

To: MS Q COFFEE CORP(Rebecca@qconsultingfirm.com)
Subject: U.S. Trademark Application Serial No. 98866557 - MISS Q COFFEE
Sent: May 16, 2025 12:30:23 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[7792472](#)

[screenshot-shop-biltmore-com-collections-coffee-tea-beverage-products-biltmore-premium-coffee-mocha-java-ground-coffee-tin-17474109769441](#)

[screenshot-shop-biltmore-com-collections-coffee-tea-beverage-17474110511871](#)

[screenshot-www-coffeebean-com-collections-coffee-17474111453441](#)

[screenshot-www-coffeebean-com-collections-single-serve-pods-17474111805181](#)

[screenshot-www-coffeebean-com-collections-coffee-17474113139611](#)

[screenshot-www-coffeebean-com-collections-tea-17474112375721](#)

[screenshot-www-coffeebean-com-17474113654821](#)

[screenshot-joffreys-com-collections-cold-brew-17474114179871](#)

[screenshot-joffreys-com-collections-single-serve-17474118170251](#)

[screenshot-joffreys-com-collections-rooibous-herbal-teas-17474115332671](#)

[screenshot-joffreys-com-collections-green-teas-17474117807891](#)

[screenshot-joffreys-com-pages-joffreys-at-midtown-17474120142661](#)

[screenshot-marketspice-com-collections-whole-bean-coffee-17474121558561](#)

[screenshot-marketspice-com-collections-ground-coffee-17474121954651](#)

[screenshot-marketspice-com-collections-herbal-17474122270391](#)

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United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 98866557

Mark: MISS Q COFFEE

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United States

Applicant: MS Q COFFEE CORP

Reference/Docket No. N/A

Correspondence Email Address: Rebecca@qconsultingfirm.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

Request an extension. For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

Issue date: May 16, 2025

Introduction

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.

Summary of Issues

- Section 2(d) - **Likelihood of Confusion Refusal**

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 7792472. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act **Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties.** *See* 15 U.S.C. §1052(d). **Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”).** *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant

or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. See *In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

Applicant has applied to register the mark "MISS Q COFFEE" in standard characters for “Coffee; Coffee and coffee substitutes; Coffee based beverages; Coffee beans; Coffee capsules containing coffee for brewing; Coffee capsules, filled; Coffee drinks” in International Class 30 and "Coffee shop services; Coffee shops" in International Class 43.

Registrant’s mark is "MISS Q" in standard characters for “Medicinal herbs; Herbs for medicinal purposes; Medicinal herb extracts, other than essential oils; Plant and herb extracts, other than essential oils, for medicinal purposes; Preparation for the relief of pain; Pain relief medication; Muscle-rub preparations for the relief of pain; Herbal tinctures for medical purposes; Herbal teas for medicinal purposes; Medicinal teas; Moxa sticks for moxibustion” in International Class 5.

Similarity of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Charger Ventures LLC*, 64 F.4th 1375, 1380, 2023 USPQ2d 451, at *3 (Fed. Cir. 2023) (citing *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1720 (Fed. Cir. 2012); *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371-72, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

Here, applicant’s mark, "MISS Q COFFEE", is confusingly similar to the registered mark, "MISS Q".

In this case, applicant's mark is confusingly similar to the cited mark in that it shares identical dominant wording. Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. See *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat’l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Disclaimed matter that is descriptive of or generic for a party’s goods and/or services is typically less significant or less dominant when comparing marks. See *In re Detroit Athletic Co.*, 903 F.3d 1297, 1305, 128 USPQ2d 1047, 1050 (Fed. Cir. 2018) (citing *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997)); *Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *41 (TTAB 2022); TMEP §1207.01(b)(viii), (c)(ii). Here, applicant has disclaimed the generic word "COFFEE", rendering "MISS Q" the dominant portion of the mark.

Thus, applicant's dominant wording "MISS Q" is identical to registrant's "MISS Q". Further, applicant's whole mark, "MISS Q COFFEE", incorporates the entirety of registrant's mark, "MISS Q", within its mark, merely adding the term "COFFEE". The addition of a term to a registered mark has often been found to increase the similarity between the compared marks where, as in the present case, the dominant portion of the marks is the same. See *In re Charger Ventures LLC*, 64 F.4th 1375, 1381-82, 2023 USPQ2d 451, at *4-5 (Fed. Cir. 2023) (holding SPARK and SPARK LIVING confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL and BENGAL LANCER and design confusingly similar); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1269 (TTAB 2009) (holding TITAN and VANTAGE TITAN confusingly similar); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002, 2004 (TTAB 1988) (holding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii). As noted above, the dominant portion of applicant's mark is "MISS Q", which is identical to registrant's mark, "MISS Q".

Additionally, the shared wording "MISS Q" is the introductory wording in applicant's mark and sole wording in registrant's mark, and consumers are generally more inclined to focus on and remember the first words, prefix, or syllable in a mark. See *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005) (finding similarity between VEUVE ROYALE and two VEUVE CLICQUOT marks in part because "VEUVE . . . remains a 'prominent feature' as the first word in the mark and the first word to appear on the label"); *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 876, 23 USPQ2d 1698, 1700 (Fed. Cir. 1992) (finding similarity between CENTURY 21 and CENTURY LIFE OF AMERICA in part because "consumers must first notice th[e] identical lead word"); *Sage Therapeutics, Inc. v. SageForth Psych. Servs., LLC*, Opp. No. 91270181, 2024 TTAB LEXIS 139, at *14-15 (2024) (finding similarity between SAGEFORTH and SAGE CENTRAL, in part because the "common 'sage' element" was dominant in both marks" as "the first elements"); TMEP §1207.01(b)(viii).

Because the marks share the identical wording "MISS Q", the marks are additionally similar in sound, only differing slightly due to applicant's inclusion of the word "COFFEE". However, slight differences in the sound of similar marks will not avoid a likelihood of confusion. See *In re Energy Telecomms. & Elec. Ass'n*, 222 USPQ 350, 351 (TTAB 1983); see *In re Viterra Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012).

Finally, when viewed in connection with the closely related goods and services, the partially identical marks are likely to create similar commercial impressions in the minds of consumers, causing confusion as to the source of the goods and services.

Accordingly, because the marks look and sound similar and create the same commercial impression, the marks are considered similar for likelihood of confusion purposes.

Relatedness of the Goods and Services

The goods and/or services are compared to determine whether they are similar, commercially related, or travel in the same trade channels. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi).

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475

(Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i); see *Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022) (quoting *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006)).

Here, **applicant’s goods and services**, “Coffee; Coffee and coffee substitutes; Coffee based beverages; Coffee beans; Coffee capsules containing coffee for brewing; Coffee capsules, filled; Coffee drinks,” and “Coffee shop services; Coffee shops” are closely related to **registrant’s goods**, “Herbal teas for medicinal purposes; Medicinal teas.”

The attached Internet evidence, consisting of screenshots from *Biltmore Shop*, *The Coffee Bean & Tea Leaf*, *Joffrey's Coffee & Tea Company*, and *Market Spice*, establishes that the same entity commonly manufactures, produces, or provides the relevant goods and services and markets the goods and services under the same mark. Thus, applicant’s and registrant’s goods and services are considered related for likelihood of confusion purposes. See, e.g., *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Additionally, the trademark examining attorney has attached evidence from the USPTO’s XSearch database consisting of a number of third-party marks registered for use in connection with the same or similar goods and services as those of both applicant and registrant in this case. This evidence shows that the goods and services listed therein, namely, applicant's coffee goods and coffee shop services and teas, including registrant's herbal and medicinal teas, are of a kind that may emanate from a single source under a single mark. See *In re I-Coat Co.*, 126 USPQ2d 1730, 1737 (TTAB 2018) (citing *In re Infinity Broad. Corp.*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988)); TMEP §1207.01(d)(iii).

Accordingly, the goods and services are considered related for purposes of the likelihood of confusion analysis.

Conclusion

Because the marks are identical-in-part and the goods and services are related, there is a likelihood of confusion as to the source of applicant’s goods and services, and registration is refused pursuant to Section 2(d) of the Trademark Act.

Response Options to Refusals

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

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. For a

requirement, applicant should set forth the changes or statements. Please see the [Responding to Office Actions](#) webpage for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

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RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.