments are unpersuasive to overcome the Section 2(e)(2) Refusal, and the refusal is **continued and maintained**
- Applicant did not respond to the requirement to provide a definite identification of services, and the requirement is **continued and maintained**

The trademark examining attorney now issues the following **new requirement**. See 37 C.F.R. §2.64(a); TMEP §714.04. The trademark examining attorney has also provided a preliminary response to applicant's arguments. Should a final Office Action issue, the trademark examining attorney will supplement the response at that time.

SUMMARY OF NEW ISSUES that applicant must address:

- Request for Information Requirement – Origin of the Services
- Advisory – Response to Applicant’s Arguments

REQUEST FOR INFORMATION REQUIREMENT

Applicant must provide a written statement explaining whether the services or any aspect of the services will be rendered in, or will have any other connection with, the geographic location named in the mark. *See* 37 C.F.R. §2.61(b); *In re AOP LLC*, 107 USPQ2d 1644, 1650-51 (TTAB 2013); *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re Planalytics, Inc.*, 70 USPQ2d 1453, 1457-58 (TTAB 2004); TMEP §§814-1210.03. Failure to comply with a request for information can be grounds for refusing registration. *In re AOP LLC*, 107 USPQ2d at 1651; *In re DTI P’ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814.

Applicant must also respond to the following questions:

- Will applicant’s services be rendered in Boca Raton, Florida?
- Will applicant’s services be rendered in Palm Beach County in Florida, in which Boca Raton is located?
- Does PALM BEACH in the mark refer to Palm Beach County in Florida?
- Does PALM BEACH in the mark refer to the general geographic region in Florida known as “the Palm Beaches”?
- Will applicant’s services be available to consumers throughout Palm Beach County in Florida?

See 37 C.F.R. §2.61(b); *In re AOP LLC*, 107 USPQ2d 1644, 1650-51 (TTAB 2013); *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re Planalytics, Inc.*, 70 USPQ2d 1453, 1457-58 (TTAB 2004); TMEP §§814, 1402.01(e).

Failure to comply with a request for information can be grounds for refusing registration. *In re AOP LLC*, 107 USPQ2d at 1651; *In re DTI P’ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814.

Initial Response to Applicant’s Arguments

Applicant argues that the mark PALM BEACH SCIENCE FESTIVAL is not primarily geographically descriptive because PALM BEACH is ambiguous as a geographic location and SCIENCE FESTIVAL is incongruous. Applicant’s arguments are implausible and unconvincing.

Applicant’s contends that PALM BEACH is not primarily geographically descriptive because it “suggests” the geographic area of “the Palm Beaches” in Palm Beach County rather than the town of Palm Beach. This argument underscores that the mark is geographically descriptive on multiple levels. The fact that applicant may not be located in the town proper of Palm Beach is not dispositive, especially considering that applicant is located within Palm Beach County. A term can be considered geographic even if it does not have exact geographic boundaries, i.e., if it refers to a “subdivision[] of the earth – regions, nations, counties, town[s], rivers, lakes, and other natural and artificial geographical units.” *Burke-Parsons-Bowlby v. Appalachian Log Homes, Inc.*, 871 F.2d 590, 594, 10 USPQ2d 1443, 1445 (6th Cir. 1989) (quoting *World Carpets, Inc. v. Dick Littrell’s New World Carpets*, 438 F.2d 482, 485, 168 USPQ 609, 612 (5th Cir. 1971)) (finding the wording APPALACHIAN is a geographic term); *see In re Pan-O-Gold Baking Co.*, 20 USPQ2d 1761, 1764 (TTAB 1991) (finding primary significance of the wording “New England” is geographic); TMEP §1210.02(a).

The town of Palm Beach is in Palm Beach County in Florida. The city of Boca Raton, where applicant is located, is in Palm Beach County Florida. Numerous cities in Palm Beach County, which applicant lists in its response, incorporate the wording PALM BEACH in their names. And applicant states that this grouping of cities in Palm Beach County is called “the Palm Beaches.” As applicant explains, purchasers generally recognize PALM BEACH as a geographic location in Palm Beach County, Florida. Accordingly, purchasers encountering applicant’s services will understand the services as originating and being rendered in the geographic county of PALM BEACH.

Applicant also argues that the phrase “SCIENCE FESTIVAL” is incongruous because the phrase does not appear in dictionaries and because “Science” is commonly thought of as boring, while “Festivals” are thought of as fun. First, the fact that a word or term is not found in the dictionary is not controlling on the question of registrability when the word or term has a well understood and recognized meaning. *In re Orleans Wines, Ltd.*, 196 USPQ 516, 517 (TTAB 1977); TMEP §1209.03(b); *see In re Gould Paper Corp.*, 834 F.2d 1017, 1018, 5 USPQ2d 1110, 1111-12 (Fed. Cir. 1987); *In re Planalytics, Inc.*, 70 USPQ2d 1453, 1456 (TTAB 2004); *In re Tower Tech Inc.*, 64 USPQ2d 1314 (TTAB 2002). Phrases are not commonly found in dictionaries, which makes the absence of a dictionary entry for the composite phrase even less relevant to the descriptiveness analysis.

Applicant’s assertion that the phrase is incongruous is purely semantics. Applicant identifies its services as “Organizing science and engineering festivals”. Thus, “science festival” must be the common commercial name of a commonly understood type of event. In fact, there is an alliance dedicated solely to the development of science festivals. *See* <http://sciencefestivals.org/>. Purchasers will understand the phrase as having its commonly understood meaning—a recurring exhibition featuring science and engineering-related displays and demonstrations—rather than attributing an emotional meaning, such as “boring” or “fun”, to each individual term. Accordingly, the additional wording SCIENCE FESTIVAL in the mark is generic and does not overcome the primary geographic significance of the mark.

Therefore, applicant's arguments are not persuasive, and the Section 2(e)(2) Refusal is **continued and maintained**.

Applicant is reminded that the identification of services requirement is also **continued and maintained**.

RESPONSE GUIDELINES

For this application to proceed toward registration, applicant must explicitly address each 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).

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the requirement in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

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TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

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>.

OUR MISSION

The mission of the Science Festival Alliance (SFA) is to foster a professional community dedicated to more and better science and technology festivals.

When the SFA began in 2009 only a handful of science festivals existed in the United States, and they were not working (or even communicating) with each other. Since that time, the country has enjoyed a surge in the number of science festivals, and the SFA is now networking together dozens of independently operated festival initiatives. Whether you are considering starting a new science festival, would like to partner with existing festivals, or are just interested in learning about the latest developments, the Science Festival Alliance is the best place to begin.

The SFA is not an independent organization, nor is it the exclusive project of a single institution (though two full-time staff members dedicated to the SFA are housed at the MIT Museum). It is a collaborative network involving institutions, initiatives, and individuals that have committed to work together to best serve our communities through the festival format.



MEMBERSHIP

In 2010 the Science Festival Alliance (SFA) started a formal membership program open to science festival initiatives. In many ways the SFA's membership now defines what the Alliance really is. Instead of paying dues, members are asked to participate in the SFA network in ways that support the SFA's mission. This volunteer support allows the SFA to take on projects that are in the interest of many festivals. Learn more about SFA membership.

ANNUAL REPORTS

2014 SFA Annual Report. In 2014 North America witnessed an unprecedented level of science festival activity. Thanks in large part to funding from the Alfred P. Sloan Foundation new festivals launched all over the country, with 11 celebrating for the first time. Meanwhile, established festivals pushed their celebrations to even greater heights.

PROFESSIONAL ANNOUNCEMENTS

- CALL FOR NOMINATIONS: AAAS 10.15.2015
- 2015 ASTC ANNUAL CONFERENCE 10.17.2015
- WEBINAR: FINDING AND SHARING 10.28.2015

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FESTIVALS CALENDAR

- BAY AREA SCIENCE FESTIVAL 10.22.2015
- SITKA WHALEFEST 11.05.2015
- DAYTON REGIONAL 11.06.2015

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heights. The collective reach of the 41 SFA members is highlighted with some staggering numbers and stunning images in the SFA's 2014 Annual Report.

2013 SFA Annual Report: The 2013 SFA Annual Report provides a useful snapshot of member activities in 2013 based on voluntary self-reporting. In addition, this report provides a glimpse into the kinds of SFA network activities members have found useful within the past year—including sharing advice and inspiration with fellow members, trading festival planning documents, and participating in the SFA's meetings over the phone and in person.

2012 SFA Annual Report: This first annual report provides an overview of the SFA and snapshot of SFA and member activity in 2012. With 13 SFA member festivals (membership has grown since) reporting on the over 1,600 events they produced in 2012 the numbers add up quickly. How many of these events drew more than 1,000 visitors? What percent of attendees gave the events evaluated positive ratings?

FUNDED SCIENCE FESTIVAL ALLIANCE PROJECTS

SFA Projects are funded initiatives with products that benefit all SFA members. Projects are administered by members or SFA staff, and must coordinate with other SFA projects.

2015 – 2016 Simons Foundation: Just Add Science

This gift from the [Simons Foundation](#) supports a dozen science festivals as they experiment over two years with different ways of reaching people where they are by integrating science learning opportunities into events that people are participating in already. The [Just Add Science](#) project will launch this month, and is administered by the [MIT Museum](#) from the office of the [Cambridge Science Festival](#).

2014 – 2019 National Science Foundation: EvalFest

This five-year project funded by the [NSF](#) brings together 24 science festivals to build the capacity of individual festivals to measure impact, and pool data from these many sites to uncover new learning about public science events. As [EvalFest](#) evolves the project will also experiment with various research methods, and consider how evaluation use changes when it is community-created and multisite.

This project is administered by the [Morehead Planetarium and Science Center](#) (at [UNC Chapel-Hill](#)) from the office of the [North Carolina Science Festival](#), in collaboration with the [Bay Area Science Festival](#), and [Karen Peterman Consulting](#).

2012–2014 Alfred P. Sloan Foundation: Public Understanding of Science and Technology

This two-year project funded by the [Sloan Foundation](#) supports the growth of science festival initiatives in communities with relatively small resource bases. Four science festivals with experience of launching on budgets of \$60,000 or less are serving as models and mentors for 12 new festival initiatives. SFA staff will coordinate the project, which includes:

- Challenge grants for 12 new festival initiatives;
- Site visits and conference attendance for festival organizers; and
- How-to materials specifically addressing festivals in communities with relatively small resource bases.

This project is administered by the [MIT Museum](#) from the office of the [Cambridge Science Festival](#), in close cooperation with four festivals: [Wisconsin Science Festival](#), [St. Petersburg Science Festival](#), [Colorado Springs Science Festival](#), and [SCOPE Science and Technology Days](#). National collaborators include [AAAS](#), [ASTC](#), and [COPUS](#).

2012–2015 National Science Foundation: Broad Implementation

This three-year project funded by the [NSF](#) is a significant investment in the SFA's basic mission, and provides support for staff at four festival sites, for in-person meetings and conferences, and for an array of online tools and information. To support the development of more independent festivals in the US the award includes resources for mentoring and travel for new festival initiatives. The project is also designed to help all initiatives make the most of the festival format with an emphasis on four distinct strengths of festivals:

- The capacity for positive impacts on large public audiences;
- Serving traditionally hard-to-reach audiences (including underserved communities and the science

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