

BLUE IVY CARTER: What to Get a Child Who Has Everything? A Trademark Registration.

February 6th, 2012

Since the birth of their first child, Blue Ivy Carter, last month, Beyoncé and Jay-Z are no doubt experiencing all of the joys of first-time parenthood. But they are struggling with at least one parenting issue that most of us don't have to worry about: trademark applications for their baby's name. Beyoncé's company, BGK Trademark Holdings, LLC, recently filed an intent-to-use trademark application for the mark BLUE IVY CARTER for use on a wide range of goods and services, including fragrances, key chains, baby strollers, jewelry, mugs, hair accessories, balls, product merchandising services and entertainment services, to name a few. But Beyoncé and Jay-Z were not the first applicants for the BLUE IVY CARTER trademark. Two other entities beat them to them to the Trademark Office.

First, just days after Blue Ivy's birth, [Joseph Mbeh](#), a clothing designer, applied to register the mark BLUE IVY CARTER NYC in connection with infant, toddler and junior clothing. The Trademark Office acted with unusual promptness in issuing an office action refusing registration of the proposed mark. Though it typically takes the Trademark Office approximately 3-4 months to act on a newly filed application, it took the Trademark Office only 14 days to refuse registration of the mark. The examiner refused registration of the mark based on [Section 2\(d\)](#), citing a likelihood of confusion based on the prior registration of the mark BLUE IVY for retail store services (a registration issued to a Wisconsin-based company in August, 2011, months before the birth of Blue Ivy). Interestingly, the examiner notes that the BLUE IVY and BLUE IVY CARTER NYC marks are similar because they both contain the words BLUE IVY and concludes that the applicant's goods are "closely related" to the registrant's retail services. The examiner also refused registration based on [Section 2\(a\)](#) on the grounds that the proposed mark falsely suggested a connection with Blue Ivy Carter, who the examiner described as a "famous infant" (who, at the time of the office action was two weeks old). The examiner proceeded to refuse registration based on [Section 2\(c\)](#), given that the proposed mark includes the name of a particular individual, Blue Ivy Carter, who the examiner characterized as a "famous individual, who is so well known that the public would reasonably assume a connection" between the baby and the trademark applicant. Because Blue Ivy is a minor, the applicant would need the consent of her parent(s) in order to overcome the refusal. In response to the office action, Mbeh expressly abandoned the application.

On January 20, 2012, another third-party applicant applied to register the trademark BLUE IVY CARTER GLORY IV for use in connection with a wide range of fragrances and skin care products. Interestingly, this application asserts a date of first use of the mark in commerce in connection with these goods of February 14, 2011, approximately 11 months before the birth of Blue Ivy Carter. Nonetheless, the trademark examiner (again acting with extraordinary promptness) issued an office action on February 2, 2012 refusing registration of the mark based on Section 2(a) and 2(c) grounds (for the same reasons given in connection with the BLUE IVY CARTER NYC application). But if the applicant truly began using the mark before an infant named Blue Ivy Carter existed, can the applied-for mark create a false connection with a particular "living individual"? The office action

does not address the issue of the applicant's alleged date of first use of the mark and, notably, does not include a likelihood of confusion refusal based on the prior registration of the BLUE IVY mark for retail services.

In light of these applications, what were Beyoncé and Jay-Z to do but file their own trademark application in order to protect their baby's name from third-party use? It will be interesting to see if the previously registered BLUE IVY mark is cited as a bar to registration under Section 2(d) of the proposed BLUE IVY CARTER mark. After all, using the examiner's reasoning in refusing the register the mark BLUE IVY CARTER NYC, both BLUE IVY and BLUE IVY CARTER include the words BLUE IVY and are used/proposed to be used for closely related services/goods. We are also anxious to see whether the applicant for the BLUE IVY CARTER GLORY IV mark will be able to establish rights to the mark dating back to February 14, 2011 (as alleged), if challenged to do so.

We hope that Beyoncé and Jay-Z were able to secure the <blueivycarter.com> domain name, which was registered using [a privacy service](#) on January 8, 2012, the day after Blue Ivy was born. Notably, <blueivycartergloryiv.com> was registered on January 30, 2012 to an [LCREALTY of Chicago](#) and <blueivycarternyc.com> was registered on January 10, 2012 through [a privacy service](#).

Ah, there is so much for new parents to think about these days....