

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Viva XXXII LLC

SERIAL NO.: 76/193,328

TRADEMARK: VIVA & Design

Trademark Attorney:
Michael P. Keating
Law Office 101

Response to Office Action dated June 8, 2016

In response to the Official Action dated June 8, 2016, Applicant hereby responds as follows:

The Examiner has refused this application for three reasons:

1. **Swatch Drawing** -- The subject matter of the application is a “swatch” and thus may encompass more than one mark;
2. **Identification of Goods** -- The identification of goods needs clarification. The Applicant will agree to adopt the following identification of goods:

Clothing, namely shirts, t-shirts, pants, sweaters, socks, dresses, blouses, jackets, aprons, shorts, blazers, tops, ties, hats, caps, shoes and boots in Class 25.

3. **Advisory** -- The Examiner indicates that the mark *may* not function as a trademark given it is a nondistinctive repeating pattern.

I. SWATCH DRAWING

The Applicant has applied for a single mark – which is represented by the drawing set forth with this application. It is, in fact, a single mark which bears a repeating pattern – much like the Applicant’s application for a similar image set forth in serial no. 76/719,337. The image set forth in this application is

already destined to be a source identifier which consumers will recognize as being that of the Applicant. The '337 application has been examined, approved and published for opposition. The Applicant would similarly request approval of this application as well.

II. ADVISORY

Since the Applicant's Statement of Use has not yet been presented, this Advisory should not be an issue at this time.

REMARKS

It is believed that the application is now in condition for allowance and early publication and such action to that end is earnestly solicited.

Date: December 5, 2016

Respectfully submitted,

Viva XXXII LLC

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CERTIFICATE OF FILING

I hereby certify that on December 5, 2016, the Response to Office Action dated June 8, 2016, is being filed electronically with the United State Patent & Trademark Office.

Scott W. Petersen, Attorneys for Applicant