

To: John P. Bostany(john@bozlaw.com)
Subject: U.S. Trademark Application Serial No. 97118914 - RASPUTIN
Sent: August 24, 2022 10:09:18 AM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[6741565](#)
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**United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application**

U.S. Application Serial No. 97118914

Mark: RASPUTIN

Correspondence Address:

JOHN P. BOSTANY
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Applicant: BOZCOM, INC.

Reference/Docket No. N/A

Correspondence Email Address: john@bozlaw.com

NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be abandoned. Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Issue date: August 24, 2022

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.

Likelihood of Confusion

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 6741565. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

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

In this case, the services are closely related and overlapping. The applicant's services are "Restaurant; Café; Cocktail lounges; Coffee bars; Ice cream parlors; Juice bar services." The registrant's services include "Services for providing food and drink, namely, restaurant and catering services; bar services; catering." Both the applicant's services and the registrant's services include restaurant and bar services.

Where the goods and/or services of an applicant and registrant are “similar in kind and/or closely related,” the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods and/or services. *In re J.M. Originals Inc.*, 6 USPQ2d 1393, 1394 (TTAB 1987); *see Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1242, 73 USPQ2d 1350, 1354 (Fed. Cir. 2004); TMEP §1207.01(b).

In this case, the applied-for mark, RASPUTIN, is highly similar to the registrant's mark, RASPOUTINE, and design. Both marks begin with the letters RASP and include the letters UTIN. The applied-for mark is similar to the word portion of the registrant's mark in appearance, sound, meaning and overall commercial impression.

The word portions of the marks are similar in appearance, sound, connotation, and commercial impression; therefore, the addition of a design element does not obviate the similarity of the marks in this case. *See In re Shell Oil Co.*, 992 F.2d 1204, 1206, 26 USPQ2d 1687, 1688 (Fed. Cir. 1993); TMEP §1207.01(c)(ii).

Under the doctrine of foreign equivalents, a mark in a common, modern foreign language and a mark that is its English equivalent may be held confusingly similar. TMEP §1207.01(b)(vi); *see, e.g., In re Aquamar, Inc.*, 115 USPQ2d 1122, 1127-28 (TTAB 2015); *In re Thomas*, 79 USPQ2d 1021, 1025 (TTAB 2006). Consequently, marks comprised of foreign wording are translated into English to determine similarity in meaning and connotation with English word marks. *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1377, 73 USPQ2d 1689, 1696 (Fed. Cir. 2005). Equivalence in meaning and connotation may be sufficient to find such marks confusingly similar. *See In re Aquamar, Inc.*, 115 USPQ2d at 1127-28; *In re Thomas*, 79 USPQ2d at 1025.

Registrant's mark is in French, which is a common, modern language in the United States. *See In re Optica Int'l*, 196 USPQ 775 (TTAB 1977).

The doctrine is applied when “the ordinary American purchaser” would “stop and translate” the foreign term into its English equivalent. *Palm Bay*, 396 F.3d at 1377, 73 USPQ2d at 1696 (quoting *In re Pan Tex Hotel Corp.*, 190 USPQ 109, 110 (TTAB 1976)); TMEP §1207.01(b)(vi)(A). The ordinary American purchaser includes those proficient in the foreign language. *In re Spirits Int'l, N.V.*, 563 F.3d 1347, 1352, 90 USPQ2d 1489, 1492 (Fed. Cir. 2009); *see In re Thomas*, 79 USPQ2d at 1024.

In this case, the ordinary American purchaser would likely stop and translate the mark because the French language is a common, modern language spoken by an appreciable number of consumers in the United States.

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

In this case, since the services are closely related and overlapping and the marks are confusingly similar, there is a substantial likelihood of confusion as to the source of the goods.

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

Translation

Applicant's English translation of RASPUTIN in the application is unnecessary because this term appears in an English dictionary. TMEP §809.01(b)(i); *see* 37 C.F.R. §2.32(a)(9). The USPTO will disregard the translation; it will not be published on any registration certificate that may issue from this application. TMEP §809.03.

Please call or email the assigned trademark examining attorney with questions about this Office action.

How to respond. [Click to file a response to this nonfinal Office action.](#)

/Ronald McMorro
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RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance or [unforeseen circumstances](#) could affect an applicant's ability to timely respond.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS



Mark Punctuated
RASPOUTINE

Translation

Goods/Services

- IC 004. US 001 006 015.G & S: Candles
- IC 009. US 021 023 026 036 038.G & S: Music and music playlists downloadable from the Internet; Pre-recorded compact discs containing music; Pre-recorded USB key containing music
- IC 016. US 002 005 022 023 029 037 038 050.G & S: Printed flyers in the field of music and entertainment; newspapers; printed magazines in the field of music and entertainment; photographs; works of art made of paper
- IC 019. US 001 012 033 050.G & S: Sculptures and works of art made of stone and marble
- IC 020. US 002 013 022 025 032 050.G & S: Sculptures and works of art of plastic; sculptures and works of art of wood, plaster, or wax
- IC 025. US 022 039.G & S: Clothing, namely, suits, shirts, shorts, trousers, coats, dresses, skirts, waistcoats, socks, chapkas; headwear, footwear
- IC 041. US 100 101 107.G & S: Discotheque services; night-club services for entertainment; operation of concert halls, night clubs; rental of auditoriums, namely, rental of entertainment halls for dance, concert and entertainment venues; organization of competitions for education or entertainment, entertainment, namely, organization of music and dance competitions for entertainment purposes; entertainment information; production and organization of cultural and dance shows; leisure services, namely, providing information, news and commentary in the field of recreation and leisure activities; organization and conducting of nightclub parties for entertainment; planning of receptions for entertainment, namely, wedding receptions, corporate events in the nature of party planning and private dinners in the nature of party planning; production of sound, music and video recordings; provision of non-downloadable music online; entertainment services, namely, providing cabarets and musical performers, actors, dancers, djs and singers performances; theater productions and stage performances in the nature of presentation of dance, live music and djs performances; orchestra services; booking of seats for shows
- IC 043. US 100 101.G & S: Services for providing food and drink, namely, restaurant and catering services; bar services; catering; temporary rental of exhibition halls, namely, provision of facilities for social meetings and banquets

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

020101

Serial Number

79304223

Filing Date

20201228

Current Filing Basis

66A

Original Filing Basis

66A

Publication for Opposition Date

20220315

Registration Number

6741565

Date Registered

20220531

Owner

(REGISTRANT) CHEZ RASPOUTINE Société à responsabilité limitée FRANCE 58 rue de Bassano, F-75008 PARIS FRANCE

Priority Date

Disclaimer Statement

Description of Mark

The mark consists of the stylized image of a man facing forwards above the wording "RASPOUTINE" in stylized font.

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Joseph Sofer

**Collins**

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raspoutine ✕ Rasputin

10 characters / 5000

TRANSLATE

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Quick Word Challenge

Question: 1 - Score: 0 / 5

miner or minor?

Which version is correct?

I watched as each coal **miner** was brought to safety.I watched as each coal **minor** was brought to safety.

NEXT


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Rasputin

Biography
(c. 1869–1916)

APR 27, 2017

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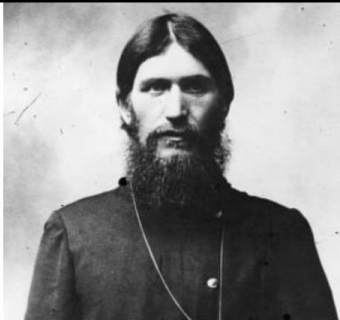


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Rasputin

Biography
(c. 1869–1916)

APR 27, 2017

COMMENT

Rasputin is best known for his role as a mystical adviser in the court of Czar Nicholas II of Russia.

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Rasputin
c. 1869
December 30, 1916
Verkhoture Monastery
Siberia, Russia
St. Petersburg, Russia
"Mad Monk"
Grigori Yefimovich Rasputin

eventually entered the court of Czar Nicholas II because of his alleged healing abilities. Known for his prophetic powers, he became a favorite of the Nicholas's wife, Alexandra Feodorovna, but his political influence was minor. Rasputin became swept up in the events of the Russian Revolution and met a brutal death at the hands of assassins in 1916.

Early Life

Born to a Siberian peasant family around 1869, Rasputin received little schooling and probably never learned to read or write. In his early years, some people of his village said he possessed supernatural powers, while others cite examples of extreme cruelty. For a time, it was believed his name "Rasputin" meant "licentious" in Russian. Historians now believe that "Rasputin" meant "where two rivers meet," a phrase that describes an area near where he

- WHO WAS RASPUTIN?
- EARLY LIFE
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your family will be killed by the Russian people!"
—Rasputin



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Rasputin entered the Verkhoture Monastery in Russia with the intention of becoming a monk, but left shortly thereafter, presumably to get married. At age 19, he wed Proskovia Fyodorovna, and they later had three children (two others died shortly after birth). In his early 20s, however, Rasputin left his family and traveled to Greece and the Middle East, making several pilgrimages to the Holy Land.


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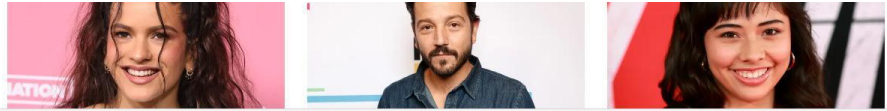


reputation as a mystic and faith healer. Two years later, he was introduced to Russian Czar Nicholas II and his wife, Alexandra Feodorovna, who were seeking help for their sickly son, Alexis. Rasputin quickly gained their confidence by seemingly "curing" the boy of hemophilia. This action won him the passionate support of Alexandra.

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the imperial family to undermine the dynasty's credibility and push for reform. Rasputin helped their efforts by claiming to be the Czarina's advisor, and accounts of his rampant lascivious behavior emerged in the press, compounding contempt among state officials. In truth, however, Rasputin's influence at this time was limited to the health of Alexis.

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domestic policy. Always Rasputin's defender, she dismissed ministers who were said to be suspicious of the "mad monk." Government officials tried to warn her of Rasputin's undue influence, but she continued to defend him, giving the impression that Rasputin was her closest advisor.

Downfall

On the night of December 29, 1916, a group of conspirators, including the czar's first cousin, Grand Duke Dmitri Pavlovich, and Prince Felix Yusupov, invited Rasputin to Yusupov's palace and fed him wine and cakes laced with cyanide. Though Rasputin eventually became rather drunk, the poison seemed to have no effect. Baffled but not deterred, the conspirators finally shot Rasputin multiple times. He was then wrapped in a carpet and thrown into the Neva

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entire imperial family would be killed by the Russian people. His prophecy came true 15 months later, when the czar, his wife and all of their children were murdered by assassins amidst the Russian Revolution.

Fact Check

We strive for accuracy and fairness. If you see something that doesn't look right, [contact us!](#)

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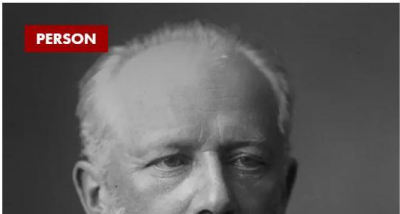
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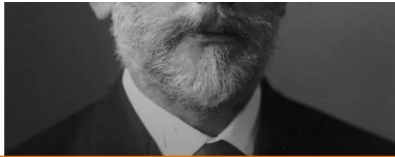
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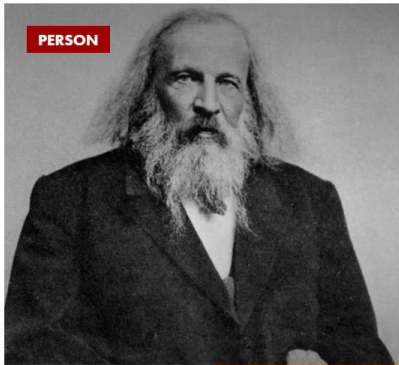


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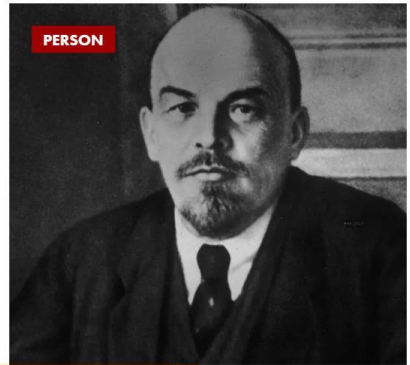
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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 24, 2022 for
U.S. Trademark Application Serial No. 97118914

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action in order to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be **[abandoned](#)**. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO **[website](#)**, the application process, the status of your application, and whether there are outstanding deadlines to the **[Trademark Assistance Center \(TAC\)](#)**.

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

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