

To: Cherise A. Williams Corporation(will7235@bellsouth.net)

Subject: U.S. TRADEMARK APPLICATION NO. 86973565 - UNDERNEATH THE MAKEUP SERIES CHERISE A. WILLIAMS NURTURE THE POWERFUL YOU! - N/A

Sent:08/02/2016

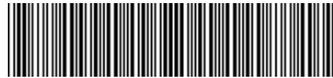
Sent As: Joan.Blazich@USPTO.GOV

Attachments:

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

U.S. APPLICATION SERIAL NO. 86973565

MARK: UNDERNEATH THE MAKEUP SERIES CHERISE A. WILLIAMS NURTURE THE POWERFUL YOU!



CORRESPONDENT ADDRESS:

*CHERISE A. WILLIAMS CORPORATION
CHERISE A. WILLIAMS CORPORATION
P.O. BOX 880203
WWW.CHERISEAWILLIAMS.COM
PORT ST LUCIE FL 34988 UNITED STATES*

CLICK HERE TO RESPOND TO THIS LETTER:

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

APPLICANT: Cherise A. Williams Corporation

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

will7235@bellsouth.net

EXAMINER'S AMENDMENT/PRIORITY 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, OR BY 02/02/2017.

ISSUE/MAILING DATE: 08/02/2016

DATABASE SEARCH: The trademark examining attorney has searched the USPTO'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: On 29 July 2016, the trademark examining attorney and Ms. Cherise A. Williams discussed the issues below. Applicant must timely respond to these issues. See 15 U.S.C. § 1062(b); 37 C.F.R. § 2.62(a); TMEP § 708, 711.

SUMMARY OF ISSUES that applicant must address:

- Refusal - Specimen Does Not Match Drawing
- Refusal - Specimen Does Not Show Use With Specific Class

REFUSAL - SPECIMEN DOES NOT MATCH DRAWING

Registration is refused because the specimen does not show the applied-for mark in the drawing in use in commerce in International Class 41. 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), 1301.04(g)(i). Specifically, the specimen displays the mark as a heart-shaped design containing images of applicant and the words "Cherise A. Williams Corporation"; however, the drawing displays the mark as an image of applicant in a red dress standing in the surf in front of some rocks, with the words "UnderNeath the MakeUp Series, Cherise A. Williams, Nuture the Powerful You!."

The drawing shows the mark sought to be registered, and must be a substantially exact representation of the mark as used on or in connection with the services, as shown by the specimen. 37 C.F.R. §2.51(a); TMEP §807.12(a). Because the mark in the drawing is not a substantially exact representation of the mark on the specimen, applicant has failed to provide the required evidence of use of the applied-for mark in commerce on or in connection with applicant's services. *See* TMEP §807.12(a).

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 services identified in the application. 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 services include advertising and marketing materials, brochures, photographs of business signage and billboards, and webpages that show the mark used in the actual sale, rendering, or advertising of the services. *See* TMEP §1301.04(a), (h)(iv)(C).

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 and (b) shows the applied-for mark in actual use in commerce for the services identified in the application.

(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 at a subsequent date.

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/J3_1.jsp.

Applicant should note the following additional ground for refusal.

REFUSAL - SPECIMEN DOES NOT SHOW USE WITH SPECIFIC CLASS

Registration is refused because the specimen does not show the applied-for mark in use in commerce in connection with any of the services specified in International Class 41 in the application. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); *In re Graystone Consulting Assocs., Inc.*, 115 USPQ2d 2035, 2037-38 (TTAB 2015); *In re Chengdu AOBi Info. Tech. Co.*, 111 USPQ2d 2080, 2081-82 (TTAB 2011); TMEP §§904, 904.07(a), 1301.04(d), (g)(i). Specifically, applicant's specimen does not reflect the use of applicant's mark in conjunction with applicant's business education, business training, and educational services.

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 services identified in the application. 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 services include advertising and marketing materials, brochures, photographs of business signage and billboards, and webpages that show the mark used in the actual sale, rendering, or advertising of the services. See TMEP §1301.04(a), (h)(iv)(C). Specimens comprising advertising and promotional materials must show a direct association between the mark and the services. TMEP §1301.04(f)(ii).

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 and (b) shows the mark in actual use in commerce for the services identified in the application. A "verified substitute specimen" is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use." The substitute specimen cannot be accepted without this statement.
- (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>.

Although applicant's mark has been refused registration, applicant may respond to the refusals by submitting evidence and arguments in support of registration.

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:

Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. See 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee

EXAMINER'S AMENDMENT

APPLICATION HAS BEEN AMENDED: In accordance with the authorization granted by the individual identified in the Priority Action section above, the trademark examining attorney has amended the application as indicated below. Please advise the undersigned immediately of any objections. TMEP §707. Any amendments to the identification of services may clarify or limit the services, but may not add to or broaden the scope of the services. 37 C.F.R. §2.71(a); see TMEP §§1402.06 et seq.

Amended Description of Mark

The following description of the mark replaces the current description of record:

The mark consists of a picture of a woman with long black hair and red lips, wearing a long red dress with a white decorative element on the front of the neckline, standing in the surf in front of a pile of gray and green seaweed-covered rocks. The woman is turning towards the viewer, with her right hand visible behind her back and her left hand holding her dress fabric at her waist. Above the woman's head are the words "UnderNeath" - the U of "Under" and the "N" of "Neath" are capitalized in white within red squares, and "nder" and "eath" are in red outlined in white. Beneath "Neath" is "the" in

white, outlined in red; below that is "MakeUp" in red; below that is "Series" in white, outlined in red. The "M" and "U" of "MakeUp" are capitalized, as is the "S" of "Series." Beneath the woman's right hand is a red rectangle, outlined in white, which spans across the image; in the rectangle are the words "Cherise A. Williams" in white; the "C," "A," and "W" of "Cherise A. Williams" are capitalized. At the bottom of the image are the words "Nurture the Powerful You!" in white; the "N," "P," and "Y" of "Nurture the Powerful You!" are capitalized.

See 37 C.F.R. §§2.37, 2.72; TMEP §§808 *et seq* .

Amended Description of Colors in Mark

The following statements describing color in the mark replace the current description of color in the mark of record:

The colors red, white, black, gray, and green are claimed as a feature of the mark.

37 C.F.R. §2.52(b)(1); TMEP §807.07(a)(i), (a)(ii).

Disclaimer

The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use "SERIES" apart from the mark as shown.

See 15 U.S.C. §1056(a); TMEP §§1213, 1213.08(a)(i).

/Joan Blazich/
Joan Blazich
Trademark Examining Attorney
U.S. Patent and Trademark Office
Law Office 122
(571) 272-7810
Joan.Blazich@USPTO.GOV

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 Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

IMPORTANT NOTICE REGARDING YOUR U.S. TRADEMARK APPLICATION

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED ON FOR U.S. APPLICATION SERIAL NO. 86973565

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter your U.S. application serial number, and click 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) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For technical assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

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 Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.