

**To:** Chastain, Robert H ([robert.chastain@gmail.com](mailto:robert.chastain@gmail.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86630461 - XPLODING HOUSEWIVES - Parody Trade  
**Sent:** 8/27/2015 11:46:22 AM  
**Sent As:** ECOM104@USPTO.GOV  
**Attachments:**

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

U.S. APPLICATION SERIAL NO. 86630461

**MARK:** XPLODING HOUSEWIVES

**\*86630461\***

**CORRESPONDENT ADDRESS:**

CHASTAIN, ROBERT H  
3011 Prestwyck Haven Dr  
Duluth, GA 30097-6208

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** Chastain, Robert H

**CORRESPONDENT'S REFERENCE/DOCKET NO. :**

Parody Trade

**CORRESPONDENT E-MAIL ADDRESS:**

[robert.chastain@gmail.com](mailto:robert.chastain@gmail.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: 8/27/2015**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**Search of Office Records**

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

**New Specimen Required**

Registration is refused because the specimen in International Class 9 consists of material used by applicant to conduct its business transactions and thus does not show the applied-for mark in use in commerce for each international class. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). Generally, materials for conducting an applicant's internal business or carrying out business dealings are not acceptable as specimens to show use in commerce for goods. *See* 15 U.S.C. §1127; 37 C.F.R. §2.56(b)(1); *In re Chi. Rawhide Mfg. Co.*, 455 F.2d 563, 565, 173 USPQ 8, 9 (C.C.P.A. 1972); *In re Bright of Am., Inc.*, 205 USPQ 63, 71 (TTAB 1979); TMEP §§904.03, 904.04(b), (c).

Specifically, the specimen consists of confidentiality and non-disclosure agreement.

An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each international class of goods identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Examples of specimens for goods include tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, and displays associated with the actual goods at their point of sale. *See* TMEP §§904.03 *et seq.* Webpages may also be specimens for goods when they include a picture or textual description of the goods associated with the mark and the means to order the goods. TMEP §904.03(i).

Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified “**substitute**” **specimen**) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the goods identified in the application or amendment to allege use.
- (2) Amend the filing basis to **intent to use under Section 1(b)**, for which no specimen is required. This option will later necessitate additional fee(s) and filing requirements such as providing a specimen.

For an overview of *both* response options referenced above and instructions on how to satisfy either option online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/specimen.jsp>.

### **Substituting Basis**

If applicant cannot comply with the requirement for the submission of an acceptable specimen for the Section 1(a) basis asserted, applicant can substitute a different basis if applicant can meet the requirements for the new basis. *See* 37 C.F.R. §2.35(b)(1); TMEP §806.03(h).

In this case, applicant may wish to amend the application to assert a Section 1(b) basis.

The application was filed under Trademark Act Section 1(b); however, it does not include the required verified statement of applicant’s “bona fide intention to use the mark in commerce.” 15 U.S.C. §1051(b)(3)(B); 37 C.F.R. §2.34(a)(2); TMEP §§804.02, 806.01(b). Therefore, applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20:

**Applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date.**

15 U.S.C. §1051(b)(3)(B); 37 C.F.R. §2.34(a)(2); TMEP §§804.02, 806.01(b); *see* 37 C.F.R. §2.193(e)(1).

### **Declaration for Substituting Basis**

To properly verify the application, applicant may provide the following declaration at the end of the response to this Office action. *See* 37 C.F.R. §§2.20, 2.33(a)-(b)(1), 2.34(a)(1)(i); TMEP §804.01(b). This declaration must be personally signed and dated by a person authorized under 37 C.F.R. §2.193(e)(1), and include the name of the signatory printed or typed near the signature. *See* 37 C.F.R. §§2.33(a), 2.193(a), (d); TMEP §§611.01(b), 804.01(b). The signatory’s particular title or position should also be specified. *See* TMEP §804.04.

The signatory believes that: the applicant is the owner of the mark; the mark is in use in commerce and was in use in commerce as of the application filing date; the original specimen(s), if applicable, shows the mark as used on or in connection with the goods and/or services as of the application filing date; and to the best of the signatory’s knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods and/or services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his or her own knowledge are true and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

### **Declaration for Substitute Specimen**

The following is a sample declaration for a verified substitute specimen for use in a paper response:

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that *the substitute specimen was in use in commerce at least as early as the filing date of the application*; all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

### **Significance of Wording**

Applicant must specify whether the wording “XPLODING”, “EXPLODING”, and “HOUSEWIVES” has any significance in the relevant trade or industry or as applied to the goods and/or services described in the application, or if such wording is a “term of art” within applicant’s industry. *See* 37 C.F.R. §2.61(b); TMEP §814.

Failure to respond to a request for information is an additional ground for refusing registration. *See In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P’ship LLP*, 67 USPQ2d 1699, 1701 (TTAB 2003); TMEP §814.

### **Response**

For this application to proceed toward registration, applicant must explicitly address each refusal and/or 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).

**TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:** Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. *See* 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner’s amendment by telephone without incurring this additional fee.

/Angela Duong/  
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**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](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](mailto: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](mailto: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>.

**To:** Chastain, Robert H ([robert.chastain@gmail.com](mailto:robert.chastain@gmail.com))  
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **8/27/2015** FOR U.S. APPLICATION SERIAL NO. 86630461

Your trademark application has been reviewed. The trademark examining attorney assigned by the USPTO to your application has written an official letter to which you must respond. Please follow these steps:

(1) **READ THE LETTER** by clicking on this [link](#) or going to <http://tsdr.uspto.gov/>, entering your U.S. application serial number, and clicking on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **RESPOND WITHIN 6 MONTHS** (*or sooner if specified in the Office action*), calculated from **8/27/2015**, using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions.

(3) **QUESTIONS** about the contents of the Office action itself should be directed to the trademark examining attorney who reviewed your application, identified below.

/Angela Duong/  
Angela G. Duong  
Examining Attorney  
Law Office 104  
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F: (571) 272-9104  
[angela.duong@uspto.gov](mailto:angela.duong@uspto.gov)

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States

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