

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EXPERIENCE HENDRIX, L.L.C., a
Washington Limited Liability Company, and
AUTHENTIC HENDRIX, LLC, a Washington Limited
Liability Company,

Case No.: 1:17-cv-1927 (PAE)

Plaintiffs,

-against

ANDREW PITSICALIS, an individual; LEON
HENDRIX, an individual; PURPLE HAZE
PROPERTIES, LLC, a Nevada Limited
Liability Company; ROCKIN ARTWORK,
LLC, a Nevada Limited Liability Company; CARMEN
COTTONE a/k/a CARMEN THOMAS ANDOLINA
a/k/a CARM COTTONE, an individual d/b/a
PARTNERS AND PLAYERS, a New York Company
and d/b/a DYNASTY GOURMET FOODS, a New York
Company; C-LIFE GROUP, LTD., a New York
Corporation, BIC CORPORATION, a Connecticut
Corporation, FIREFLY BRAND MANAGEMENT, LLC,
a California Limited Liability Company, FIREFLY
CONSUMER PRODUCTS, INC., a California
Corporation, CYNTHIA MODDERS, an individual,
GRASSROOTS CLOTHING, LLC d/b/a GRASSROOTS
CALIFORNIA, a Colorado Limited Liability Company,
KURT S. ADLER, INC., a New York Corporation,
FREEZE , a division of CENTRAL MILLS, INC., and
GREEN CURES & BOTANICAL DISTRIBUTION,
INC.,

Defendants.

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JUDGMENT AND INJUNCTION

Plaintiffs, Experience Hendrix, L.L.C., a Washington Limited Liability
Company, and Authentic Hendrix, LLC, a Washington Limited Liability Company,
("Plaintiffs"), having filed a Complaint on March 16, 2017; having filed an Amended

Complaint on April 26, 2017; and having filed a Second Amended Complaint on May 31, 2017; and having filed a Third Amended Complaint on April 25, 2018, and

WHEREAS, Defendant Kurt S. Adler, Inc. (“Defendant” or “Adler”), acknowledges that Plaintiffs are the exclusive owners of the trademark rights in and to the use of the name Jimi Hendrix, Jimi and Hendrix, and any variations thereof, (the “Hendrix Trademarks”) set forth in Exhibit A, as well as other intellectual property rights as set forth in the complaints.

WHEREAS, Plaintiffs waive any independent claims against Adler’s clients, customers and manufacturers regarding the Adler created Jimi Hendrix products although nothing herein limits the scope of injunctive relief.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that final judgment is hereby granted and ordered entered as the judgment against Defendant Kurt S. Adler, Inc., in this action as follows:

1. This Court retain jurisdiction of the parties hereto for the purpose of any proceedings to enforce injunction and for the continuing discovery obligations of Defendant Adler;
2. The parties hereto have waived appeal from this injunction;
3. The parties each shall bear their own costs and attorney fees;
4. This injunction shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns;

5. Nothing herein shall be construed as waiving or releasing any of Plaintiffs claims against any of the other Defendants; and

6. In the event Defendant or any one of them breaches any provision of this So Ordered Permanent Injunction and Judgment and Plaintiffs must take any steps to enforce their rights hereunder, and Defendant and each of them hereby:

a. waives any defense statutory or equitable defense; and

b. agrees to reimburse Plaintiffs for all of their costs, including actual attorneys' fees, incurred in connection with enforcing their rights under this Order; and

c. shall pay to Plaintiffs the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as liquidated damages. Nothing herein shall preclude Plaintiffs from seeking additional damages and costs.

Dated: New York, New York

~~January~~ 2019

December 12

SO ORDERED:

Paul A. Engelmayer

JUDGE PAUL A. ENGELMAYER (U.S.D.J.)

CONSENT, WAIVER AND STIPULATION

The parties hereby stipulate that written Findings of Fact and Conclusions of Law shall be waived and Defendant expressly consents to the entry of the foregoing Stipulated Final Judgment and Writ of Permanent Injunction as final and unappealable and hereby waive notice of entry of Judgment.

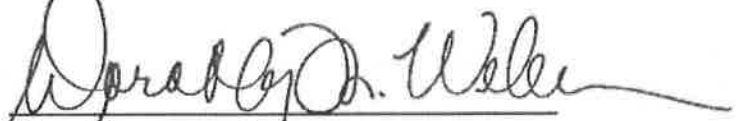
As between the parties, the provisions of this Judgment shall be and become effective immediately upon its execution by the parties, and need not await execution by the Court.

KURT S. ADLER, INC.

By: 
Clifford Adler, President

Date: 1/31/19








Approved as to form:

By: 
Dorothy M. Weber, Esq.
Attorney for Experience Hendrix, L.L.C. and Authentic Hendrix, LLC







Date: 1.31.19

Exhibit A






EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

REGISTERED U.S. TRADEMARKS (In Alphabetical Order)			
Mark:	Class:	Goods:	Registration N
	35	Online retail store services featuring merchandise and memorabilia related to the music industry; telephone order, and computerized on-line ordering services for merchandise and memorabilia related to the music industry	3,072,909
AUTHENTIC HENDRIX	35	Mail order, telephone order, and computerized on-line ordering services in the field of clothing, books, vinyl albums, prerecorded videos, musical sound recordings, printed music, magazines, photographs, art work, watches, posters and handbills, ornaments, stamps, afghans, guitar pedals, calendars and other memorabilia related to the music industry	2,245,408
	05	Air fresheners	3,312,071
	06	Metal decorative boxes	3,297,742
	09	Decorative magnets	3,312,206
	09	Educational software featuring instruction in music and guitar playing; Guitar effects processors	3,904,594
	14	Clocks; watches; jewelry, namely pins	3,881,766
	15	Guitar picks; Guitar straps	3,904,595




EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
As of July 20, 2018

REGISTERED U.S. TRADEMARKS (In Alphabetical Order)				
Mark:	Class:	Goods:	Registration N	
	16	Printed matter, namely posters, photographs, postcards, calendars, stickers, lithographs	3,334,862	
	16	Stationery	3,490,531	
	20	Non-metal and non-leather key chains; plaques	3,399,951	
	25	Clothing, namely jackets, sport shirts, sweat shirts, t-shirts, tank tops; headgear, namely beanies, caps; infant diaper covers; wristbands	3,302,117	
	26	Ornamental novelty buttons	3,865,983	
BAND OF GYPSYS	9	Digital video discs featuring musical performances; pre-recorded phonograph records and compact discs featuring music	2,878,649	
BAND OF GYPSYS	15	Electronic effects pedals for use with musical instruments	4,892,512	
DAGGER RECORDS	9	Musical sound recordings; compact discs	2,348,020	
	9	Compact discs featuring music; Musical sound recordings; Phonograph records featuring music	3,823,043	
ELECTRIC LADYLAND	05	Air fresheners	3,271,041	
ELECTRIC LADYLAND	09	Digital video discs featuring documentary footage and musical performances; pre-recorded phonograph records and compact discs featuring music	3,374,812	
ELECTRIC LADYLAND	16	Books, namely printed music books; post cards	3,271,088	
ELECTRIC LADYLAND	20	Non-metal and non-leather key chains; decorative wall plaques	3,506,957	









EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
As of July 20, 2018

REGISTERED U.S. TRADEMARKS (In Alphabetical Order)			
Mark:	Class:	Goods:	Registration N
	09	Pre-recorded phonograph records and compact discs featuring music	3,374,814
	16	Books, namely printed music books	3,271,039
	20	Non-metal and non-leather key chains; decorative wall plaques	3,506,958
EXPERIENCE HENDRIX	16	Print materials, namely, magazines featuring articles on music and the music industry, and posters	2,245,409
EXPERIENCE HENDRIX	41	Entertainment in the nature of live musical performances; entertainment in the nature of visual and audio musical performances; a touring production featuring live musical performances by multiple artists and related visual displays; an online interactive service featuring information about a touring production featuring live musical performances by multiple artists and related visual displays; production of a tour of live musical performances by multiple artists and related visual displays.	2,987,556
	9	Digital media, namely, pre-recorded compact discs, digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; downloadable podcasts in the field of music; phonograph records featuring music	4,272,131
	9	Musical sound recordings	2,250,912
HENDRIX	09	Compact discs and phonograph records featuring music; prerecorded digital video disks featuring musical performances	3,302,110
HENDRIX	16	Stickers	3,409,133
HENDRIX	20	Non-metal and non-leather key chains	3,302,093
HENDRIX	25	Clothing, namely t-shirts	3,302,118
HENDRIX	26	Ornamental novelty buttons	3,409,132
HENDRIX RECORDS	9	Musical sound recordings, and compact discs all featuring music	2,339,333
JIMI HENDRIX	09	Digital media, namely, pre-recorded digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances;	4,278,938



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WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

REGISTERED U.S. TRADEMARKS (In Alphabetical Order)			
Mark:	Class:	Goods:	Registration N
JIMI HENDRIX	9	downloadable podcasts in the field of music; downloadable user interactive entertainment software used for sharing video, text, photos and music with the user via the Internet and wireless devices; musical sound recordings; phonograph records featuring music	2,876,475
JIMI HENDRIX	14	Compact discs featuring music	2,989,576
JIMI HENDRIX	15	Wrist watches; wall clocks; and jewelry, namely ornamental pins	4,924,181
JIMI HENDRIX	16	Guitars; guitar picks; guitar straps; musical instrument cases for guitars	2,902,769
JIMI HENDRIX	25	Printed matter, namely, calendars, posters, photographs, postcards, stickers, printed music books; books containing information and memorabilia relating to Jimi Hendrix, books, namely, collector's books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary	2,322,761
JIMI HENDRIX	35	Clothing, namely t-shirts, jackets, caps	5,295,179
JIMI HENDRIX	41	On-line retail store services featuring general merchandise, memorabilia, apparel, accessories and apparel in the field of music, and audio and video recordings featuring music	2,997,676
JIMI HENDRIX	41	Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services.	2,383,500
	06	Entertainment services, namely, preparing audiovisual displays and exhibitions in the field of music	3,306,891
	09	Metal decorative boxes	4,272,128
	09	Digital media, namely, downloadable audio and video recordings, and pre-recorded high definition discs featuring music and musical performances; downloadable podcasts in the field of music; musical sound recordings	2,997,675
		Pre-recorded digital video discs featuring musical performances; pre-recorded phonograph records and compact discs featuring music; decorative magnets; cell phone covers	





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REGISTERED U.S. TRADEMARKS (In Alphabetical Order)			
Mark:	Class:	Goods:	Registration N
	15	Guitars; guitar picks; guitar straps; musical instrument cases for guitars	4,919,423
	16	Printed matter; namely, calendars, posters, photographs, postcards, stickers; books, namely printed music books and collectors' books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary	3,001,465
	20	Non-metal and non-leather key chains	3,290,861
	25	Clothing, namely sweat shirts, t-shirts and caps	3,306,892
	35	On-line retail store services featuring general merchandise, memorabilia, apparel, accessories and apparel in the field of music, and audio and video recordings featuring music	5,295,171
	41	Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services.	3,001,464
	16	Posters	3,328,587
	25	T-shirts.	3,328,579
JIMIHENDRIX.COM	41	Entertainment services, namely providing prerecorded music, audio and visual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network.	2,998,059




**EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS**
As of July 20, 2018

REGISTERED U.S. TRADEMARKS (In Alphabetical Order)			
Mark:	Class:	Goods:	Registration N
	41	Entertainment services, namely providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network.	2,998,058
JIMI HENDRIX ELECTRIC GUITAR COMPETITION	14	Ornamental pins	3,328,324
JIMI HENDRIX ELECTRIC GUITAR COMPETITION	16	Posters	3,374,813
JIMI HENDRIX ELECTRIC GUITAR FESTIVAL	16	Posters	3,322,319
JIMI HENDRIX EXPERIENCE	9	Digital video discs featuring musical performances; pre-recorded phonograph records and compact discs featuring music	2,876,479
THE JIMI HENDRIX EXPERIENCE	25	Clothing, namely t-shirts	3,256,776
	35	Online retail store services featuring merchandise and memorabilia related to the music industry; telephone order, and computerized on-line ordering services featuring merchandise and memorabilia related to the music industry	3,290,862
NIGHTBIRD RECORDS	9	Musical sound recordings and compact discs featuring music	2,465,965

EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
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FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)				
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:
	Argentina	9	Complete list available on Request	2.151.382 ®
JIMI HENDRIX	Argentina	9	Complete list available on Request	2.151.374 ®
JIMI HENDRIX	Argentina	15	All goods in class.	2.598.959 ®
JIMI HENDRIX	Argentina	16	Complete list available on Request	2.899.622 ®
JIMI HENDRIX	Argentina	25	All goods in class (e.g., Clothing, headgear, footwear)	2.244.021 ®
	Australia	9; 25	Complete list available on Request	1224076 ®
EXPERIENCE HENDRIX	Australia	41	Complete list available on Request	1573042 ®
	Australia	9	Complete list available on Request	1224071 ®
HENDRIX	Australia	32	Complete list available on Request	1172225 ®
HENDRIX ELECTRIC	Australia	30	Complete list available on Request	1189274®
JIMI HENDRIX	Australia	9	Complete list available on Request	1224304 ®
JIMI HENDRIX	Australia	9; 16; 25	Complete list available on Request	954077 ®
JIMI HENDRIX	Australia	32	Complete list available on Request	1172222 ®
	Australia	9, 25	Complete list available on Request	1224303 ®




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FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	Benelux	14, 25	CL 14: Jewelry, ornaments, watches CL 25: Scarves; clothing for leisure	IR 489629	
	Brazil	25	Clothing articles, clothes and accessories, included in this class, jackets, shorts, t-shirts, sport shirts, sweat shirts; tank tops; shoes; headgear, namely: skull caps, caps; infant diaper covers; wristbands	829146466 ®	
	Brazil	9	Musical sound recordings, CDs, DVDs, CD ROMS, videos, cassette tapes, software	829146440 ®	
HENDRIX	Brazil	9	Pre-recorded videos, CDs, DVDs featuring music and musical performances	829141251 ®	
HENDRIX	Brazil	16	Stationery, stickers, greeting cards, books, magazines, catalogs, calendars, photographs, napkins, table cloths of paper	829141235 ®	
HENDRIX	Brazil	25	Clothes, clothing articles and accessories, included in this class, shirts, t-shirts, tank tops, trousers, clothes for children, belts and shoes	829141243 ®	
HENDRIX ELECTRIC	Brazil	30	Coffee (drinks based of coffee); tea (drinks based of tea); chocolate (drinks based of chocolate); drinks based of cocoa; tea; coffee; coffee with milk; Chinese tea; Coffee substitutes); flower tea; drinks made of cocoa with milk; iced tea; fruit tea; drinks based on chocolate with milk	900491418 ®	






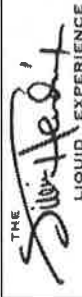
EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
HENDRIX ELECTRIC	Brazil	32	Sparkling water; fruit and vegetable pulp for drinks; non alcoholic fermented drinks; drinks of fruits and vegetables; potable de-mineralized water; non alcoholic energetic drinks; bottled mineral water; waters (drinks) non alcoholic drinks; fruit juices; non alcoholic drinks based on fruit; isotonic	900492198 ®	
JIMI HENDRIX	Brazil	9	Pre-recorded videos, CDs, DVDs featuring music and musical performances	829146431 ®	
JIMI HENDRIX	Brazil	15	Musical instruments; acoustic guitars; bass guitars; electric guitars; guitar picks; guitar playing assistance devices; guitar straps; guitar strings; pedal steel guitars; tuners for musical instruments.	829141200 ®	
JIMI HENDRIX	Brazil	16	Printed matter; stationery; calendars; posters; photographs; postcards; stickers; music in printed form; books; books containing printed music; books containing information and memorabilia relating to Jimi Hendrix; handwritten lyrics by Jimi Hendrix.	829141227 ®	
JIMI HENDRIX	Brazil	25	Clothing articles, clothes and accessories, included in this class, shirts, t-shirts, jackets, caps, gloves, shoes, trousers and shorts.	829141189 ®	
JIMI HENDRIX	Brazil	32	Aerated water; aloe vera drinks; bottled artesian water; coconut water; coffee-flavored drinks; distilled drinking water; drinking water; energy drinks; flavored waters; fruit beverages; fruit flavored beverages; soft drinks; fruit-based soft drinks flavored with tea; guarana drinks; isotonic drinks; lithia water; mineral water; non-alcoholic beverages containing fruit juices; non-alcoholic beverages with tea flavor; non-alcoholic beverages, namely carbonated beverages; non-alcoholic malt beverage; quinine water; scented water for making beverages; seltzer water; smoothies; soda; low calorie soft drinks, soy-based beverages not being	830820477 ®	






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Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:
JIMI HENDRIX	Brazil	43	milk substitutes; sparkling water; sports drinks; spring water; vegetables juices.	900492236 ®
	Brazil	9	Pre-recorded videos, CDs, DVDs and tapes featuring music and musical performances; decorative magnets; cell phone covers; neon signs; computer programs; amplifiers; equipment to transmit sound; loudspeakers; microphones.	829146458 ®
	Brazil	25	Clothing articles; clothes and accessories, included in this class; shoes, sweat shirts; t-shirts, caps; wristbands and trousers.	829146423 ®
JIMI HENDRIX LIQUID EXPERIENCE	Brazil	32	Aerated water; aloe vera drinks; bottled artesian water; coconut water; coffee-flavored drinks; distilled drinking water; drinking water; energy drinks; flavored waters; fruit beverages; fruit flavored beverages; soft drinks; fruit-based soft drinks flavored with tea; guarana drinks; isotonic drinks; lithia water; mineral water; non-alcoholic beverages containing fruit juices; non-alcoholic beverages with tea flavor; non-alcoholic beverages, namely carbonated beverages; non-alcoholic malt beverage; quinine water; scented water for making beverages; seltzer water; smoothies; soda; low calorie soft drinks, soy-based beverages not being milk substitutes; sparkling water; sports drinks; spring water; vegetables juices	830820469 ®
AUTHENTIC HENDRIX	Canada	N/A	Complete list available on Request	807036 ®
AUTHENTIC HENDRIX	Canada	N/A	Complete list available on Request	795575 ®
	Canada	N/A	Complete list available on request.	819667 ®





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WORLDWIDE TRADEMARK REGISTRATIONS
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FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)				
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:
	Canada	N/A	Printed material, namely product catalogs; Clothing, namely t-shirts, shorts, tank tops, bandanas, hats, caps and shirts; Novelty items, namely decorative magnets, stickers, ornamental buttons, collector tins and decorative patches; Cell phone covers; Posters; postcards; calendars; Clothing accessory belts; wallets; watches	872623 ®
EXPERIENCE HENDRIX	Canada	N/A	Complete list available on request	828447 ®
EXPERIENCE HENDRIX	Canada	N/A	Complete list available on request	838353 ®
	Canada	N/A	Complete list available on Request.	819648 ®
	Canada	N/A	Complete list available on Request	795576 ®
HENDRIX	Canada	N/A	Complete list available on request	822814 ®
HENDRIX	Canada	N/A	Complete list available on Request	793149 ®
JIMI HENDRIX	Canada	N/A	Complete list available on request	826262 ®
JIMI HENDRIX	Canada	N/A	Complete list available on request	828408 ®
	Canada	N/A	Complete list available on request	824698 ®
	Canada	N/A	Complete list available on request	828757 ®
JIMI HENDRIX LIQUID EXPERIENCE	Canada	N/A	Energy Drinks	769,171 ®
	Canada	N/A	Energy Drinks	769,172 ®


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WORLDWIDE TRADEMARK REGISTRATIONS
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FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
AUTHENTIC HENDRIX	China	35	Advertising; direct mail advertising; distribution of samples; presentation of goods on communication media for retail purposes; business management assistance; sales promotion for others (retail); administrative processing of purchase orders	7712617 ®	
	China	15	Musical instruments, guitars, music stands adapted for use with musical instruments, cases for musical instruments, guitar picks, guitar shoulder straps, guitar strings, guitar toggle switch tips, guitar tuning cranks; catgut; pedals for music instruments (or music effects pedals); music amplification units.	7712616 ®	
	China	16	Paper, cardboard articles; printed matter, sheet music; books, bookbinding material; photographs; stationery; pens; drawing materials; teaching materials (except apparatus); lithographs; checkbook covers; calendars; posters; postcards; stickers; stamps; screen prints	7712615 ®	
	China	25	Complete list available on Request.	7712614 ®	
	China	9	Complete list available on Request.	7712633 ®	
	China	16	Cardboard articles; photographs; drawing materials; stamps	7712632 ®	







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Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:
	China	16	Paper; printed matter; calendars; postcards; leather luggage tags; song books; sheet music; books; posters; periodicals; lithographs; wrapping paper; bookbinding material; stationery; checkbook covers; stickers; pens; printing blocks; teaching materials (except apparatus); modelling clay; and chaplets	12683957 ®
	China	41	Complete list available on Request.	7712631 ®
HENDRIX	China	9	Complete list available on Request.	7712630 ®
HENDRIX	China	16	Complete list available on Request.	7712629 ®
HENDRIX	China	18	Complete list available on Request.	4962993 ®
HENDRIX	China	25	Complete list available on Request.	4962992 ®
HENDRIX	China	25	Costumes	7712628 ®
	China	18	Complete list available on Request.	5015841 ®
	China	25	Complete list available on Request.	5015840 ®
HENG DE LI KE SI (HENDRIX)	China	9	Complete list available on Request.	7712814 ®
HENG DE LI KE SI (HENDRIX)	China	16	Complete list available on Request.	7712627 ®
HENG DE LI KE SI (HENDRIX)	China	25	Complete list available on Request.	7712626 ®

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Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
HENDRIX ELECTRIC	China	30	Complete list available on Request	6226079 ®	
HENDRIX ELECTRIC	China	32	Complete list available on Request	6226078 ®	
JIMI HENDRIX	China	9	Amplifiers; electrical cables; connectors; cameras (photography); optical apparatus and instruments; cell phone covers; electronic components for electric guitars; electric cords for musical instruments; electric cords for music amplifiers; leads (electric) for regulating apparatus; automatic vending machines and mechanisms for coin-operated apparatus; sunglasses; motion picture films	7712625 ®	
JIMI HENDRIX	China	9, 15	Software for synthesizers, samplers and expanders for musical instruments; electrical amplifiers for musical instruments. Musical instruments; musical instruments' accessories included in this class	IR 878266 ®	
JIMI HENDRIX	China	16	Complete list available on Request	7712653 ®	
JIMI HENDRIX	China	25	Complete list available on Request	7712652 ®	
JIMI HENDRIX	China	35	Complete list available on Request	7712651 ®	
JIMI HENDRIX	China	43	Complete list available on Request	5925524 ®	
J I MI HENG DE LI KE SI	China	9	Complete list available on Request	7712650 ®	
J I MI HENG DE LI KE SI	China	15	Complete list available on Request	7712649 ®	
J I MI HENG DE LI KE SI	China	25	Complete list available on Request	7712648 ®	
J I MI HENG DE LI KE SI	China	35	Complete list available on Request	7712647 ®	
	China	9	Amplifiers; electrical cables; connectors; cameras (photography); optical apparatus and instruments; cell phone covers; electric cords for musical instruments; electric cords for music amplifiers; leads (electric) for electric guitars; electric switches; transformers; electric accumulators; electric regulating apparatus;	7712646 ®	





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FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)						
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.		
	China	16	automatic vending machines and mechanisms for coin-operated apparatus; sunglasses; motion picture films	7712644 ®		
	China	25	Complete list available on Request	7712663 ®		
	China	35	Complete list available on Request	7712662 ®		
JIMI HENDRIX EXPERIENCE	China	9	Complete list available on Request	7712661 ®		
JIMI HENDRIX EXPERIENCE	China	16	Complete list available on Request	7712660 ®		
JIMI HENDRIX EXPERIENCE	China	25	Complete list available on Request	7712659 ®		
ARE YOU EXPERIENCED	EUTM	25, 41	Complete list available on Request	017877399		
AUTHENTIC HENDRIX	EUTM	25, 35, 41	Complete list available on Request	017884395		
	EUTM	9, 14, 15	Complete list available on Request	4.798.724 ®		
	EUTM	20, 22, 24, 26	Complete list available on Request	8.300.733 ®		
	EUTM	16; 25; 28	Complete list available on Request	2963239 ®		
DAGGER RECORDS	EUTM	9, 16, 25	Complete list available on Request	4.798.741 ®		







EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	EUTM	9, 16, 25	Complete list available on Request	4.798.799 ®	
	EUTM	9; 16; 25	Complete list available on Request	2960938 ®	
FOXLEY LADY	EUTM	25, 41	Complete list available on Request	017877401	
HENDRIX	EUTM	9, 16, 20, 25, 26	Complete list available on Request	5.404.231 ®	
HENDRIX RECORDS	EUTM	9, 16, 25	Complete list available on Request	8758088 ®	
JIMI HENDRIX	EUTM	9, 14, 15, 25	Complete list available on Request	4798179 ®	
JIMI HENDRIX	EUTM	9, 15	Electrical amplifiers for musical instruments. Musical instruments and their accessories	4626685 ®	
JIMI HENDRIX	EUTM	16, 20, 22, 24, 26	Complete list available on Request	8300741 ®	
JIMI HENDRIX	EUTM	25, 38, 41	Clothing, headgear and footwear Delivery of digital music by telecommunications; providing access to digital music on the Internet. Entertainment services; digital music (not downloadable) provided from the Internet; music publishing services; arranging of musical events; publication of sheet music	11816451 ®	
	EUTM	9, 14, 15, 25	Complete list available on Request	4.798.526 ®	
	EUTM	16, 20, 22, 24, 26	Complete list available on Request	8.198.400 ®	







EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	EUTM	25, 38, 41	Clothing, headgear and footwear Delivery of digital music by telecommunications; providing access to digital music on the Internet. Entertainment services; digital music (not downloadable) provided from the Internet; music publishing services; arranging of musical events; publication of sheet music	11816485 ®	
PURPLE HAZE	EUTM	25, 41	Complete list available on Request	017877398	
THE JIMI HENDRIX EXPERIENCE	EUTM	25, 41	Complete list available on Request	017877400	
	France	14, 25	CL 14: Jewelry, ornaments, watches CL 25: Scarves; clothing for leisure	IR 489629	
JIMI HENDRIX	Germany	9, 15	Musical instruments; Accessories for musical instruments in the form of data stored on disk programs on the use of synthesizers, samplers and expanders; electric amplifiers for musical instruments; Accessories for Musical Instruments	30232623 ®	
	Germany	14, 25	CL 14: Jewelry, ornaments, watches CL 25: Scarves; clothing for leisure	IR 489629	
	Hong Kong	35	Complete list available on Request	301208718 ®	
AUTHENTIC HENDRIX	Hong Kong	35	Complete list available on Request	301208709 ®	







EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	Hong Kong	15, 16, 25	Complete list available on Request	301208655 ®	
	Hong Kong	9, 16, 41	Complete list available on Request	301208646 ®	
HENDRIX	Hong Kong	9, 16, 25	Complete list available on Request	301208682 ®	
HENDRIX	Hong Kong	18, 25	Complete list available on Request	300517419 ®	
JIMI HENDRIX	Hong Kong	9, 15, 16, 25, 35	Complete list available on Request	301208664 ®	
	Hong Kong	9, 15, 16, 25, 35	Complete list available on Request	301208673 ®	
JIMI HENDRIX EXPERIENCE	Hong Kong	9, 16, 25	Complete list available on Request	301208691 ®	
	India	25	Clothing; footwear; headgear	1654090 ®	
	India	9	Complete list available on Request	1654089 ®	
HENDRIX ELECTRIC	India	30	Complete list available on Request	1562800 ®	
HENDRIX ELECTRIC	India	32	Complete list available on Request	1600680 ®	
JIMI HENDRIX	India	9, 15, 16, 25	Complete list available on Request	1654092 ®	
	India	25	Clothing; footwear and headgear	1654091 ®	





EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/	Registration No.:
	Italy	14, 25	CL 14: Jewelry, ornaments, watches CL 25: Scarves; clothing for leisure	IR 489629	
	Japan	35	Complete list available on Request	5271701 ®	
	Japan	35	Complete list available on Request	5271958 ®	
	Japan	35	Complete list available on Request	5271959 ®	
	Japan	35	Complete list available on Request	5271960 ®	
AUTHENTIC HENDRIX	Japan	16	Complete list available on Request	4776211 ®	
AUTHENTIC HENDRIX	Japan	25	Complete list available on Request	5315291 ®	
AUTHENTIC HENDRIX	Japan	35	Complete list available on Request	5271700 ®	
AUTHENTIC HENDRIX	Japan	35	Complete list available on Request	5271956 ®	
AUTHENTIC HENDRIX	Japan	35	Retail services or wholesale services for clothing	5346055 ®	
AUTHENTIC HENDRIX	Japan	35	Complete list available on Request	5271957 ®	
	Japan	9	Complete list available on Request	5236668 ®	









**EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
As of July 20, 2018**

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	Japan	15	Complete list available on Request	5258785 ®	
	Japan	16	Complete list available on Request	5258786 ®	
	Japan	25	Complete list available on Request	5345803 ®	
EXPERIENCE HENDRIX	Japan	9; 16	Complete list available on Request	4736868 ®	
	Japan	9	Complete list available on Request	5286683 ®	
	Japan	16	Complete list available on Request	5258787 ®	
	Japan	41	Entertainment services (excluding providing amusement facilities with game machines and apparatus, and other providing amusement facilities)	5430742 ®	
HENDRIX	Japan	9	Complete list available on Request	5106094 ®	
HENDRIX	Japan	9	Complete list available on Request	5218154 ®	
HENDRIX	Japan	18	Complete list available on Request	4980169 ®	
HENDRIX	Japan	25	Complete list available on Request	5282868 ®	
HENDRIX	Japan	9, 16, 41	Complete list available on Request	4693756 ®	
HENDRIX ELECTRIC	Japan	33	Complete list available on Request	5085609 ®	
HENDRIX ELECTRIC	Japan	30, 32	Complete list available on Request	5143499 ®	








EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
JIMI HENDRIX	Japan	9	Complete list available on Request	5321067 ®	
JIMI HENDRIX	Japan	15	Complete list available on Request	5152985 ®	
JIMI HENDRIX	Japan	16	Complete list available on Request	5133015 ®	
JIMI HENDRIX	Japan	25	Complete list available on Request	5129573 ®	
	Japan	9	Complete list available on Request	5321068 ®	
	Japan	16	Complete list available on Request	5133016 ®	
	Japan	25	Complete list available on Request	5031654 ®	
	Japan	25	Complete list available on Request	5129574 ®	
VOODOO CHILD	Japan	15, 25	Sheets for decoration of electric guitars, which are affixed to electric guitars for the purpose of design customization thereof; guitar pedals; pedals for musical instruments; guitars; musical instruments; guitar straps; guitar picks; cases and bags for guitars; guitar strings; slides for guitars; clamps for guitars; stands for guitars T-shirts; sweatshirts; shirts and the like; cap (headwear)"	5779570 ®	
HENDRIX	Korea	18	Complete list available on Request	40-656199 ®	
HENDRIX	Korea	25	Complete list available on Request	40-660428 ®	
JIMI HENDRIX	Korea	9, 15	Complete list available on Request	40-110246 ®	
JIMI HENDRIX	Korea	18, 25	Complete list available on Request	40-863806 ®	

EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)				
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:
	Mexico	16	Complete list available on Request	1,114,854 ®
	Mexico	25	Complete list available on Request	1,126,262 ®
	Mexico	9	Complete list available on Request	1,126,966 ®
JIMI HENDRIX	Mexico	9	Complete list available on Request	1,121,062 ®
JIMI HENDRIX	Mexico	16	Complete list available on Request	1,121,063 ®
JIMI HENDRIX	Mexico	25	Complete list available on Request	1,121,064 ®
	Mexico	9	Complete list available on Request	1,126,965 ®
	Mexico	16	Complete list available on Request	1,125,453 ®
	Mexico	25	Complete list available on Request	1,126,261 ®
	Mexico	35	Complete list available on Request	1,121,065 ®
	Mexico	41	Complete list available on Request	1,125,302 ®


EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	New Zealand	9, 25	Complete list available on Request	782479 ®	
	New Zealand	9	Complete list available on Request	782489 ®	
HENDRIX	New Zealand	32	Complete list available on Request	767145 ®	
JIMI HENDRIX	New Zealand	9, 25	Complete list available on Request	782480 ®	
JIMI HENDRIX	New Zealand	32	Complete list available on Request	767441 ®	
	New Zealand	9, 25	Complete list available on Request	782488 ®	
	Philippines	35	Complete list available on Request	42008012167 ®	
AUTHENTIC HENDRIX	Philippines	35	Complete list available on Request	42008012168 ®	
	Philippines	9, 14, 15, 16, 25	Complete list available on Request	42008012166 ®	
	Philippines	9, 16, 41	Complete list available on Request	42008012161 ®	
HENDRIX	Philippines	9	Complete list available on Request	42008012163 ®	
JIMI HENDRIX	Philippines	9, 14	Complete list available on Request	42008012165 ®	
	Philippines	9, 15	Complete list available on Request	42008012164 ®	

EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
 As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
	Russia	9, 14, 15, 16, 25, 35, 41	Complete list available on Request	384538 ®	
	Russia	9, 14, 16, 25, 35, 41	Complete list available on Request	384539 ®	
HENDRIX	Russia	9, 14, 16, 25, 35, 41	Complete list available on Request	380947 ®	
ХЕНДРИКС (HENDRIX)	Russia	9, 16, 25	Complete list available on Request	423094 ®	
HENDRIX ELECTRIC	Russia	30, 32	Complete list available on Request	384514 ®	
JIMI HENDRIX	Russia	9, 14, 15, 16, 25, 35, 41	Complete list available on Request	382101 ®	
JIMI HENDRIX	Russia	43	Complete list available on Request	383377 ®	
ДЖИМИ ХЕНДРИКС (JIMI HENDRIX)	Russia	9, 16, 25	Complete list available on Request	426434 ®	
	Russia	9, 16, 25	Complete list available on Request	425017 ®	
JIMI HENDRIX	Singapore	9, 15	Software for synthesizers, samplers and expanders for musical instruments; electrical amplifiers for musical instruments. Musical instruments; musical instruments' accessories included in this class	IR 878266	
JIMI HENDRIX	Switzerland	9, 15	Software for synthesizers, samplers and expanders for musical instruments; electrical amplifiers for musical instruments.	IR 878266	

EXPERIENCE HENDRIX, L.L.C.
WORLDWIDE TRADEMARK REGISTRATIONS
As of July 20, 2018

FOREIGN TRADEMARK MATTERS (In Alphabetical Order by Territory)					
Mark:	Country	Class:	Goods/Services	Serial/ Registration No.:	
JIMI HENDRIX	Turkey	9, 15	Musical instruments; musical instruments' accessories included in this class Software for synthesizers, samplers and expanders for musical instruments; electrical amplifiers for musical instruments. Musical instruments; musical instruments' accessories included in this class	IR 878266	
HENDRIX	Uruguay	9, 41, 43	All in Class	438999 ®	
JIMI HENDRIX	Uruguay	9	All in Class	438997 ®	
JIMI HENDRIX	WIPO	9, 15	Software for synthesizers, samplers and expanders for musical instruments; electrical amplifiers for musical instruments. Musical instruments; musical instruments' accessories included in this class	878266 ®	
	WIPO	14, 25	CL 14: Jewelry, ornaments, watches CL 25: Scarves; clothing for leisure	IR 489629	

U.S. APPLICATION SERIAL NO. 86617497

MARK: JIMI

86617497

CORRESPONDENT ADDRESS:

DANIEL L. DAWES TMCP-ULA
Ucla Trademark Law Clinic
385 Charles E Young Drive East
Los Angeles, CA 90095-0001

CLICK HERE TO RESPOND TO THIS LETTER:

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

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Jimi Electronics Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO :

Stepanich.T

CORRESPONDENT E-MAIL ADDRESS:

uspto@law.ucla.edu

OFFICE 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.

ISSUE/MAILING DATE: 6/2/2015

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone without incurring this additional fee.

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 Applicant Must Address

- §2(d) Likelihood Of Confusion Refusal
- §2(a) False Connection Refusal
- Citation of a Prior-Pending Application
- Mark Description Inaccurate

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 2250912, 2322761, 2383500, 2876475, 2902769, 2989576, 2997675, 2997676, 2998058, 2998059, 3001464, 3001465, 3256776, 3290861, 3290862, 3297740, 3297741, 3297742, 3302117, 3302367, 3306890, 3306891, 3306892, 3312070, 3312071, 3312206, 3316547, 3322319, 3328324, 3328579, 3328587, 3334862, 3374813, 3399951, 3490531, 3881766, 3865983, 3904594, 3904595, 4272128, 4272131, and 4278938. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 *et seq.* See the enclosed registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc v Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at

1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. See *In re V'lterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (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 Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Caroline 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) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] 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).

The applicant has requested registration of the mark **JIMI in Stylized and Design Form**, for "Audio Speakers." The registrants' marks are: (1) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 9-"musical sound recordings"; (2) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 25-"clothing, namely, T-shirts, jackets, caps and [gloves]"; (3) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 41-"entertainment services, namely, preparing audiovisual displays and exhibitions in the field of music"; (4) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 9-"[Pre-recorded video cassettes featuring musical performances; pre-recorded audio cassettes and] compact discs featuring music"; (5) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 16-"Printed matter, namely, calendars, posters, photographs, postcards, stickers, [music in printed form;] printed music books; books containing information and memorabilia relating to Jimi Hendrix, books, namely, collector's books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary"; (6) **JIMI HENDRIX in Standard Character Form**, for CL. 14-" Wrist watches; alarm clocks; wall clocks; and jewelry, namely ornamental pins"; (7) **JIMI HENDRIX in Stylized Form**, for CL. 9-"Pre-recorded [video cassettes and] digital video discs featuring musical performances; pre-recorded [audio cassettes,] phonograph records and compact discs featuring music; decorative magnets; cell phone covers"; (8) **JIMI HENDRIX in Standard Character Form**, for CL. 41-" Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services"; (9) **JIMI HENDRIX.COM in Stylized Form**, for CL. 41-"Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network"; (10) **10-JIMI HENDRIX.COM in Standard Character Form**, for CL. 41-"Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network"; (11) **JIMI HENDRIX in Stylized Form**, for CL. 41-" Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services"; (12) **JIMI HENDRIX in Stylized Form**, for CL. 16-"Printed matter, namely, calendars, posters, photographs, postcards, stickers; books, namely, printed music books and collectors' books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary; [pens;] checkbook covers"; (13) **JIMI HENDRIX EXPERIENCE in Typed Form (Standard Character Form)**, for CL. 9-"[Pre-recorded videocassettes and] digital video discs featuring musical performances; [pre-recorded audiocassettes,] phonograph records and compact discs featuring music."; (14) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 3-"Incense;" (15) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 24-"Afghans;" (16) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 24-"Afghans;" (17) **JIMI HENDRIX in Stylized Form**, for CL. 6-" [Metal license plates;] metal decorative boxes"; (18) **JIMI HENDRIX EXPERIENCE I AM EXPERIENCED in Stylized and Design Form**, for CL. 35-" Online retail store services featuring merchandise and memorabilia related to the music industry; [mail order catalog.] telephone order, and computerized on-line ordering services featuring merchandise and memorabilia related to the music industry"; (19) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 25-" Clothing, namely, jackets, shorts, sport shirts, sweat shirts, t-shirts, tank tops; headgear, namely, beanies, [skull caps,] caps; infant diaper covers; wristbands"; (20) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 19-"Ceramic Tiles"; (21) **JIMI HENDRIX.COM in Stylized Form**, for CL. 21-" Sports bottles sold empty"; (22) **JIMI HENDRIX in Stylized Form**, for CL. 6-" Metal decorative boxes"; (23) **JIMI HENDRIX in Stylized Form**, for CL. 25-" Clothing, namely sweat shirts, t-shirts and caps; wristbands"; (24) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 16-" Printed music books"; (25) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 4-" Candles"; (26) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 5-" Air fresheners"; (27) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 9-" [Decorative switch plate covers;]

decorative magnets"; (28) JIMI HENDRIX ELECTRIC GUITAR FESTIVAL in Standard Character Form, for CL. 16-"Posters"; (29) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 16-"Posters"; (30) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 14-"Ornamental pins"; (31) JIMI HENDRIX in Stylized and Design Form, for CL. 25-"T-shirts"; (32) JIMI HENDRIX in Stylized and Design Form, for CL. 16-"Posters"; (33) THE JIMI HENDRIX EXPERIENCE in Standard Character Form, for CL. 25-"Clothing; namely, t-shirts [, hats, and caps]"; (34) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-"Printed matter, namely posters, photographs, postcards, calendars, stickers, lithographs, prints in the nature of silkscreens; pens"; (35) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 20-"Non-metal and non-leather key chains; plaques"; (36) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-"Stationery"; (37) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 14-"Clocks; watches; jewelry, namely, pins and necklaces"; (38) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 26-"Ornamental novelty buttons"; (39) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 9-"Educational software featuring instruction in music and guitar playing; Guitar amplifiers; Guitar effects processors"; (40) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 15-"Guitar picks; Guitar straps; Guitar strings"; (41) JIMI HENDRIX in Stylized Form, for CL. 9-"Digital media, namely, downloadable audio and video recordings, and pre-recorded high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Musical sound recordings"; (42) EXPERIENCE HENDRIX in Stylized and Design Form, for CL. 9-"Digital media, namely, pre-recorded compact discs, digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Phonograph records featuring music"; (43) JIMI HENDRIX in Standard Character Form, for CL. 9-"Digital media, namely, pre-recorded digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Downloadable user interactive entertainment software used for sharing video, text, photos and music with the user via the Internet and wireless devices; Musical sound recordings; Phonograph records featuring music."

COMPARISON OF MARKS

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. See e.g., *Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §§1207.01(b)(ii) and (b)(iii).

In the present case, applicant's mark is confusingly similar to the registered marks because its mark encompasses the wording JIMI (denoting an association with JIMI HENDRIX) and/or a likeness of JIMI HENDRIX, giving the impression that the goods and services under the given marks may emanate from a common source.

COMPARISON OF GOODS & SERVICES

Moreover, the applicant's goods are closely related to the registrants' goods and services because they are all goods and services being sold under the Jimi Hendrix brand or bearing a connection to the brand or line of goods and services. To show an association and relatedness between the parties' goods and services, examining attorney relies on applicant's website where it states that there is a connection or ownership of Intellectual Property for Jimi Hendrix:

Jimi Hendrix an iconic guitarist, singer, songwriter, and musician created a body of work during his lifetime that transcends both space and time. He was named the top guitarist of all time by Rolling Stone magazine and continues to be revered by music lovers around the world. Jimi Electronics has access to the Jimi Hendrix based Intellectual Property including image, photo, and artistic-based likeness. We do not have access to the Jimi Hendrix sound catalog or music. In partnership with talented engineers and executives who have experience in Consumer Electronics, Jimi Electronics goal is to create a Company that evokes a positive feeling through both sound and imagery.

Material obtained from applicant's website is acceptable as competent evidence. See *In re N.V. Organon*, 79 USPQ2d 1639, 1642-43 (TTAB 2006); *In re Promo Ink*, 78 USPQ2d 1301, 1302-03 (TTAB 2006); *In re A La Vieille Russie Inc.*, 60 USPQ2d 1895, 1898 (TTAB 2001); TBMP §1208.03; TMEP §710.01(b).

Thus, in view of the relatedness of the marks and the goods, there is a strong likelihood that consumers would perceive that the goods emanate from a common source.

In view of the above circumstances, the examining attorney must resolve any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

Thus, the mark is refused registration on the Principal Register under Section 2(d).

Applicant should note the following additional ground for refusal.

SECTION 2(c) REFUSAL – FALSE CONNECTION

Registration is refused because the applied-for mark consists of or includes matter which may falsely suggest a connection with Jimi Hendrix. Although Jimi Hendrix is not connected with the goods and/or services provided by applicant under the applied-for mark, Jimi Hendrix is so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. §1052(a); see TMEP §1203.03, (c). See generally

Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co., 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

Under Trademark Act Section 2(a), the registration of a mark that "consists of or comprises matter that may falsely suggest a connection with persons, institutions, beliefs, or national symbols" is prohibited. *In re Pedersen*, 109 USPQ2d 1185, 1188 (TTAB 2013). To establish that an applied-for mark falsely suggests a connection with a person or an institution, the following is required:

- (1) The mark sought to be registered is the same as, or a close approximation of, the name or identity previously used by another person or institution.
- (2) The mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution.
- (3) The person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark.
- (4) The fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods and/or services.

In re Pedersen, 109 USPQ2d at 1188-89; *In re Jackson Int'l Trading Co.*, 103 USPQ2d 1417, 1419 (TTAB 2012); TMEP §1203.03(c)(i); see also *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 703 F.2d 1372, 1375-77, 217 USPQ 505, 508-10 (Fed. Cir. 1983) (providing foundational principles for the current four-part test used to determine the existence of a false connection).

Due to the renown of the institution or person named in the mark, and the fact that there is no information in the application record regarding a connection with applicant, applicant must specify whether the person or institution named in the mark has any connection with applicant's goods and/or services, and if so, must describe the nature and extent of that connection. See 37 C.F.R. §2.61(b); TMEP §1203.03(c)(i).

Although the examining attorney has refused registration, the applicant may respond to the refusal(s) to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the below listed informalities.

INFORMALITIES

1. APPLICATION NOT ENTITLED TO REGISTER BASED ON EARLIER FILED PENDING APPLICATIONS

The effective filing date of pending U.S. Application Serial Nos. 86541766, 86541775, 86541786, and 86541792 precedes applicant's filing date. See attached referenced applications. If the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the marks. See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

2. DESCRIPTION OF THE MARK INACCURATE

Applicant must submit an accurate and concise description of the literal and design elements in the mark. 37 C.F.R. §2.37; see TMEP §§808.01, 808.02. Specifically, applicant references "a man" in the description, however it is clear that the "man" is Jimi Hendrix. Thus, applicant must be specific with the description.

The following is suggested, if accurate:

The mark consists of a depiction or portrait of Jimi Hendrix holding and playing a guitar, circumscribed by concentric circles. The outlined word "JIMI" appears in stylized font below the portrait within the concentric circles. The colors black, white, and/or gray represent background, outlining, shading and/or transparent areas and are not part of the mark.

RESPONSE INQUIRY

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.

/Darryl M. Spruill/
Trademark Attorney
Law Office 112
(571) 272-9418 (office)
(571) 273-9418 (fax)
darryl.spruill@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 TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

U.S. APPLICATION SERIAL NO. 86617500

MARK: JIMI JAMS

86617500

CORRESPONDENT ADDRESS:

DANIEL L. DAWES TMCP-ULA
Ucla Trademark Law Clinic
385 Charles E Young Drive East
Los Angeles, CA 90095-0001

CLICK HERE TO RESPOND TO THIS LETTER:
http://www.uspto.gov/trademarks/teas/response_forms.jsp

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Jimi Electronics Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO.:

Stepancich, T

CORRESPONDENT E-MAIL ADDRESS:

uspto@law.ucla.edu

OFFICE 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.

ISSUE/MAILING DATE: 6/2/2015

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone without incurring this additional fee.

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 Applicant Must Address

- §2(d) Likelihood Of Confusion Refusal
- §2(a) False Connection Refusal
- Citation of a Prior-Pending Application

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 2250912, 2322761, 2383500, 2876475, 2902769, 2989576, 2997675, 2997676, 2998058, 2998059, 3001464, 3001465, 3256776, 3290861, 3290862, 3297740, 3297741, 3297742, 3302117, 3302367, 3306890, 3306891, 3306892, 3312070, 3312071, 3312206, 3316547, 3322319, 3328324, 3328579, 3328587, 3334862, 3374813, 3399951, 3490531, 3881766, 3865983, 3904594, 3904595, 4272128, 4272131, and 4278938. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 *et seq.* See the enclosed registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476

F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterro Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (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 Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

The goods and/or services of the parties 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) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] 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).

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- (3) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 41-"entertainment services, namely, preparing audiovisual displays and exhibitions in the field of music";
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- (18) **JIMI HENDRIX EXPERIENCE I AM EXPERIENCED in Stylized and Design Form**, for CL. 35-" Online retail store services featuring merchandise and memorabilia related to the music industry; [mail order catalog,] telephone order, and computerized on-line ordering services featuring merchandise and memorabilia related to the music industry";
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- (20) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 19-"Ceramic Tiles";
- (21) **JIMI HENDRIX.COM in Stylized Form**, for CL. 21-" Sports bottles sold empty";
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- (23) **JIMI HENDRIX in Stylized Form**, for CL. 25-" Clothing, namely sweat shirts, t-shirts and caps; wristbands";
- (24) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 16-" Printed music books";
- (25) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 4-" Candles";
- (26) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 5-" Air fresheners";
- (27) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 9-" [Decorative switch plate covers;]

decorative magnets"; (28) JIMI HENDRIX ELECTRIC GUITAR FESTIVAL in Standard Character Form, for CL. 16-"Posters"; (29) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 16-"Posters"; (30) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 14-"Ornamental pins"; (31) JIMI HENDRIX in Stylized and Design Form, for CL. 25-"T-shirts"; (32) JIMI HENDRIX in Stylized and Design Form, for CL. 16-"Posters"; (33) THE JIMI HENDRIX EXPERIENCE in Standard Character Form, for CL. 25-"Clothing; namely, t-shirts [hats, and caps]"; (34) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-"Printed matter, namely posters, photographs, postcards, calendars, stickers, lithographs, prints in the nature of silkscreens; pens"; (35) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 20-"Non-metal and non-leather key chains; plaques"; (36) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-"Stationery"; (37) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 14-"Clocks; watches; jewelry, namely, pins and necklaces"; (38) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 26-"Ornamental novelty buttons"; (39) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 9-"Educational software featuring instruction in music and guitar playing; Guitar amplifiers; Guitar effects processors"; (40) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 15-"Guitar picks; Guitar straps; Guitar strings"; (41) JIMI HENDRIX in Stylized Form, for CL. 9-"Digital media, namely, downloadable audio and video recordings, and pre-recorded high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Musical sound recordings"; (42) EXPERIENCE HENDRIX in Stylized and Design Form, for CL. 9-"Digital media, namely, pre-recorded compact discs, digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Phonograph records featuring music"; (43) JIMI HENDRIX in Standard Character Form, for CL. 9-"Digital media, namely, pre-recorded digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Downloadable user interactive entertainment software used for sharing video, text, photos and music with the user via the Internet and wireless devices; Musical sound recordings; Phonograph records featuring music."

COMPARISON OF MARKS

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. See e.g., *Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILITRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §§ 1207.01(b)(ii) and (b)(iii).

In the present case, applicant's mark is confusingly similar to the registered marks because its mark encompasses the wording JIMI (denoting an association with JIMI HENDRIX) and/or a likeness of JIMI HENDRIX, giving the impression that the goods and services under the given marks may emanate from a common source.

COMPARISON OF GOODS & SERVICES

Moreover, the applicant's goods are closely related to the registrants' goods and services because they are all goods and services being sold under the Jimi Hendrix brand or bearing a connection to the brand or line of goods and services.

To show an association and relatedness between the parties' goods and services, examining attorney relies on applicant's website where it states that there is a connection or ownership of Intellectual Property for Jimi Hendrix:

Jimi Hendrix an iconic guitarist, singer, songwriter, and musician created a body of work during his lifetime that transcends both space and time. He was named the top guitarist of all time by Rolling Stone magazine and continues to be revered by music lovers around the world. Jimi Electronics has access to the Jimi Hendrix based Intellectual Property including image, photo, and artistic-based likeness. We do not have access to the Jimi Hendrix sound catalog or music. In partnership with talented engineers and executives who have experience in Consumer Electronics, Jimi Electronics goal is to create a Company that evokes a positive feeling through both sound and imagery.

Material obtained from applicant's website is acceptable as competent evidence. See *In re N.Y. Organon*, 79 USPQ2d 1639, 1642-43 (TTAB 2006); *In re Promo Ink*, 78 USPQ2d 1301, 1302-03 (TTAB 2006); *In re A La Vieille Russie Inc.*, 60 USPQ2d 1895, 1898 (TTAB 2001); TBMP § 1208.03; TMEP § 710.01(b).

Thus, in view of the relatedness of the marks and the goods, there is a strong likelihood that consumers would perceive that the goods emanate from a common source.

In view of the above circumstances, the examining attorney must resolve any doubt regarding a likelihood of confusion in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§ 1207.01(d)(i).

Thus, the mark is refused registration on the Principal Register under Section 2(d).

Applicant should note the following additional ground for refusal.

SECTION 2(c) REFUSAL – FALSE CONNECTION

Registration is refused because the applied-for mark consists of or includes matter which may falsely suggest a connection with Jimi Hendrix. Although Jimi Hendrix is not connected with the goods and/or services provided by applicant under the applied-for mark, Jimi Hendrix is so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. § 1052(a); see TMEP § 1203.03, (c). See generally

Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co., 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Catter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

Under Trademark Act Section 2(a), the registration of a mark that "consists of or comprises matter that may falsely suggest a connection with persons, institutions, beliefs, or national symbols" is prohibited. *In re Pedersen*, 109 USPQ2d 1185, 1188 (TTAB 2013). To establish that an applied-for mark falsely suggests a connection with a person or an institution, the following is required:

- (1) The mark sought to be registered is the same as, or a close approximation of, the name or identity previously used by another person or institution.
- (2) The mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution.
- (3) The person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark.
- (4) The fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods and/or services.

In re Pedersen, 109 USPQ2d at 1188-89; *In re Jackson Int'l Trading Co.*, 103 USPQ2d 1417, 1419 (TTAB 2012); TMEP §1203.03(c)(i); see also *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 703 F.2d 1372, 1375-77, 217 USPQ 505, 508-10 (Fed. Cir. 1983) (providing foundational principles for the current four-part test used to determine the existence of a false connection).

Due to the renown of the institution or person named in the mark, and the fact that there is no information in the application record regarding a connection with applicant, applicant must specify whether the person or institution named in the mark has any connection with applicant's goods and/or services, and if so, must describe the nature and extent of that connection. See 37 C.F.R. §2.61(b); TMEP §1203.03(c)(i).

Although the examining attorney has refused registration, the applicant may respond to the refusal(s) to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the below listed informality.

INFORMALITY

APPLICATION NOT ENTITLED TO REGISTER BASED ON EARLIER FILED PENDING APPLICATIONS

The effective filing date of pending U.S. Application Serial Nos. 86541766, 86541775, 86541786, and 86541792 precedes applicant's filing date. See attached referenced applications. If the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the marks. See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

RESPONSE INQUIRY

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.

/Darryl M. Spruill/
Trademark Attorney
Law Office 112
(571) 272-9418 (office)
(571) 273-9418 (fax)
darryl.spruill@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/mailling 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.

Print: May 22, 2015

75003276

DESIGN MARK

Serial Number

75003276

Status

REGISTERED AND RENEWED

Word Mark

JIMI HENDRIX

Standard Character Mark

No

Registration Number

2383500

Date Registered

2000/09/05

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Experience Hendrix, L.L.C. LIMITED LIABILITY COMPANY WASHINGTON 14501
INTERURBAN AVENUE SOUTH Seattle WASHINGTON 98168

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S:
entertainment services, namely, preparing audiovisual displays and
exhibitions in the field of music. First Use: 1999/06/25. First Use
In Commerce: 1999/06/25.

Name/Portrait Statement

The mark is the name of a deceased individual.

Filing Date

1995/10/10

Examining Attorney

LAMOTHE, LESLEY

Attorney of Record

Karen Wetherell Davis

U.S. APPLICATION SERIAL NO. 86617497

MARK: JIMI

86617497

CORRESPONDENT ADDRESS:

DANIEL L. DAWES TMCP-ULA
Ucla Trademark Law Clinic
385 Charles E. Young Drive East
Los Angeles, CA 90095-0001

CLICK HERE TO RESPOND TO THIS LETTER:
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APPLICANT: Jimi Electronics Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO.:

Stepanich T

CORRESPONDENT E-MAIL ADDRESS:

uspto@law.ucla.edu

OFFICE 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.

ISSUE/MAILING DATE: 6/2/2015

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone without incurring this additional fee.

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 Applicant Must Address

- §2(d) Likelihood Of Confusion Refusal
- §2(a) False Connection Refusal
- Citation of a Prior-Pending Application
- Mark Description Inaccurate

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 2250912, 2322761, 2383500, 2876475, 2902769, 2989576, 2997675, 2997676, 2998058, 2998059, 3001464, 3001465, 3256776, 3290861, 3290862, 3297740, 3297741, 3297742, 3302117, 3302367, 3306890, 3306891, 3306892, 3312070, 3312071, 3312206, 3316547, 3322319, 3328324, 3328579, 3328587, 3334862, 3374813, 3399951, 3490531, 3881766, 3865983, 3904594, 3904595, 4272128, 4272131, and 4278938. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 *et seq.* See the enclosed registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at

1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. See *In re Viterro Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc v. Yeuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (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 Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

The goods and/or services of the parties 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) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] 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).

The applicant has requested registration of the mark **JIMI in Stylized and Design Form**, for "Audio Speakers." The registrants' marks are: (1) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 9-"musical sound recordings"; (2) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 25-"clothing, namely, T-shirts, jackets, caps and [gloves]"; (3) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 41-"entertainment services, namely, preparing audiovisual displays and exhibitions in the field of music"; (4) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 9-"[Pre-recorded video cassettes featuring musical performances; pre-recorded audio cassettes and] compact discs featuring music"; (5) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 16-"Printed matter, namely, calendars, posters, photographs, postcards, stickers, [music in printed form;] printed music books; books containing information and memorabilia relating to Jimi Hendrix, books, namely, collector's books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary"; (6) **JIMI HENDRIX in Standard Character Form**, for CL. 14-" Wrist watches; alarm clocks; wall clocks; and jewelry, namely ornamental pins"; (7) **JIMI HENDRIX in Stylized Form**, for CL. 9-"Pre-recorded [video cassettes and] digital video discs featuring musical performances; pre-recorded [audio cassettes,] phonograph records and compact discs featuring music; decorative magnets; cell phone covers"; (8) **JIMI HENDRIX in Standard Character Form**, for CL. 41-" Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services"; (9) **JIMI HENDRIX.COM in Stylized Form**, for CL. 41-"Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network"; (10) **10-JIMI HENDRIX.COM in Standard Character Form**, for CL. 41-"Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network"; (11) **JIMI HENDRIX in Stylized Form**, for CL. 41-" Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services"; (12) **JIMI HENDRIX in Stylized Form**, for CL. 16-"Printed matter, namely, calendars, posters, photographs, postcards, stickers; books, namely, printed music books and collectors' books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary; [pens;] checkbook covers"; (13) **JIMI HENDRIX EXPERIENCE in Typed Form (Standard Character Form)**, for CL. 9-"[Pre-recorded videocassettes and] digital video discs featuring musical performances; [pre-recorded audiocassettes,] phonograph records and compact discs featuring music."; (14) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 3-"Incense;" (15) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 24-"Afghans;" (16) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 24-"Afghans;" (17) **JIMI HENDRIX in Stylized Form**, for CL. 6-" [Metal license plates;] metal decorative boxes"; (18) **JIMI HENDRIX EXPERIENCE I AM EXPERIENCED in Stylized and Design Form**, for CL. 35-" Online retail store services featuring merchandise and memorabilia related to the music industry; [mail order catalog,] telephone order, and computerized on-line ordering services featuring merchandise and memorabilia related to the music industry"; (19) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 25-" Clothing, namely, jackets, shorts, sport shirts, sweat shirts, t-shirts, tank tops; headgear, namely, beanies, [skull caps,] caps; infant diaper covers; wristbands"; (20) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 19-"Ceramic Tiles"; (21) **JIMI HENDRIX.COM in Stylized Form**, for CL. 21-" Sports bottles sold empty"; (22) **JIMI HENDRIX in Stylized Form**, for CL. 6-" Metal decorative boxes"; (23) **JIMI HENDRIX in Stylized Form**, for CL. 25-" Clothing, namely sweat shirts, t-shirts and caps; wristbands"; (24) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 16-" Printed music books"; (25) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 4-" Candles"; (26) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 5-" Air fresheners"; (27) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 9-" [Decorative switch plate covers;]

decorative magnets”; (28) JIMI HENDRIX ELECTRIC GUITAR FESTIVAL in Standard Character Form, for CL. 16-“Posters”; (29) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 16-“Posters”; (30) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 14-“Ornamental pins”; (31) JIMI HENDRIX in Stylized and Design Form, for CL. 25-“T-shirts”; (32) JIMI HENDRIX in Stylized and Design Form, for CL. 16-“Posters”; (33) THE JIMI HENDRIX EXPERIENCE in Standard Character Form, for CL. 25-“Clothing; namely, t-shirts [, hats, and caps]”; (34) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-“Printed matter, namely posters, photographs, postcards, calendars, stickers, lithographs, prints in the nature of silkscreens; pens”; (35) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 20-“Non-metal and non-leather key chains; plaques”; (36) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-“Stationery”; (37) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 14-“Clocks; watches; jewelry, namely, pins and necklaces”; (38) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 26-“Ornamental novelty buttons”; (39) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 9-“Educational software featuring instruction in music and guitar playing; Guitar amplifiers; Guitar effects processors”; (40) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 15-“Guitar picks; Guitar straps; Guitar strings”; (41) JIMI HENDRIX in Stylized Form, for CL. 9-“Digital media, namely, downloadable audio and video recordings, and pre-recorded high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Musical sound recordings”; (42) EXPERIENCE HENDRIX in Stylized and Design Form, for CL. 9-“Digital media, namely, pre-recorded compact discs, digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Phonograph records featuring music”; (43) JIMI HENDRIX in Standard Character Form, for CL. 9-“Digital media, namely, pre-recorded digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Downloadable user interactive entertainment software used for sharing video, text, photos and music with the user via the Internet and wireless devices; Musical sound recordings; Phonograph records featuring music.”

COMPARISON OF MARKS

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. *See e.g., Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §§1207.01(b)(ii) and (b)(iii).

In the present case, applicant's mark is confusingly similar to the registered marks because its mark encompasses the wording JIMI (denoting an association with JIMI HENDRIX) and/or a likeness of JIMI HENDRIX, giving the impression that the goods and services under the given marks may emanate from a common source.

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Moreover, the applicant's goods are closely related to the registrants' goods and services because they are all goods and services being sold under the Jimi Hendrix brand or bearing a connection to the brand or line of goods and services.

To show an association and relatedness between the parties' goods and services, examining attorney relies on applicant's website where it states that there is a connection or ownership of Intellectual Property for Jimi Hendrix:

Jimi Hendrix an iconic guitarist, singer, songwriter, and musician created a body of work during his lifetime that transcends both space and time. He was named the top guitarist of all time by Rolling Stone magazine and continues to be revered by music lovers around the world. Jimi Electronics has access to the Jimi Hendrix based Intellectual Property including image, photo, and artistic-based likeness. We do not have access to the Jimi Hendrix sound catalog or music. In partnership with talented engineers and executives who have experience in Consumer Electronics, Jimi Electronics goal is to create a Company that evokes a positive feeling through both sound and imagery.

Material obtained from applicant's website is acceptable as competent evidence. *See In re N.Y. Organon*, 79 USPQ2d 1639, 1642-43 (TTAB 2006); *In re Promo Ink*, 78 USPQ2d 1301, 1302-03 (TTAB 2006); *In re A La Vieille Russie Inc.*, 60 USPQ2d 1895, 1898 (TTAB 2001); TMEP §1208.03; TMEP §710.01(b).

Thus, in view of the relatedness of the marks and the goods, there is a strong likelihood that consumers would perceive that the goods emanate from a common source.

In view of the above circumstances, the examining attorney must resolve any doubt regarding a likelihood of confusion in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

Thus, the mark is refused registration on the Principal Register under Section 2(d).

Applicant should note the following additional ground for refusal.

SECTION 2(c) REFUSAL – FALSE CONNECTION

Registration is refused because the applied-for mark consists of or includes matter which may falsely suggest a connection with Jimi Hendrix. Although Jimi Hendrix is not connected with the goods and/or services provided by applicant under the applied-for mark, Jimi Hendrix is so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. §1052(a); *see* TMEP §1203.03, (c). *See generally*

Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co., 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

Under Trademark Act Section 2(a), the registration of a mark that "consists of or comprises matter that may falsely suggest a connection with persons, institutions, beliefs, or national symbols" is prohibited. *In re Pedersen*, 109 USPQ2d 1185, 1188 (TTAB 2013). To establish that an applied-for mark falsely suggests a connection with a person or an institution, the following is required:

- (1) The mark sought to be registered is the same as, or a close approximation of, the name or identity previously used by another person or institution.
- (2) The mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution.
- (3) The person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark.
- (4) The fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods and/or services.

In re Pedersen, 109 USPQ2d at 1188-89; *In re Jackson Int'l Trading Co.*, 103 USPQ2d 1417, 1419 (TTAB 2012); TMEP §1203.03(c)(i); see also *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 703 F.2d 1372, 1375-77, 217 USPQ 505, 508-10 (Fed. Cir. 1983) (providing foundational principles for the current four-part test used to determine the existence of a false connection).

Due to the renown of the institution or person named in the mark, and the fact that there is no information in the application record regarding a connection with applicant, applicant must specify whether the person or institution named in the mark has any connection with applicant's goods and/or services, and if so, must describe the nature and extent of that connection. See 37 C.F.R. §2.61(b); TMEP §1203.03(c)(i).

Although the examining attorney has refused registration, the applicant may respond to the refusal(s) to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the below listed informalities.

INFORMALITIES

1. APPLICATION NOT ENTITLED TO REGISTER BASED ON EARLIER FILED PENDING APPLICATIONS

The effective filing date of pending U.S. Application Serial Nos. 86541766, 86541775, 86541786, and 86541792 precedes applicant's filing date. See attached referenced applications. If the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the marks. See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

2. DESCRIPTION OF THE MARK INACCURATE

Applicant must submit an accurate and concise description of the literal and design elements in the mark. 37 C.F.R. §2.37; see TMEP §§808.01, 808.02. Specifically, applicant references "a man" in the description, however it is clear that the "man" is Jimi Hendrix. Thus, applicant must be specific with the description.

The following is suggested, if accurate:

The mark consists of a depiction or portrait of Jimi Hendrix holding and playing a guitar, circumscribed by concentric circles. The outlined word "JIMI" appears in stylized font below the portrait within the concentric circles. The colors black, white, and/or gray represent background, outlining, shading and/or transparent areas and are not part of the mark.

RESPONSE INQUIRY

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.

/Darryl M. Spruill/
Trademark Attorney
Law Office 112
(571) 272-9418 (office)
(571) 273-9418 (fax)
darryl.spruill@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/mailling 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>.

U.S. APPLICATION SERIAL NO. 86617500

MARK: JIMI JAMS

86617500

CORRESPONDENT ADDRESS:

DANIEL L. DAWES TMCP-ULA
Ucla Trademark Law Clinic
385 Charles E Young Drive East
Los Angeles, CA 90095-0001

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[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Jimi Electronics Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO.:

Stepanich, T

CORRESPONDENT E-MAIL ADDRESS:

uspto@law.ucla.edu

OFFICE 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.

ISSUE/MAILING DATE: 6/2 2015

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(e), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone without incurring this additional fee.

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 Applicant Must Address

- §2(d) Likelihood Of Confusion Refusal
- §2(a) False Connection Refusal
- Citation of a Prior-Pending Application

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 2250912, 2322761, 2383500, 2876475, 2902769, 2989576, 2997675, 2997676, 2998058, 2998059, 3001464, 3001465, 3256776, 3290861, 3290862, 3297740, 3297741, 3297742, 3302117, 3302367, 3306890, 3306891, 3306892, 3312070, 3312071, 3312206, 3316547, 3322319, 3328324, 3328579, 3328587, 3334862, 3374813, 3399951, 3490531, 3881766, 3865983, 3904594, 3904595, 4272128, 4272131, and 4278938. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 *et seq.* See the enclosed registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476

F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterro Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Peave Cliequot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (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 Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Profits, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

The goods and/or services of the parties 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) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] 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).

The applicant has requested registration of the mark **JIMI JAMS in Standard Character Form**, for "Audio Speakers." The registrants' marks are:

- (1) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 9-"musical sound recordings"; (2) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 25-"clothing, namely, T-shirts, jackets, caps and [gloves]"; (3) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 41-"entertainment services, namely, preparing audiovisual displays and exhibitions in the field of music"; (4) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 9-"[Pre-recorded video cassettes featuring musical performances; pre-recorded audio cassettes and] compact discs featuring music"; (5) **JIMI HENDRIX in Typed Form (Standard Character Form)**, for CL. 16-"Printed matter, namely, calendars, posters, photographs, postcards, stickers, [music in printed form;] printed music books; books containing information and memorabilia relating to Jimi Hendrix, books, namely, collector's books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary"; (6) **JIMI HENDRIX in Standard Character Form**, for CL. 14-" Wrist watches; alarm clocks; wall clocks; and jewelry, namely ornamental pins"; (7) **JIMI HENDRIX in Stylized Form**, for CL. 9-"Pre-recorded [video cassettes and] digital video discs featuring musical performances; pre-recorded [audio cassettes,] phonograph records and compact discs featuring music; decorative magnets; cell phone covers"; (8) **JIMI HENDRIX in Standard Character Form**, for CL. 41-" Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services"; (9) **JIMI HENDRIX.COM in Stylized Form**, for CL. 41-"Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network"; (10) **10-JIMI HENDRIX.COM in Standard Character Form**, for CL. 41-"Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network"; (11) **JIMI HENDRIX in Stylized Form**, for CL. 41-" Entertainment services, namely, providing prerecorded music, audio and audiovisual recordings, information in the field of music, and commentary and articles about music on-line via a global computer network; music publishing services"; (12) **JIMI HENDRIX in Stylized Form**, for CL. 16-"Printed matter, namely, calendars, posters, photographs, postcards, stickers; books, namely, printed music books and collectors' books containing printed music, photographs, handwritten lyrics by Jimi Hendrix and commentary; [pens;] checkbook covers"; (13) **JIMI HENDRIX EXPERIENCE in Typed Form (Standard Character Form)**, for CL. 9-"[Pre-recorded videocassettes and] digital video discs featuring musical performances; [pre-recorded audiocassettes,] phonograph records and compact discs featuring music."; (14) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 3-"Incense;" (15) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 24-"Afghans;" (16) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 24-"Afghans;" (17) **JIMI HENDRIX in Stylized Form**, for CL. 6-" [Metal license plates;] metal decorative boxes"; (18) **JIMI HENDRIX EXPERIENCE I AM EXPERIENCED in Stylized and Design Form**, for CL. 35-" Online retail store services featuring merchandise and memorabilia related to the music industry; [mail order catalog,] telephone order, and computerized on-line ordering services featuring merchandise and memorabilia related to the music industry"; (19) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 25-" Clothing, namely, jackets, shorts, sport shirts, sweat shirts, t-shirts, tank tops; headgear, namely, beanies, [skull caps,] caps; infant diaper covers; wristbands"; (20) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 19-"Ceramic Tiles"; (21) **JIMI HENDRIX.COM in Stylized Form**, for CL. 21-" Sports bottles sold empty"; (22) **JIMI HENDRIX in Stylized Form**, for CL. 6-" Metal decorative boxes"; (23) **JIMI HENDRIX in Stylized Form**, for CL. 25-" Clothing, namely sweat shirts, t-shirts and caps; wristbands"; (24) **EXPERIENCE HENDRIX in Stylized and Design Form**, for CL. 16-" Printed music books"; (25) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 4-" Candles"; (26) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 5-" Air fresheners"; (27) **AUTHENTIC HENDRIX in Stylized and Design Form**, for CL. 9-" [Decorative switch plate covers;]

decorative magnets"; (28) JIMI HENDRIX ELECTRIC GUITAR FESTIVAL in Standard Character Form, for CL. 16-"Posters"; (29) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 16-"Posters"; (30) JIMI HENDRIX ELECTRIC GUITAR COMPETITION in Standard Character Form, for CL. 14-"Ornamental pins"; (31) JIMI HENDRIX in Stylized and Design Form, for CL. 25-"T-shirts"; (32) JIMI HENDRIX in Stylized and Design Form, for CL. 16-"Posters"; (33) THE JIMI HENDRIX EXPERIENCE in Standard Character Form, for CL. 25-"Clothing; namely, t-shirts [, hats, and caps]"; (34) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-"Printed matter, namely posters, photographs, postcards, calendars, stickers, lithographs, prints in the nature of silkscreens; pens"; (35) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 20-"Non-metal and non-leather key chains; plaques"; (36) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 16-"Stationery"; (37) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 14-"Clocks; watches; jewelry, namely, pins and necklaces"; (38) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 26-"Ornamental novelty buttons"; (39) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 9-"Educational software featuring instruction in music and guitar playing; Guitar amplifiers; Guitar effects processors"; (40) AUTHENTIC HENDRIX in Stylized and Design Form, for CL. 15-"Guitar picks; Guitar straps; Guitar strings"; (41) JIMI HENDRIX in Stylized Form, for CL. 9-"Digital media, namely, downloadable audio and video recordings, and pre-recorded high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Musical sound recordings"; (42) EXPERIENCE HENDRIX in Stylized and Design Form, for CL. 9-"Digital media, namely, pre-recorded compact discs, digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Phonograph records featuring music"; (43) JIMI HENDRIX in Standard Character Form, for CL. 9-"Digital media, namely, pre-recorded digital video discs, downloadable audio and video recordings, and high definition discs featuring music and musical performances; Downloadable podcasts in the field of music; Downloadable user interactive entertainment software used for sharing video, text, photos and music with the user via the Internet and wireless devices; Musical sound recordings; Phonograph records featuring music."

COMPARISON OF MARKS

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. See e.g., *Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §§ 1207.01(b)(ii) and (b)(iii).

In the present case, applicant's mark is confusingly similar to the registered marks because its mark encompasses the wording JIMI (denoting an association with JIMI HENDRIX) and/or a likeness of JIMI HENDRIX, giving the impression that the goods and services under the given marks may emanate from a common source.

COMPARISON OF GOODS & SERVICES

Moreover, the applicant's goods are closely related to the registrants' goods and services because they are all goods and services being sold under the Jimi Hendrix brand or bearing a connection to the brand or line of goods and services.

To show an association and relatedness between the parties' goods and services, examining attorney relies on applicant's website where it states that there is a connection or ownership of Intellectual Property for Jimi Hendrix:

Jimi Hendrix an iconic guitarist, singer, songwriter, and musician created a body of work during his lifetime that transcends both space and time. He was named the top guitarist of all time by Rolling Stone magazine and continues to be revered by music lovers around the world. Jimi Electronics has access to the Jimi Hendrix based Intellectual Property including image, photo, and artistic-based likeness. We do not have access to the Jimi Hendrix sound catalog or music. In partnership with talented engineers and executives who have experience in Consumer Electronics, Jimi Electronics goal is to create a Company that evokes a positive feeling through both sound and imagery.

Material obtained from applicant's website is acceptable as competent evidence. See *In re N.Y. Organon*, 79 USPQ2d 1639, 1642-43 (TTAB 2006); *In re Promo Ink*, 78 USPQ2d 1301, 1302-03 (TTAB 2006); *In re A La Vieille Russie Inc.*, 60 USPQ2d 1895, 1898 (TTAB 2001); TBMP § 1208.03; TMEP § 710.01(b).

Thus, in view of the relatedness of the marks and the goods, there is a strong likelihood that consumers would perceive that the goods emanate from a common source.

In view of the above circumstances, the examining attorney must resolve any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§ 1207.01(d)(i).

Thus, the mark is refused registration on the Principal Register under Section 2(d).

Applicant should note the following additional ground for refusal.

SECTION 2(c) REFUSAL - FALSE CONNECTION

Registration is refused because the applied-for mark consists of or includes matter which may falsely suggest a connection with Jimi Hendrix. Although Jimi Hendrix is not connected with the goods and/or services provided by applicant under the applied-for mark, Jimi Hendrix is so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. § 1052(a); see TMEP § 1203.03, (c). See generally

Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co., 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

Under Trademark Act Section 2(a), the registration of a mark that "consists of or comprises matter that may falsely suggest a connection with persons, institutions, beliefs, or national symbols" is prohibited. *In re Pedersen*, 109 USPQ2d 1185, 1188 (TTAB 2013). To establish that an applied-for mark falsely suggests a connection with a person or an institution, the following is required:

- (1) The mark sought to be registered is the same as, or a close approximation of, the name or identity previously used by another person or institution.
- (2) The mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution.
- (3) The person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark.
- (4) The fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods and/or services.

In re Pedersen, 109 USPQ2d at 1188-89; *In re Jackson Int'l Trading Co.*, 103 USPQ2d 1417, 1419 (TTAB 2012); TMEP §1203.03(c)(i); *see also Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 703 F.2d 1372, 1375-77, 217 USPQ 505, 508-10 (Fed. Cir. 1983) (providing foundational principles for the current four-part test used to determine the existence of a false connection).

Due to the renown of the institution or person named in the mark, and the fact that there is no information in the application record regarding a connection with applicant, applicant must specify whether the person or institution named in the mark has any connection with applicant's goods and/or services, and if so, must describe the nature and extent of that connection. *See* 37 C.F.R. §2.61(b); TMEP §1203.03(c)(i).

Although the examining attorney has refused registration, the applicant may respond to the refusal(s) to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the below listed informality.

INFORMALITY

APPLICATION NOT ENTITLED TO REGISTER BASED ON EARLIER FILED PENDING APPLICATIONS

The effective filing date of pending U.S. Application Serial Nos. 86541766, 86541775, 86541786, and 86541792 precedes applicant's filing date. *See* attached referenced applications. If the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

RESPONSE INQUIRY

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.

/Darryl M. Spruill/
Trademark Attorney
Law Office 112
(571) 272-9418 (office)
(571) 273-9418 (fax)
darryl.spruill@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 TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: May 22, 2015

75003276

DESIGN MARK

Serial Number

75003276

Status

REGISTERED AND RENEWED

Word Mark

JIMI HENDRIX

Standard Character Mark

No

Registration Number

2383500

Date Registered

2000/09/05

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Experience Hendrix, L.L.C. LIMITED LIABILITY COMPANY WASHINGTON 14501
INTERURBAN AVENUE SOUTH Seattle WASHINGTON 98168

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S:
entertainment services, namely, preparing audiovisual displays and
exhibitions in the field of music. First Use: 1999/06/25. First Use
In Commerce: 1999/06/25.

Name/Portrait Statement

The mark is the name of a deceased individual.

Filing Date

1995/10/10

Examining Attorney

LAMOTHE, LESLEY

Attorney of Record

Karen Wetherell Davis