

DYKES ON BIKES trademark application description of services and timeline

For more info:

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SFWMC Services:

Education and Entertainment Services in the nature of organizing, conducting, and promoting parade contingents, community festivals, events, street fairs, forums, seminars, parties and rallies to support, organize and motivate women motorcyclists everywhere to do the same, thereby fostering pride in a wide variety of sexual orientations and identities, namely lesbian, bisexual and transgender

Application Timeline:

2003—July—San Francisco Women’s Motorcycle Contingent becomes aware that a Wisconsin woman is trying to trademark Dykes on Bikes as the name of a clothing company. SFWMC and Brooke Oliver Law Group, P.C. object to this commercial use and file SFWMC trademark application in connection with non-commercial community LGBT pride events.

2003-07-31- SFWMC Dykes on Bikes Trademark application filed

2004-02-09 – Months later, the case file is assigned to an examining attorney for review

2004-02-20 – PTO refuses the application on the ground that the trademark is disparaging to lesbians.

2004-08-23 – Brooke Oliver Law Group submits response to PTO Office Action with evidence about Dykes On Bikes, the word dyke in the LGBT community, and legal argument about correct legal standard to apply

2004-10-28 – PTO refuses the application for the second time, this time making it a final refusal (i.e. refusing the application on the same grounds, namely that the trademark is disparaging to lesbians).

2005-04-28 – Brooke Oliver Law Group and the National Center for Lesbian Rights submit a Request for Reconsideration to the examining attorney, together with more than two dozen expert declarations, and simultaneously submit an appeal to the Trademark Trial and Appeal Board (TTAB) to appeal the refusal if the examining attorney does not reverse her decision. The TTAB suspends the appeal while the PTO considers the Request for Reconsideration.

2005-05-26 – PTO denies the Request for Reconsideration, making its third refusal of the application and claiming, for the first time, that dyke is “vulgar” in addition to disparaging. Despite hundreds of pages of evidence and 26 expert declarations, the PTO said there was little new, and cited a 1913 Webster’s dictionary definition that had been put on the internet by an independent company and an individual’s spanish/english translations of vulgar phrases as evidence for its decision. See documents at www.artemama.com. The application is then sent back to the TTAB to continue the appeal.

2005-06-15 – Law firm Townsend and Townsend and Crew joins the legal team for the appeal. Law firm DLA Piper Rudnick also joins the legal team and prepares to file an amicus brief in support of the appeal.

2005-09-15 – Legal team submits additional evidence (video tape compilation of recent Pride parades in San Francisco and citation to PTO’s own registry for prior marks like “Queer Eye for the Straight Guy” and “Queer as Folk,”) and asks the TTAB to remand the application to the PTO to consider the evidence.

2005-11-02 – TTAB remands the application to the PTO examining attorney to consider the additional evidence.

2005-12-05 – PTO reverses its position that Dykes on Bikes is disparaging and approves the trademark application for publication. This means that it has overcome the government hurdles and, after a brief period for public comment, the trademark will proceed to registration and the trademark will be protected.