

T2000000953

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

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From:

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Trademark/Service mark Registration
PHOENIX ARTS DISTRICT

Certificate of Registration	0
Certified Copy	0
Page Count	13
Estimated Charge	\$87.50

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FLORIDA DEPARTMENT OF STATE

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Electronic Filing Menu

Trademark/Service mark Filing Menu

Help

Handwritten signature

SEP 16 2020

M. SOLOMON

DMH D
DRIVER MCAFEE
HAWTHORNE DIEBENOW

Richard S. Vermut
Board Certified in
Intellectual Property Law
Registered Patent Attorney

One Independent Drive
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Jacksonville, Florida 32202

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(fax) 904.301.1279
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rvermut@DriverMcAfee.com

September 15, 2020

Via Electronic Mail to Melanie.Solomon@DOS.MyFlorida.com

Melanie Solomon
Senior Section Administrator
Registration Section, Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

Re: Florida Service Mark Application for:

Mark: PHOENIX ARTS DISTRICT

Ref. Number: W20000104484

Letter Number: 920A00017409

Dear Ms. Solomon:

I am in receipt of your September 14, 2020 letter provided in response to the above-referenced application for the mark PHOENIX ARTS DISTRICT. I have enclosed a copy of the originally submitted application, cover sheet and specimens. Your letter requested three things: (1) a disclaimer of the term PHOENIX, (2) submission of the exact wording of the mark, and (3) three new specimens. Each of these is addressed below:

1. Disclaimer of the term PHOENIX

The Applicant respectfully submits that a disclaimer of the term PHOENIX is not required. The State has requested a disclaimer of the term PHOENIX because "All geographical terms, such as cities, states, countries, and designs of same, must be disclaimed." Section 495.041(1) of the Florida Statutes states that "The Department of State may require the applicant for registration to disclaim an unregistrable component of a mark otherwise registrable." Section 495.021(e)2 provides when a term is an unregistrable component based on its geographic significance:

(1) A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it . . .

(e) Consists of a mark which . . .

2. When used on or in connection with the goods or services of the applicant, is primarily geographically descriptive of them;

(emphasis added).

The term PHOENIX as used in the Applicant's mark PHEONIX ARTS DISTRICT is not primarily geographically descriptive of the Applicant's goods and services. The Applicant's use of the mark is not in Phoenix, Arizona or in any other city named Phoenix, and is not used to describe any geographic area. The Applicant seeks a State of Florida service mark registration based on use within the State of Florida. The term PHOENIX does not geographically describe the location in Florida where the Applicant is located, where the Applicant uses its mark, or where the Applicant provides its goods and services under the mark.

Further, the term PHOENIX is not *primarily* associated with a city in Arizona. Merriam-Webster's on-line dictionary, located at www.merriam-webster.com, states that the primary meaning of the term "phoenix" is a mythological bird:

The screenshot shows the Merriam-Webster website with a search for "phoenix". The search results are as follows:

phoenix noun

Save Word

Definition of *phoenix* (Entry 1 of 2)

1. a legendary bird which according to some accounts lives for 500 years, is then set on fire, and is reborn from its ashes or a byte of wood alive from the ashes to live another period of 500 years or other thing like that to the phoenix

Phoenix geographical name

Phoenix

Definition of *Phoenix* (Entry 2 of 2)

city on the Salt River in Arizona population 1,445,632

NOTE: Phoenix is Arizona capital and is not PHOENIX

On the right side of the page, there is a "WORD OF THE DAY" section for "Sisyphean" and a "HOLLISTER" advertisement for a 50% off sale.

Consumers are more likely to associate the Applicant's use of the term PHOENIX in the mark PHOENIX ARTS DISTRICT with this primary definition than to a city named Phoenix that is located thousands of miles away and that has nothing to do with the Applicant, the applicant's mark, or the Applicant's goods and services. The Applicant's services, which are listed as "Organizing and hosting festivals, community, and cultural events, and art and entertainment exhibitions and gatherings", have nothing to do with the phoenix bird or the city located in Arizona. Accordingly, the request for a disclaimer of the term PHOENIX should be withdrawn.

2. Submission of the exact wording of the mark in Part III of the Application

The letter requests that the Applicant "In Part III, write the exact wording of the mark." The Applicant respectfully submits it did just this in the originally submitted application. In part III of its application, the Applicant identified its exact word mark: PHOENIX ARTS DISTRICT:

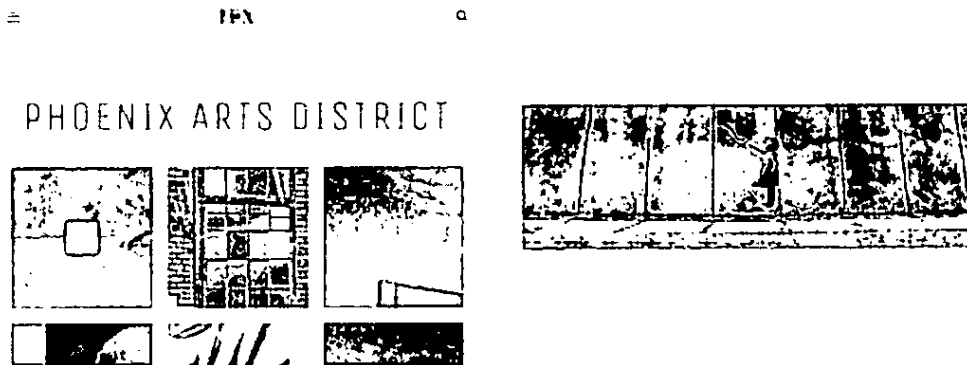
PART III

ENTER NAME, LOGO, DESIGN AND/OR SLOGAN BEING REGISTERED:

1. Enter the name, a brief description of the logo or design, and/or the slogan you are registering. The description of the logo and/or design must be 25 words or less. List the exact name, slogan, and/or description of the logo/design here. (NOTE: The name, logo, design and/or slogan listed in this section must match the exact name, logo, design and/or slogan listed on your specimens or examples.)

PHOENIX ARTS DISTRICT

This is the exact mark that is depicted in the Applicant's specimens. The submitted specimens are pages from the Applicant's website. The mark PHOENIX ARTS DISTRICT appears both on the top and the bottom of the web page:



3. New Specimen

The originally submitted specimens depict pages of the Applicant's website showing use of the mark PHOENIX ARTS DISTRICT. Those specimens were submitted via facsimile and, as a result, appeared blurry. The Applicant submits herewith those same specimens submitted in the attached PDF file along with the application and cover sheet. Please contact the undersigned if they are still not legible.

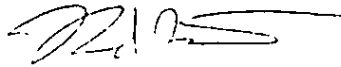
DMH D

September 15, 2020

Page 4

Applicant respectfully requests that the disclaimer and Part III clarification requirements be withdrawn, the attached copy of the specimen accepted, and the mark registered. Please call me at (904) 807-8207 if you have any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'R. Vermut', with a long horizontal flourish extending to the right.

Richard S. Vermut

Enclosures

cc: Phoenix Arts District, LLC

COVER LETTER

H20000314884

TO: Registration Section
Division of Corporations

SUBJECT: PHOENIX ARTS DISTRICT
_____ (Mark to be registered)

The enclosed Trademark/Service Mark Application, specimens and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

Richard S. Vermut
_____ (Name of Person)

Driver, McAfee, Hawthorne & Diebenow, PLLC
_____ (Firm/Company)

1 Independent Drive, Suite 1200
_____ (Address)

Jacksonville, Florida 32202
_____ (City/State and Zip Code)

For further information concerning this matter, please call:

Richard S. Vermut at (904) 807-8207
_____ (Name of Person) (Area Code & Daytime Telephone Number)

Mailing Address:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address:
Registration Section
Division of Corporations
The Centre of Tallahassee
2415 N. Monroe Street, Suite 810
Tallahassee, FL 32303

(NOTE: The information contained in this cover letter will be included in the permanent record and will be available to the general public.)

APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK
PURSUANT TO CHAPTER 495, FLORIDA STATUTES

TO: Division of Corporations
Post Office Box 6327
Tallahassee, FL 32314

H20000314884

PART I

1. OWNER/APPLICANT: Enter the name and address of the individual or the business entity to be listed as the owner of the Trademark and/or Service Mark on the records of the Florida Department of State.

(a) Owner's/Applicant's name: Phoenix Arts District, LLC

(b) Owner's/Applicant's business address: 2336 Liberty Street
Jacksonville, Florida 32206
City/State/Zip

If different, Owner's/Applicant's mailing address: _____
City/State/Zip

(c) Owner's/Applicant's telephone number: () 904-524-0374

Check the appropriate box to indicate the Owner/Applicant is a(n):

- Individual
- Corporation
- Joint Venture
- Limited Liability Company
- General Partnership
- Limited Partnership
- Union
- Other: _____

If the Owner/Applicant is a business entity, the business entity must have an active filing or registration on file with the Florida Department of State. If the Owner/Applicant is not an individual, enter the business entity's Florida registration/document number in #1, the state or country under the laws of which the business entity is currently formed, organized or incorporated under in #2, and the entity's federal employer identification number (EIN) in #3.

(1) Florida registration/document number: L16000048795

(2) Domicile State or Country: Florida

(3) Federal Employer Identification Number: 81-2649292

2. (a) SERVICE MARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with a type of service, the mark is a service mark. If the mark is a service mark, the applicant/owner must list the specific service(s) the mark is being used in connection with. For example: furniture moving services, diaper services, house painting services, wholesale and retail sales of tractor equipment, etc. If the owner/applicant is using the mark to identify services available in the market place, enter the specific service(s) being rendered here:

(Note: List only those services currently being rendered by the owner/applicant. Do not include future services.)

Organizing and hosting festivals, community, and cultural events, and art and entertainment exhibitions and gatherings.

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TALLAHASSEE, FLORIDA

2. (b) TRADEMARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with an actual product manufactured by the owner/applicant or on the owner/applicant's behalf, the mark is a trademark. If the mark is a trademark, the applicant/owner must list the specific product(s) the name, logo, design and/or slogan is being used to identify. For example: ladies sportswear, cat food, barbecue grills, shoe laces, etc. If the owner/applicant is using the name, logo, design and/or slogan to identify goods available in the market place, enter the specific product(s) the name, logo, design and/or slogan is being used to identify:

(Note: List only those product(s) currently available. Do not include future products.)

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STATE OF FLORIDA
DEPARTMENT OF STATE

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2. (c) HOW IS THE NAME, LOGO, DESIGN AND/OR SLOGAN CURRENTLY USED:

SERVICE MARKS: If the name, logo, design and/or slogan are/is being used in connection with a type of service, you must specify the form(s)/mean(s) of advertisement the applicant/owner is using to advertise the services to the general public. For example: newspaper advertisements, business cards, brochures, flyers, pamphlets, menus, etc. If the mark is being used in connection with a type of service, state how the name, logo, design and/or slogan are/is being used in advertising here:

The mark is used on the applicant's website, artwork and social media pages.

TRADEMARKS: If the name, logo, design and/or slogan are/is being used to identify a product manufactured by or for the applicant/owner, you must specify how the mark is applied or affixed to the actual product or its packaging. For example: a tag, label, imprinted or engraved on the actual product, etc. If the mark is being used in connection with a specific product, state how the name, logo, design and/or slogan is applied or affixed to the actual product(s) or the packaging:

2. (d) FEE(S) AND CLASS(ES): There are a total of 45 classes or categories in which all products or services must be categorized. The fee to register a mark is \$87.50 per class. Make check payable to Florida Department of State.

List the class(es) which apply to the product(s) and/or service(s) listed in 2(a) and/or 2(b) above:

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PART II

H20000314884

1. You must state the date the name, logo, design and/or slogan was first used in the state of Florida, and, if it was used in another state or country, the date you first used the name, logo, design and/or slogan in the other state or country. Enter the month, day, and year the name, logo, design and/or slogan was first used by the applicant/owner, the predecessor, or a related company in Florida. If the name, logo, design and/or slogan has been used in another state or country, then you must also enter the month, day, and year the name, logo, design and/or slogan was/were used in another state or country, when applicable.

Note: The Florida Statutes require a mark to be in use prior to registration.

(a) Date first used in other state or country, if applicable: March 2019

(b) Date first used in Florida: March 2019

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TAMPA STATE
COUNTY REGISTER

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PART III

ENTER NAME, LOGO, DESIGN AND/OR SLOGAN BEING REGISTERED:

1. Enter the name, a brief description of the logo or design, and/or the slogan you are registering. The description of the logo and/or design must be 25 words or less. List the exact name, slogan, and/or description of the logo/design here: (NOTE: The name, logo, design and/or slogan listed in this section must match the exact name, logo, design and/or slogan listed on your specimens or examples.)

PHOENIX ARTS DISTRICT

Provide the English translation of any and all terms listed #1 above, when applicable: _____

2. DISCLAIMER STATEMENT (if applicable):

Your mark may include a word or design that is commonly used by others. Commonly used terms or designs must be disclaimed. When you disclaim a specific term or design, you are acknowledging this term is commonly used by others and that you do not claim the exclusive right to use the disclaimed term or design. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Corporate suffixes and terms readily associated with the specific product(s) and/or(s) service being provided must also be disclaimed.

Enter all terms listed in #1 above which require a disclaimer in the space provided below:

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM(S)" "ARTS"

" APART FROM THE MARK AS SHOWN.

3. ATTACH OR INCLUDE THREE SPECIMENS OR EXAMPLES OF THE TRADEMARK OR SERVICE MARK BEING REGISTERED

Chapter 495, F.S., requires you to submit three specimens (samples or examples) of the mark in use. You must submit three specimens FOR EACH CLASS listed in Part I #2(d). The name, logo, design and/or slogan on the specimens must be identical to the name, logo, design and/or slogan being registered. You may provide three identical specimens or three different specimens. For each service mark class (classes 35-45), you may provide three newspaper advertisements, business cards, brochures, flyers, or any combination thereof. For each trademark class (classes 1-34), you may provide three tngs, labels, boxes, etc. or any combination thereof. Photographs of bulky specimens are acceptable if the mark being registered and the good(s) or product(s) are clearly legible.

SIGNATURE OF APPLICANT/OWNER AND NOTARIZATION:

I, Christy Frazier being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and to the best of my knowledge no other person except a related company has registered this mark in this state or has the right to use such mark in Florida either in the identical form thereof or in such near resemblance as to be likely, when applied to the goods or services of such other person to cause confusion, to cause mistake or to deceive. I make this affidavit and verification on my own applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct.

PHOENIX ARTS DISTRICT, LLC

Typed or printed name of applicant

Christy Frazier
Applicant's signature
(List name and title)

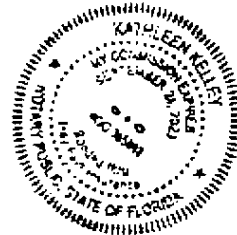
STATE OF FLORIDA
COUNTY OF DUVAL

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this (numeric date) this 30th day of September, 2020, by Christy Frazier name of person making statement

Kathleen Kelley
Notary Public's Signature
Kathleen Kelley
Notary Public's Printed Name

Personally Known OR Produced Identification
Type of Identification Produced: _____

FILING FEE: \$67.50 per class

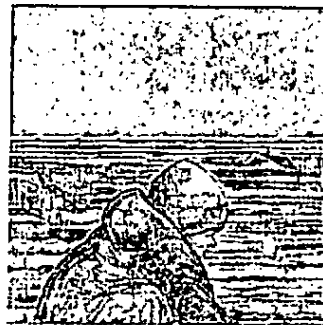
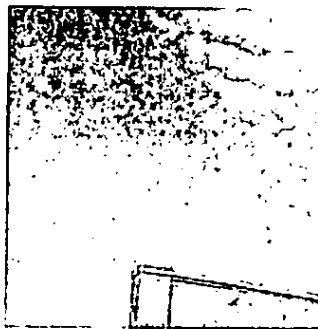
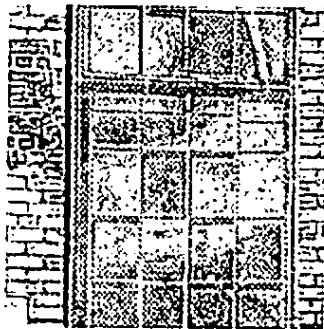
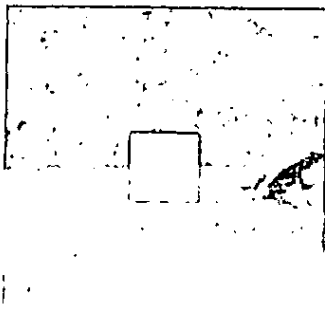




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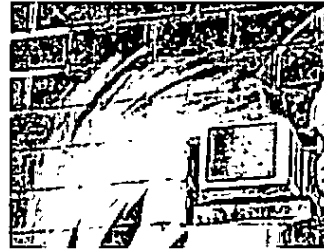
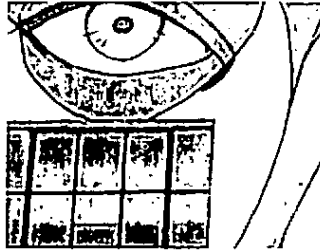
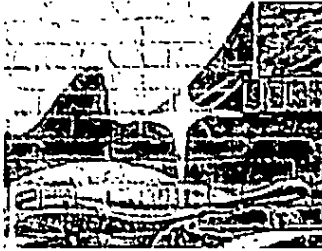


PHOENIX ARTS DISTRICT





PHX



THE PHOENIX ARTS DISTRICT

Located just 2 miles north of downtown in Phoenix and steps from Historic Springfield, the Phoenix Arts District is the start of something special. 100,000 sf of warehouse space spanning over a 4.5 acre campus will be converted into workshops, studios, apartments, a café, event space, galleries, restaurants and more. The district will also be home to the Jacksonville Florida School for the Arts, an adult art school for people of all ages, abilities, and interests.

