

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

U.S. APPLICATION SERIAL NO. 79177722

MARK: FATTORIA LA VIALLA

79177722

CORRESPONDENT ADDRESS:

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http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: FATTORIA LA VIALLA DI GIANNI, ANTONIO E ETC.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

INTERNATIONAL REGISTRATION NO. 1036645

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 issues 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).

Issues Applicant Must Address:

1. Identification of Goods
2. Applicant Name, Legal nature and Place Incorporated
3. Disclaimer

1. Identification of Goods

Some of the wording in the identification of goods is unacceptable as the wording is too vague, and does not adequately identify the goods. See TMEP §§1402.01, 1402.03. The following changes are suggested:

Class 29-Preserves-indefinite. Specify type, e.g., fruit preserves; Meat, fish, fruit and vegetable preserves,

Butter; preserved fruit and vegetables; cheeses; jams; edible olive oil; pickles-acceptable

Delicatessen products,-indefinite. Specify goods, e.g., delicatessen products, namely, salami, prosciutto, pastrami, cheese, etc.

All suggested identifications are classified in Class 29.

Class 30- Vinegar,-acceptable

Confectionery products,-indefinite. Specify goods, e.g., Bakery goods and dessert items, namely, cakes, cookies, pastries, candies, and frozen confections; Chocolate confections; Confectionery made of sugar

Sweets; biscuits; bread; pizza; pasta; -acceptable

Sauces (seasonings),-The identification “Sauces” appears below. Amend to: seasonings

Sauces for salad,-indefinite. Amend to: salad dressings; coleslaw dressing

Seasoning and dressing products,-indefinite. Appears to be repetition of the two previous identifications. Specify the goods if they are different than two previous entries.

Honey; sauces-acceptable

All suggested identifications are classified in Class 30.

Class 31-Untreated cereal corns,-indefinite. Amend to: Unprocessed cereals; unprocessed corn seeds

Cereal bran,-indefinite. Amend to: Unprocessed cereal bran

Spelt,-indefinite. Amend to: fresh spelt

Fresh fruit; fresh mushrooms,-acceptable

Wheat,-indefinite. Amend to: fresh wheat

Maize,-indefinite. Amend to: unprocessed maize

Fresh vegetables,-acceptable

Seeds (for sowing),-indefinite. Amend to: Agricultural seeds, namely, {indicate specific type of seed, e.g., soybean, flower, etc.}

Soybeans-indefinite. Amend to: Young fresh soybeans in the pod

All suggested identifications are classified in Class 31.

Class 32-acceptable

Class 33-Alcoholic drinks (except beers),-Amend to: Alcoholic beverages except beers

Alcoholic extracts; liqueurs and spirits; wines; sparkling wines; grappas- acceptable

All suggested identifications are classified in Class 33.

An applicant may only amend an identification to clarify or limit the goods, but not to add to or broaden the scope of the goods. 37 C.F.R. §2.71(a); *see* TMEP §1904.02(c)(iv). In an application 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). 37 C.F.R. §2.85(f); TMEP §§1402.07(a), 1904.02(c). If an applicant amends an identification to a class other than that assigned by the International Bureau, the amendment will not be accepted because it will exceed the scope and those goods will no longer have a basis for registration under U.S. law. TMEP §§1402.01(c), 1904.02(c).

In addition, in a Section 66(a) application, an applicant may not change the classification of goods from that assigned by the International Bureau in the corresponding international registration. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1402.01(c). Further, in a multiple-class Section 66(a) application, an applicant may not transfer goods from one existing international class to another. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1402.01(c).

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* at <http://ess2.uspto.gov/netahtml/tidm.html>. *See* TMEP §1402.04.

2. Name of Applicant Unclear, Legal Nature and Place Incorporated Omitted

The names of three different individuals, Gianni, Antonio and Bandino Lo Franco, the name of the farm Fattoria La Vialla, and the name of an entity type, Societa' Agricola Semplice, all appear in the section of the application intended for the trademark owner’s name. The “entitlement nationality of applicant” section, used for individuals, is provided, but the “legal nature” and “place incorporated” sections, used for businesses, are not provided. Therefore, applicant must clarify the name of the entity that is applying as it is unclear if applicants are individuals applying as joint applicants or are organized as some type of business. *See* TMEP §§803.02(a), 803.04.

The entity designation “Societa' Agricola Semplice” is not acceptable in the U.S. because there is no clear U.S. equivalent entity and the entity designation does not appear in Appendix D of the *Trademark Manual of Examining Procedure*. *See* TMEP §803.03(i). Applicant must indicate the U.S. equivalent of its entity type or provide a description of the nature of the foreign entity. *See id.*

Applicant must specify 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.*

3. Disclaimer

Applicant must disclaim the wording “FATTORIA” because it merely describes a feature of applicant’s goods, and thus is an unregistrable component of the mark. See 15 U.S.C. §§1052(e)(1), 1056(a); *DuoPro.SS Meditech Corp. v. Invivo Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); TMEP §§1213, 1213.03(a).

The applicant seeks to register FATTORIA LA VIALLA for various foods and beverages. Fattoria translates as Farm. The attached evidence from applicant’s website shows the applicant has a working farm that produces the foods and beverages listed in the application. Therefore, the wording merely describes the place from where the goods come.

An applicant may not claim exclusive rights to terms that others may need to use to describe their goods and/or services in the marketplace. See *Dena Corp. v. Belvedere Int’l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. See *Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. See *In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant should submit a disclaimer in the following standardized format:

No claim is made to the exclusive right to use “FATTORIA” apart from the mark as shown.

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

Telephone/Email for Inquiries

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 refusal(s) and/or requirement(s) 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.

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>.

[how we conserve the Pecorino cheese](#)

Fattoria La Vialla



Famiglia Lo Granco
(Tattoria = Farm and Wine Estate)

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A glimpse of the vineyard and of the olive groves in the midst of some of the farm's land

Ca dell'Oro farm house (1,181 ft a.s.l.)

La Signana farm house (1,460 ft a.s.l.)


La Torre farm house (949 ft a.s.l.)

La Vialla farm house (968 ft a.s.l.)

Uliveto farm house (949 ft a.s.l.)

Casa Conforto farm house (853 ft a.s.l.)

The La Vialla Farm is a family-run agricultural enterprise, one of the oldest and largest organic-biodynamic Farms in this little piece of Chianti. In 1978, it was purchased by the Lo Granco Family and today covers an area of 1,342 hectares/3,316 acres.

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• E-mail: fattoria@laviella.it  [call laviella](https://www.laviella.it)
Open from April to October, closed on Sunday

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