

To: CyberNet Entertainment (tony@cnemedia.com)
Subject: TRADEMARK APPLICATION NO. 78680513 - FUCKINGMACHINES - N/A
Sent: 2/22/2006 2:14:51 PM
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Attachments: Attachment - 1
Attachment - 2
Attachment - 3

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/680513

APPLICANT: CyberNet Entertainment

78680513

CORRESPONDENT ADDRESS:

CYBERNET ENTERTAINMENT
CYBERNET ENTERTAINMENT
942 MISSION STREET
SAN FRANCISCO, CA 94103

RETURN ADDRESS:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK: FUCKINGMACHINES

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:

tony@cnemedia.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/680513

The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02. However, please note the following ground for refusal.

Refusal Based on Trademark Act Section 2(a)

Registration is refused because the proposed mark consists of or comprises immoral or scandalous matter. Trademark Act Section 2(a), 15 U.S.C. §1052(a); TMEP §1203.01. The term “fucking” is an offensive and vulgar reference to the act of sex. According to the attached Internet evidence from www.dictionary.com, the word “FUCKING” in the proposed mark means “to have sexual intercourse with.” According to www.dictionary.com, “the obscenity fuck is a very old word and has been considered shocking from the first.” Though “FUCKING” has other meanings, the nature of applicant’s services clearly indicate that the sexual meaning of the word was intended. Applicant’s services include providing a web site featuring multimedia materials, motion picture film production and distribution, and on-line publication of *adult websites*.

To be considered “scandalous,” a mark must be “shocking to the sense of truth, decency or propriety; disgraceful; offensive; disreputable; ... giving offense to the conscience or moral feelings; ... [or] calling out for condemnation,” in the context of the marketplace as applied to goods or services described in the application. *In re Mavety Media Group Ltd.*, 33 F.3d 1367, 1371, 31 USPQ2d 1923, 1925 (Fed. Cir. 1994); *In re Wilcher Corp.*, 40 USPQ2d 1929, 1930 (TTAB 1996). Scandalousness is determined from the standpoint of “not necessarily a majority, but a substantial composite of the general public, ... and in the context of contemporary attitudes.” *Id.*

Where no other relevant, non-scandalous, meanings of the allegedly scandalous matter are evident from the record, reliance solely on dictionary definitions is sufficient to demonstrate the scandalous nature of the proposed mark. *See, e.g., In re Boulevard Entertainment, Inc.*, 334 F.3d 1336, 67 USPQ2d 1475 (Fed. Cir. 2003) (1-800-JACK-OFF and JACK OFF held scandalous where all dictionary definitions of “jack-off” were considered vulgar); *In re Tinseltown, Inc.*, 212 USPQ 863 (TTAB 1981) (BULLSHIT held scandalous where all dictionary definitions of that term were considered vulgar); *cf. In re Mavety Media Group Ltd.*, 33 F.3d 1367, 1373, 31 USPQ2d 1923, 1928 (Fed. Cir. 1994) (“[i]n view of the existence of such an alternate, non-vulgar definition,” it was error to find BLACK TAIL scandalous solely on dictionary definitions).

The fact that profane words may be uttered more freely in contemporary American society than was done in the past does not render such words any less profane. *In re Tinseltown, Inc.*, 212 USPQ 863 (TTAB 1981) (BULLSHIT found scandalous for handbags and other personal accessories).

A mark that is deemed scandalous under Section 2(a) is not registrable on either the Principal or Supplemental Register. TMEP §1203.01.

Although the examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration. If applicant chooses to respond, applicant must also respond to the following requirements.

Specimen Unacceptable

Applicant must submit a substitute specimen showing use of the mark for the goods and/or services specified in the application, because the specimen currently of record does not show use of the mark for any goods and/or services identified in the application. 37 C.F.R. §2.56; TMEP §§904 and 904.01 *et seq.* Applicant must also submit a statement that “the substitute specimen was in use in commerce at least as early as the filing date of the application,” verified with an affidavit or a signed declaration under 37 C.F.R. §2.20. 37 C.F.R. §2.59(a); TMEP §904.09.

The current specimens of record consist of photographs of a woman’s face with the mark appearing at the bottom left-hand corner in the URL “www.fuckingmachines.com.” The specimens do not show use for applicant’s services because there are no references to the services.

Examples of acceptable specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the sale or advertising of the services. TMEP §§1301.04 *et seq.*

Pending an adequate response to the above, registration is refused because the specimens of record do not show use of the proposed mark as a service mark. Trademark Act Sections 1, 2, 3 and 45, 15 U.S.C. §§1051, 1052, 1053 and 1127; TMEP §§904.11 and 1301.02 *et seq.*

Directions for Responding to this Letter

Please note that there is no required format or form for responding to this Office action. However, applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the examining attorney; (2) the serial number of this application; (3) the mailing date of this Office action; and, (4) applicant's telephone number.

When responding to this Office action, applicant must make sure to respond in writing to each refusal and requirement raised. If there is a refusal to register the proposed mark, then applicant may wish to argue against the refusal, i.e., explain why it should be withdrawn and why the mark should register. If there are other requirements, then applicant should simply set forth in writing the required changes or statements and request that the Office enter them into the application record. Applicant must also sign and date its response.

/Connie Kan/

Trademark Attorney

Law Office 107

(571) 272-8806

connie.kan@uspto.gov

HOW TO RESPOND TO THIS OFFICE ACTION:

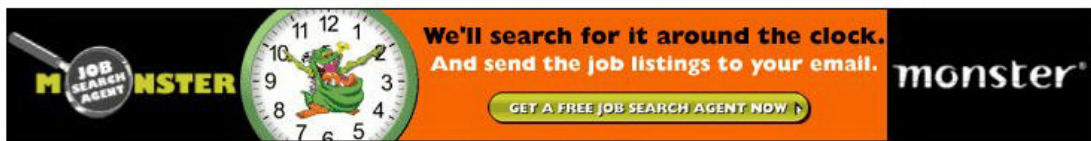
- **ONLINE RESPONSE:** You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://www.uspto.gov/teas/index.html>) and follow the instructions, but if the Office Action has been issued via email, you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.



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Dictionary - [Thesaurus](#) - [Encyclopedia](#) - [Web](#)

[Top Web Results for "fucking"](#)

3 entries found for *fucking*.

fuck [Pronunciation Key](#) (fʌk) *Vulgar Slang*

v. **fucked, fuck-ing, fucks**

v. tr.

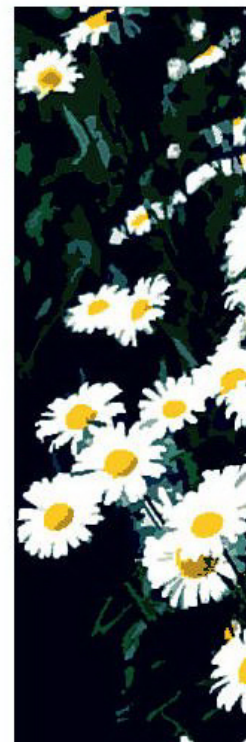
1. To have sexual intercourse with.
2. To take advantage of, betray, or cheat; victimize.
3. Used in the imperative as a signal of angry dismissal.

v. intr.

1. To engage in sexual intercourse.
2. To act wastefully or foolishly.
3. To interfere; meddle. Often used with *with*.

n.

1. An act of sexual intercourse.
2. A partner in sexual intercourse.
3. A despised person.
4. Used as an intensive: *What the fuck did you do that for?*





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interj.

Used to express extreme displeasure.

Phrasal Verbs:

fuck off

1. Used in the imperative as a signal of angry dismissal.
2. To spend time idly.
3. To masturbate.

fuck over

To treat unfairly; take advantage of.

fuck up

1. To make a mistake; bungle something.
2. To act carelessly, foolishly, or incorrectly.
3. To cause to be intoxicated.

[Middle English, attested in pseudo-Latin *fvccant*, (*they*) *fuck*, deciphered from *gxddbov*.]

Word History: The obscenity *fuck* is a very old word and has been considered shocking from the first, though it is seen in print much more often now than in the past. Its first known occurrence, in code because of its unacceptability, is in a poem composed in a mixture of Latin and English sometime before 1500. The poem, which satirizes the Carmelite friars of Cambridge, England, takes its title, "Flen flyys," from the first words of its opening line, "Flen, flyys, and freris," that is, "fleas, flies, and friars." The line that contains *fuck* reads "Non sunt in coeli, quia gxddbov xxkxzt pg ifmk." The Latin words "Non sunt in coeli, quia," mean "they [the friars] are not in heaven, since." The code "*gxddbov xxkxzt pg ifmk*" is easily broken by simply substituting the preceding letter in the alphabet, keeping in mind differences in the alphabet and in spelling between then and now. *i* was then used for both *i* and *j*, *v* was used for both *u* and *v*, and *vv* was used for *w*. This yields "fvccant [a fake Latin form] wivys of heli." The whole thus reads in translation: "They are not in heaven because they fuck wives of Ely [a town near Cambridge]."

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fucking **Pronunciation Key:** (fɪk'ɪŋ) *Vulgar Slang*

fuck-ing  [Pronunciation Key](#) (fʊk'ɪŋ) *Vulgar Slang*

adv. & adj.

Used as an intensive.

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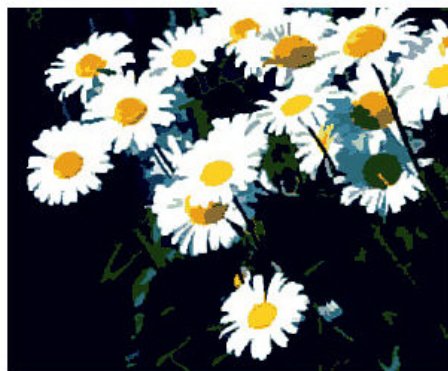
fucking

adj. : (used of persons) informal intensifiers; "what a bally (or blinking) nuisance"; "a bloody fool"; "a crashing bore"; "you flaming idiot" [syn: [bally\(a\)](#), [blinking\(a\)](#), [bloody\(a\)](#), [blooming\(a\)](#), [crashing\(a\)](#), [flaming\(a\)](#), [fucking\(a\)](#)] *n.* : slang terms for sexual intercourse [syn: [fuck](#), [screw](#), [screwing](#), [ass](#), [nooky](#), [nookie](#), [piece of ass](#), [piece of tail](#), [roll in the hay](#), [shag](#), [shtup](#)] *adv.* : intensifier, very colloquial; "what took you so fucking long?"

Source: WordNet ® 2.0, © 2003 Princeton University.

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