

To: RODRIGUEZ-MUÑIZ, JORGE LUIS (alichy@lichylaw.com)
Subject: U.S. Trademark Application Serial No. 88826391 - NOPALITO - Malacara
Sent: April 14, 2021 10:04:17 PM
Sent As: ecom113@uspto.gov
Attachments:

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application
Serial No.
88826391

Mark: NOPALITO

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Applicant:
RODRIGUEZ-
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LUIS

Reference/Docket
No. Malacara

Correspondence
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alichy@lichylaw.com

SUSPENSION NOTICE
No Response Required

Issue date: **April 14, 2021**

STATUS OF APPLICATION

Pursuant to TMEP §716.01, applicant is advised of the following status of the application. In an Office action issued on June 5, 2020, the following issues were outstanding with this application:

- (1) Section 2(d) – Likelihood of Confusion Refusal
- (2) Prior Pending Application

On December 18, 2020, applicant responded to the Office action. The trademark examining attorney has thoroughly reviewed applicant's response and has determined the following:

- (3) Applicant's arguments against the Section 2(d) – Likelihood of Confusion Refusal are not persuasive, and the Section 2(d) – Likelihood of Confusion Refusal is *maintained and continued*.

(1) The application was previously suspended pending final disposition of Application Serial No. 87718316, which is still pending, and action on the instant application is suspended pending final disposition of that application.

Preliminary Response to Applicant's Arguments

Applicant argues that applicant's goods and registrant's services are unrelated, travel through different trade channels and target different consumer markets. Applicant provides no additional support or evidence for its contention other than the fact that registrant's restaurant is located in San Francisco, California. Accordingly, applicant's arguments are unpersuasive to overcome the refusal.

ACTION IS SUSPENDED

The application is suspended for the reason specified below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The pending application below has an earlier filing date or effective filing date than applicant's application. If the mark in the application below registers, the USPTO may refuse registration of applicant's mark under Section 2(d) because of a likelihood of confusion with the registered mark. 15 U.S.C. §1052(d); *see* 37 C.F.R. §2.83; TMEP §1208.02(c). Action on this application is suspended until the prior-filed application below either registers or abandons. 37 C.F.R. §2.83(c). Information relevant to the application below was sent previously.

- U.S. Application Serial No. 87718316

Suspension process. The USPTO will periodically check this application to determine if it should remain suspended. *See* TMEP §716.04. As needed, the trademark examining attorney will issue a letter to applicant to inquire about the status of the reason for the suspension. TMEP §716.05.

No response required. Applicant may [file a response](#), but is not required to do so.

/Danielle L. Anderson/
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USPTO OFFICIAL NOTICE_

Office Action (Official Letter) has issued
on **April 14, 2021** for

U.S. Trademark Application Serial No. 88826391

Your trademark application has been reviewed by a trademark examining attorney. As part of that review, the assigned attorney has issued an official letter. Please follow the steps below.

- (1) [Read the official letter](#). No response is necessary.
- (2) **Direct questions** about the contents of the Office action to the assigned attorney below.

/Danielle L. Anderson/
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Direct questions about navigating USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and/or whether there are outstanding deadlines or documents related to your file to the [Trademark Assistance Center \(TAC\)](#).

GENERAL GUIDANCE

- [Check the status](#) of your application periodically in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- [Update your correspondence email address](#), if needed, to ensure you receive important USPTO notices about your application.
- [Beware of misleading notices sent by private companies about your application](#). Private companies not associated with the USPTO use public information available in trademark registrations to mail and email trademark-related offers and notices – most of which require fees. All **official USPTO correspondence** will only be **emailed from the domain “@uspto.gov.”**