

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 79/080721

MARK: 28BLACK

79080721**CORRESPONDENT ADDRESS:**

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RESPOND TO THIS ACTION:<http://www.uspto.gov/teas/eTEASpageD.htm>**GENERAL TRADEMARK INFORMATION:**<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Calidris 28 AG (SA)

CORRESPONDENT'S

REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE:**INTERNATIONAL REGISTRATION NO. 1033667**

This is a **PROVISIONAL FULL REFUSAL** of the trademark and/or service mark in the above-referenced U.S. application. *See* 15 U.S.C. §1141h(c).

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:

Applicant may respond directly to this provisional refusal Office action if applicant is not represented by an authorized attorney. *See* 37 C.F.R. §2.193(e)(2)(ii). Otherwise, applicant's authorized attorney must respond on applicant's behalf. *See* 37 C.F.R. §2.193(e)(2)(i). However, **the only attorneys who are authorized to sign responses and practice before the USPTO** in trademark matters are as follows:

- (1) **Attorneys in good standing with a bar of the highest court of any U.S. state**, the District of Columbia, Puerto Rico, and other federal territories and possessions of the United States; and
- (2) **Canadian agents/attorneys** who represent applicants located in Canada and (a) are registered with the USPTO and in good standing as patent agents or (b) have been granted reciprocal recognition by the USPTO.

See 37 C.F.R. §§2.17(e), 2.62(b), 11.1, 11.5(b)(2), 11.14(a), (c); TMEP §§602, 712.03.

Foreign attorneys, other than authorized Canadian attorneys, are not permitted to represent applicants before the USPTO. *See* 37 C.F.R. §§2.17(e), 11.14(c), (e); TMEP §602.03-.03(b). That is, foreign attorneys may not file written communications, authorize an amendment to an application, or submit

legal arguments in response to a requirement or refusal, among other things. *See* 37 C.F.R. §11.5(b)(2); TMEP §§602.03(c), 608.01. If applicant is represented by such a foreign attorney, applicant must respond directly to this provisional refusal Office action. *See* 37 C.F.R. §2.193(e)(2)(ii).

THE APPLICATION HAS BEEN PROVISIONALLY REFUSED AS FOLLOWS:

AMENDED IDENTIFICATION OF GOODS REQUIRED

A. International Class 3

The identification of goods in this class is acceptable.

B. International Class 25

The wording “*Clothing, namely sports and leisure clothing*” in the identification of goods must be clarified because it is too broad and could include goods in several international classes. *See* TMEP §§1402.01, 1402.03. For example, “protective clothing” is in International Class 9, “surgical gowns” are in International Class 10, “pet clothing” is in International Class 18, and “shirts, shorts and pants” are in International Class 25. The applicant must amend the identification to specify the type of clothing classified in International Class 25 only. Applicant should insert the word “namely,” after “clothing” and indicate the common commercial or generic names for the goods (e.g., shirts, pants, coats, dresses).

C. International Class 32

The wording “beverages containing vitamins” in the identification of goods must be clarified because it is too broad and could include goods in other international classes. *See* TMEP §§1402.01, 1402.03. Specifically, “vitamin fortified beverages” are classified in International Class 5, however “drinking water with vitamins” is classified in International Class 32.

The wording “refreshing beverages containing caffeine,” “taurine beverages containing caffeine,” and “other preparations for making beverages” in the identification of goods is indefinite and must be clarified. *See* TMEP §1402.01. Applicant must specify the common commercial or generic name for the goods. If there is no common commercial or generic name, applicant must describe the product and intended consumer as well as its main purpose and intended uses.

The identification of goods in this class contains parentheses. Generally, parentheses and brackets should *not* be used in identifications. Parenthetical information is permitted in identifications only if it serves to explain or translate the matter immediately preceding the parenthetical phrase in such a way that it does not affect the clarity of the identification, e.g., “obi (Japanese sash).” TMEP §1402.12. Therefore, applicant must remove the parentheses from the identification of goods and incorporate the parenthetical information into the description, if appropriate.

D. International Class 33

The wording “*Alcoholic beverages (except beers)*” is unacceptable because the identification of goods contains parentheses.

Applicant may adopt the following amended identification of goods, if accurate:

“Perfumery, essential oils, hair lotions, cosmetics” in International Class 003; and/or

“Clothing, namely sports and leisure clothing, *namely, shirts and pants*; shoes, footwear and boots, namely sports and leisure shoes and boots; stockings, pants, socks; suspenders, also made of

leather; ties, namely bow ties; gloves; headgear, namely forehead bands and sweatbands; belts” in International Class 025; and/or

“Mineral waters and aerated waters; non-alcoholic isotonic beverages *containing vitamins*; refreshing *energy drinks* containing caffeine; taurine *energy drinks* containing caffeine; soft drinks for energy supply; fruit drinks and fruit juices; syrups for making beverages” in International Class 032; and/or

“Alcoholic beverages *except beers*” in International Class 033

For guidance on writing identifications of goods and/or services, please use the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>, which is continually updated in accordance with prevailing rules and policies. *See* TMEP §1402.04.

Identifications can be amended only to clarify or limit the original wording; adding to or broadening the scope is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods and/or services that are not within the scope of the wording set forth in the present identification.

ADVISORY REGARDING CLASS

The international classification of goods and/or services in applications filed under Trademark Act Section 66(a) cannot be changed from the classification given to the goods and/or services by the International Bureau in the corresponding international registration. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b).

ENGLISH TRANSLATION NOT REQUIRED

Applicant submitted an English translation of the mark but the mark does not include any foreign wording. 37 C.F.R. §2.32(a)(9); *see* TMEP §809. In the present case, the translation is not required and will not be printed.

CLAIM OF OWNERSHIP OF REGISTRATIONS REQUIRED

If applicant is the owner of U.S. Registration Nos. 3493029 and 3598677 (*see* attached), then applicant must submit a claim of ownership. *See* 37 C.F.R. §2.36; TMEP §812. The following standard format is suggested:

Applicant is the owner of U.S. Registration Nos. 3493029 and 3598677.

ASSISTANCE

If applicant has questions about the application or this Office action, please contact the assigned trademark examining attorney at the telephone number below.

SEARCH OF OFFICE’S DATABASE OF MARKS

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

RESPONSE TO OFFICE ACTION

To expedite prosecution of this application, applicant is encouraged to file its response to this Office

action online via the Trademark Electronic Application System (TEAS), which is available at <http://www.uspto.gov/teas/index.html>.

STATUS OF APPLICATION

The Trademark Applications and Registrations Retrieval (TARR) database on the USPTO website at <http://tarr.uspto.gov> provides detailed, up to the minute information about the status and prosecution history of trademark/service mark applications and registrations. To access the TARR database, applicant will need to provide an application serial number or registration number. The TARR database is available 24 hours a day, 7 days a week.

Tina L. Snapp

/Tina L. Snapp/
Examining Attorney
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RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

DESIGN MARK

Serial Number

79050885

Status

REGISTERED

Word Mark

DOSE 28

Standard Character Mark

Yes

Registration Number

3598677

Date Registered

2009/03/31

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Calidris 28 AG (S.A.) UNKNOWN 30, Esplanade de la Moselle L-6637
Wasserbillig LUXEMBOURG

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic
beverages except beers.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Sports and
leisure clothing, namely, shirts, jerseys, jackets; shoes, footwear
and boots, including sports and leisure shoes and boots; stockings,
pants, socks; suspenders, also made of leather; ties, including bow
ties; gloves; headgear, namely, forehead bands and sweatbands; belts.

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Mineral
waters and aerated waters; non-alcoholic, isotonic, beverages
containing vitamins; energy drinks containing caffeine; energy drinks
containing taurine and caffeine; energy drinks; fruit drinks and fruit
juices; syrups for making beverages; preparations for making
beverages, namely, soft drinks and fruit drinks.

Priority Date

2007/06/26

Filing Date

2007/12/20

Examining Attorney

HERMAN RUSS

DOSE 28

DESIGN MARK

Serial Number

79050886

Status

REGISTERED

Word Mark

DOSE 28

Standard Character Mark

No

Registration Number

3493029

Date Registered

2008/08/26

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Calidris 28 AG (S.A.) UNKNOWN 30, Esplanade de la Moselle L-6637
Wasserbillig LUXEMBOURG

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Sports and leisure clothing, namely, shirts, jerseys, jackets; shoes, footwear and boots, including sports and leisure shoes and boots; stockings, pants, socks; suspenders, also made of leather; ties, including bow ties; gloves; headgear, namely, forehead bands and sweatbands; belts.

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Mineral waters and aerated waters; non-alcoholic, isotonic beverages containing vitamins; energy drinks containing caffeine; energy drinks containing taurine and caffeine; energy drinks; fruit drinks and fruit juices; syrups for making beverages; preparations for making beverages, namely, soft drinks and fruit drinks.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages except beers.

Priority Date

2007/06/26

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2007/12/20

Examining Attorney

HERMAN RUSS



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