

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

U.S. APPLICATION SERIAL NO. 79197156

MARK: LAMZAC

79197156

CORRESPONDENT ADDRESS:

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APPLICANT: Fatboy the Original B.V.

CORRESPONDENT'S REFERENCE/DOCKET NO.:

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

INTERNATIONAL REGISTRATION NO. 1321072

STRICT DEADLINE TO RESPOND TO THIS NOTIFICATION: TO AVOID ABANDONMENT OF THE REQUEST FOR EXTENSION OF PROTECTION OF THE INTERNATIONAL REGISTRATION, THE USPTO MUST RECEIVE A COMPLETE RESPONSE TO THIS PROVISIONAL FULL REFUSAL NOTIFICATION **WITHIN 6 MONTHS** OF THE "DATE ON WHICH THE NOTIFICATION WAS SENT TO WIPO (MAILING DATE)" LOCATED ON THE WIPO COVER LETTER ACCOMPANYING THIS NOTIFICATION.

In addition to the Mailing Date appearing on the WIPO cover letter, a holder (hereafter "applicant") may confirm this Mailing Date using the USPTO's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. To do so, enter the U.S. application serial number for this application and then select "Documents." The Mailing Date used to calculate the response deadline for this provisional full refusal is the "Create/Mail Date" of the "IB-1st Refusal Note."

This is a **PROVISIONAL FULL REFUSAL** of the request for extension of protection of the mark in the above-referenced U.S. application. See 15 U.S.C. §1141h(c). See below in this notification (hereafter "Office action") for details regarding the provisional full refusal.

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 RESULTS

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).

SUMMARY OF ISSUES:

- Entity & Citizenship Information Required – Citizenship/Place of Incorporation/Organization Omitted
- Clarification of the Identification of Goods/Services
- Advisory: Mark Drawing Appears as Standard Characters but No Standard Characters Claim in Application

I. ENTITY & CITIZENSHIP INFORMATION REQUIRED – CITIZENSHIP/PLACE OF INCORPORATION/ORGANIZATION OMITTED

Applicant must specify both its form of business or type of legal entity and its national citizenship or foreign country of organization or incorporation. See 37 C.F.R. §§2.32(a)(3)(i)-(ii), 7.25(a)-(b); TMEP §§803.03, 803.04, 1904.02(a). This information is required in all U.S. trademark applications, including those filed under Trademark Act Section 66(a) (also known as "requests for extension of protection of international registrations to the United States"). See 37 C.F.R. §§2.32(a)(3)(i)-(ii), 7.25(a)-(b); TMEP §§803.03, 803.04, 1904.02(a).

Acceptable entity types include an individual, a partnership, a corporation, a joint venture, or the foreign equivalent. See 37 C.F.R. §2.32(a)(3)(i)-(ii); TMEP §§803.03 *et seq.*

If applicant's entity type is an individual, applicant must indicate his or her national citizenship for the record. See 37 C.F.R. §2.32(a)(3)(i); TMEP §803.04. If applicant's entity type is a corporation, association, partnership, joint venture, or the foreign equivalent, applicant must set forth the foreign country under whose laws applicant is organized or incorporated. 37 C.F.R. §2.32(a)(3)(ii); TMEP §§803.03(b)-(c), 803.04. For an association, applicant must also specify whether the association is incorporated or unincorporated, unless the foreign country and the designation or description "association/associazione" appear in Appendix D of the *Trademark Manual of Examining Procedure* (TMEP). TMEP §803.03(c).

If applicant is organized under the laws of a foreign province or geographical region, applicant should specify both the foreign province or geographical region and the foreign country in which the province or region is located. *See* TMEP §803.04. To provide this information online via the Trademark Electronic Application System (TEAS) response form, applicant must (1) locate the “Entity Type” heading and select “Other;” (2) locate the “Specify Entity Type” heading and select “Other” under the Foreign Entity option, and enter in the free-text field below both applicant’s entity type and the foreign province or geographical region of its organization (e.g., partnership of Victoria); and (3) locate the “State or Country Where Legally Organized” heading and select the appropriate foreign country (e.g., Australia) under the Non-U.S. Entity option. *See id.*

Here, applicant has described its entity type as being in the nature of a Limited Liability Company but has failed to indicate its country of incorporation/organization for the record. Accordingly, applicant must correct this omission. Applicant may resolve this issue by submitting clarifying information in one of the following forms, if accurate:

1. Applicant is Fatboy the Original B.V., a Besloten Vennootschap organized under the laws of Netherlands.
2. Applicant is Fatboy the Original B.V., a Limited Liability Company organized under the laws of Netherlands.

II. CLARIFICATION OF THE IDENTIFICATION OF GOODS/SERVICES

As filed, the identification of goods/services appears as follows:

- *International Class 018: Bags*; all-purpose carrying bags; beach bags; sports bags; backpacks; sling bags for carrying children and infants
- *International Class 020: Furniture*; **beanbags (terms considered too vague by the International Bureau - rule 13.2.b) of the Common Regulations); lounge bags; air-filled beanbags, lounge bags, seat cushions, (lounge) chairs, chaise-longues, poufs and sunbeds; whether or not portable beds and cushions for pets; inflatable advertising objects**
- *International Class 022: Hammocks*
- *International Class 024: Textiles and textile products*; **plastic and fabric material for covering bean bags, lounge bags, pillows, cushions, chairs, chaise longues, footstools, loungers, hammocks, (portable) beds for pets; pillowcases and pillow coverings; blankets; tablecloths, not of paper**

The above-bolded wording in the identification of goods and/or services is indefinite and must be clarified because it does not adequately specify the type of applicant’s goods within the particular classification assigned by the International Bureau. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03.

In an application filed under Trademark Act Section 66(a), an applicant may not change the classification of goods and/or services from that assigned by the International Bureau of the World Intellectual Property Organization (International Bureau) in the corresponding international registration. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Therefore, any modification to this wording must identify goods and/or services in the particular classification assigned by the International Bureau for these goods and/or services.

The following substitute wording is suggested, if accurate:

- *International Class 018: Bags, namely, {specify types in Class 018 only, e.g., baby carrying bags, all-purpose athletic bags, book bags}*; all-purpose carrying bags; beach bags; sports bags; backpacks; sling bags for carrying children and infants
- *International Class 020: Furniture, namely, beanbag chairs; Lounge furniture, namely, lounge bags being furniture, air-filled beanbag lounge furniture, lounge bags in the nature of inflatable and beanbag furniture; Furniture, namely, seat cushions, lounge chairs, chaise-lounges, pouf ottomans, and lounge furniture in the nature of sunbeds; Bean bag beds for household pets, bean bag portable beds for pets; inflatable advertising objects in the nature of inflatable publicity objects*
- *International Class 022: Hammocks*
- *International Class 024: Textiles and textile products, namely, {specify types in Class 024 only, e.g., table napkins of textile, curtains of textile}; Plastic and fabric material in the nature of unfitted coverings of plastic and fabric for furniture and furniture accessories, namely, bean bag chairs, lounge bags being furniture, pillows, cushions, chairs, chaise lounges, footstools, loungers, hammocks, and portable beds for pets; Pillow cases; Pillow covers; Blankets, namely, {specify types in Class 024 only, e.g., bed blankets, blankets for household pets, blankets for outdoor use, fleece blankets, receiving blankets}; Tablecloths, not of paper*

Applicant’s goods and/or services may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably narrowed. *See* 37 C.F.R. §2.71(a); TMEP §§1402.06, 1904.02(c)(iv). Applicant may clarify or limit the identification by inserting qualifying language or deleting items to result in a more specific identification; however, applicant may not substitute different goods and/or services or add goods and/or services not found or encompassed by those in the original application or as acceptably narrowed. *See* TMEP §1402.06(a)-(b). The scope of the goods and/or services sets the outer limit for any changes to the identification and is generally determined by the ordinary meaning of the wording in the identification. TMEP §§1402.06(b), 1402.07(a)-(b). Any acceptable changes to the goods and/or services will further limit scope, and once goods and/or services are deleted, they are not permitted to be reinserted. TMEP §1402.07(e). Additionally, for applications filed under Trademark Act Section 66(a), the scope of the identification for purposes of permissible amendments is limited by the international class assigned by the International Bureau of the World Intellectual Property Organization (International Bureau); and the classification of goods and/or services may not be changed from that assigned by the International Bureau. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Further, in a multiple-class Section

66(a) application, classes may not be added or goods and/or services transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). See TMEP §1402.04.

III. ADVISORY: MARK DRAWING APPEARS AS STANDARD CHARACTERS BUT NO STANDARD CHARACTER CLAIM IN APPLICATION

The drawing in the Section 66(a) application shows the mark in what appears to be standard characters (i.e., text only with no particular font style, size, or color being claimed). However, no explicit claim to standard characters has been made in the application. A mark registered in standard characters would provide protection of a text mark in any lettering style, size, and color. See 37 C.F.R. §2.52(a); TMEP §807.03(a). Because the application does not include a standard character claim, the USPTO will treat the mark drawing in the Section 66(a) application as a special form drawing, and any registration issuing from this application will be limited to the particular appearance and text style shown in the drawing. See TMEP §§807.03(h), 807.04 *et seq.*

A mark in the international registration and corresponding U.S. application may meet the USPTO's requirements for a standard character drawing even though no claim to standard characters was included in the application. TMEP §807.03(h). The absence of a standard character claim could be due to the differences in requirements for such claims in different countries.

Thus, if applicant seeks to register the mark in standard characters in the United States, applicant must submit the following two statements:

(1) **"Under the laws of the country of the basic application and/or registration, the basic application and/or registration includes, and thus the international registration includes, the legal equivalent of a standard character claim."**

(2) **"The mark consists of standard characters without claim to any particular font style, size, or color."**

See 37 C.F.R. §2.52(a); TMEP §807.03(a), (h).

If applicant does not provide these two statements, the USPTO will consider the mark drawing to be in special form. See TMEP §807.03(h).

RESPONSE GUIDELINES

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 and request that the Office enter them into the application record.

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL: Any response to this provisional refusal must be personally signed by an individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant (e.g., a corporate officer or general partner). 37 C.F.R. §§2.62(b), 2.193(e)(2)(ii); TMEP §712.01. If applicant hires a qualified U.S. attorney to respond on his or her behalf, then the attorney must sign the response. 37 C.F.R. §§2.193(e)(2)(i), 11.18(a); TMEP §§611.03(b), 712.01. Qualified U.S. attorneys include those in good standing with a bar of the highest court of any U.S. state, the District of Columbia, Puerto Rico, and other U.S. commonwealths or U.S. territories. See 37 C.F.R. §§2.17(a), 2.62(b), 11.1, 11.14(a); TMEP §§602, 712.01. Additionally, for all responses, the proper signatory must personally sign the document or personally enter his or her electronic signature on the electronic filing. See 37 C.F.R. §2.193(a); TMEP §§611.01(b), 611.02. The name of the signatory must also be printed or typed immediately below or adjacent to the signature, or identified elsewhere in the filing. 37 C.F.R. §2.193(d); TMEP §611.01(b).

In general, foreign attorneys are not permitted to represent applicants before the USPTO (e.g., file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal). See 37 C.F.R. §11.14(c), (e); TMEP §§602.03-.03(b), 608.01.

DESIGNATION OF DOMESTIC REPRESENTATIVE: The USPTO encourages applicants who do not reside in the United States to designate a domestic representative upon whom any notice or process may be served. TMEP §610; see 15 U.S.C. §§1051(e), 1141h(d); 37 C.F.R. §2.24(a) (1)-(2). Such designations may be filed online at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

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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>.