

GleanMark

DRAFT Office Action Response

BEAN FLICKERS COFFEE CO.

Serial No. 99485734

IMPORTANT DISCLAIMER

This is an AI-generated first draft — not a final filing.

This document was generated by GleanMark's office action analysis platform. It is intended as a working draft to accelerate attorney review, not as a substitute for professional legal judgment. **A licensed trademark attorney must review, verify all facts, customize evidence, and approve this response before filing with the USPTO.**

Exhibits & images: This system analyzes the text of office actions only. Examiner exhibits, specimen images, and other visual attachments are referenced by filename but have not been visually reviewed by the AI.

GleanMark is not a law firm and does not provide legal advice. Use of this tool does not create an attorney-client relationship.

How to Use This Draft

This draft contains two types of highlighted action items that require attorney attention:

VERIFY — Facts that must be confirmed with the client or through independent research before filing.

CUSTOMIZE — Sections that need case-specific evidence, exhibits, or tailored language.

Recommended workflow: (1) Review this cover page for strategic context ' (2) Read the full draft ' (3) Address all VERIFY items with the client ' (4) Gather evidence for CUSTOMIZE items ' (5) Edit the draft to filing-ready quality ' (6) Get client approval and file via TEAS.

Case Summary

Applicant Mark: BEAN FLICKERS COFFEE CO.

Serial Number: 99485734

Office Action Date: March 19, 2026

OA Type: Non Final

Refusals / Issues:

- Section 2(d) — Likelihood of Confusion

- Disclaimer Required

Cited Marks:

M1: BEAN FLICKER — Reg. No. 6599796 (Class 032)

Owner: Unknown

Strategy Summary

Difficulty Assessment: **Hard — Uphill Case**

Marks share BEAN FLICKER(S), but the applied-for mark adds COFFEE CO. and the goods (Class 30 coffee) differ from the cited registration (Class 32 coffee-flavored ale). Disclaimer of descriptive wording is required; a prior-pending application is advisory only.

Favorable factors:

- Standard character claim allows focus on wording differences
- Applicant's goods include tea and chocolate items outside cited registration scope

Unfavorable factors:

- Singular/plural precedent directly on point
- Examiner supplied six third-party registrations linking coffee and ale/beer
- No prior responses or evidence in record
- Prior-pending application for THE FLICKIN' BEAN

Ranked Argument Plan:

#1 Commercial Impression Moderate

Full mark BEAN FLICKERS COFFEE CO. creates coffee-company impression distinct from standalone BEAN FLICKER ale mark; plural and added wording alter overall perception.

#2 Goods Distinction Moderate

Applicant's coffee, tea, and chocolate goods differ in nature and trade channels from registrant's coffee-flavored ale.

#3 Weakness Of Cited Moderate

Third-party evidence shows multiple marks using coffee/bean terms with beer and coffee goods, indicating weakness in the shared wording.

Generated by GleanMark Pipeline voa-vnext-strategy-v7-secondary-options-metadata-only

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial Number: **99485734**

Mark: **BEAN FLICKERS COFFEE CO.**

RESPONSE TO NONFINAL OFFICE ACTION

ATTORNEY PRE-FILING NOTE: This is an attorney workpaper response and is not yet a filing-ready submission. Final filing requires: (1) confirmation of the complete cited-mark and third-party-registration records attached to the Office Action, including the full record for the attachment whose goods/services excerpt is incomplete; (2) confirmation of the current owner-name record and whether Applicant intends to proceed under the owner information of record or pursue a separate compliant owner correction/assignment recordation path; and (3) TEAS entry of the required disclaimer exactly as set out below. The Section 2(d) argument below is drafted from the Office Action text and the registration/application summaries reproduced in the packet, and should be conformed to the complete attachment records before filing.

Action Items:

VERIFY = Confirm with client

CUSTOMIZE = Add case-specific evidence

Applicant respectfully submits this response to the Nonfinal Office Action issued March 19, 2026, concerning U.S. Application Serial No. 99485734 for the mark BEAN FLICKERS COFFEE CO.

I. DISCLAIMER

In response to the Examining Attorney's disclaimer requirement, Applicant enters the following disclaimer:

No claim is made to the exclusive right to use "BEAN" and "COFFEE CO." apart from the mark as shown.

Applicant understands that the disclaimer does not alter the appearance of the mark.

II. RESPONSE TO SECTION 2(d) REFUSAL

Applicant respectfully traverses the refusal under Trademark Act Section 2(d). When the marks are considered in their entireties and in the context of the respective identifications, Applicant's mark BEAN FLICKERS COFFEE CO. creates a different overall commercial impression from the cited mark BEAN FLICKER. The record also does not establish that Applicant's Class 30 coffee, tea, cocoa, chocolate, and coffee-based goods are so related to Registrant's narrowly identified Class 32 "coffee-flavored ale" that consumers are likely to assume a common source merely because both marks contain similar wording.

A. The Marks Differ in Overall Commercial Impression

The Examining Attorney correctly notes that marks must be evaluated by reference to appearance, sound, meaning, and commercial impression. Applicant acknowledges that the marks share the wording BEAN FLICKER(S). However, the applied-for mark is not merely the plural form of the cited mark. Applicant's mark is the full composite BEAN FLICKERS COFFEE CO., which consumers will encounter as a coffee-company mark. The additional wording COFFEE CO. immediately anchors the mark in the commercial impression of a coffee business and coffee-related goods.

By contrast, the cited registration is for the standalone mark BEAN FLICKER for "coffee-flavored ale." In that context, the wording BEAN is at most highly suggestive or descriptive of the coffee flavoring component of the registrant's ale. The Office Action's disclaimer requirement likewise recognizes that BEAN and COFFEE are descriptive in connection with Applicant's

coffee goods. Because the shared wording includes matter that is descriptive or highly suggestive in the coffee context, the differences in the marks' total wording and commercial impressions carry meaningful source-identifying significance. The singular/plural authorities cited in the Office Action address circumstances where the relevant marks are essentially identical except for pluralization. Here, the applied-for mark includes additional wording that changes the manner in which consumers perceive the mark as a whole. BEAN FLICKERS COFFEE CO. points to a coffee company, while BEAN FLICKER, as used for "coffee-flavored ale," points to an ale product with a coffee-flavor reference. These are different commercial impressions, not simply singular and plural versions of the same source indicator.

B. The Goods Are Distinct as Identified

The identification in the cited registration is limited to "coffee-flavored ale" in Class 32. Applicant's goods are Class 30 goods consisting of coffee, roasted coffee beans, ground coffee, instant coffee, coffee and coffee substitutes, tea, coffee/tea/cocoa/artificial coffee, prepared coffee and coffee-based beverages, chocolate-covered coffee beans, brewed coffee, coffee-based drinks, and chocolate-based drinks.

The fact that Registrant's ale is "coffee-flavored" does not make it the same as coffee, tea, cocoa, chocolate-based goods, or non-alcoholic coffee-based beverages. The cited registration identifies an alcoholic ale product. Applicant's identification identifies coffee and related non-alcoholic food and beverage goods in Class 30. The relationship asserted in the Office Action therefore depends on the proposition that coffee goods and coffee-flavored ale may emanate from a single source, not on any identity of goods.

Third-party registration evidence can be relevant, but it does not create a per se rule that coffee goods and ale are related in every case or under every mark. The DuPont inquiry remains case-specific and requires consideration of the cumulative effect of the differences in the marks and the differences in the goods. Here, those differences are significant: Applicant's mark expressly presents a coffee-company impression, while the cited registration covers only coffee-flavored ale under the standalone wording BEAN FLICKER.

C. Response to the Examiner's Evidence

Applicant addresses the evidence identified in the Office Action as follows:

1. Registration No. 6599796 for BEAN FLICKER. This is the cited registration and identifies only "coffee-flavored ale" in Class 32. It does not identify coffee, roasted coffee beans, ground coffee, instant coffee, tea, cocoa, chocolate-covered coffee beans, brewed coffee, coffee-based drinks, or chocolate-based drinks. The cited registration therefore confirms that the goods are not identical and that the relatedness issue depends on a broader asserted marketplace relationship between coffee goods and coffee-flavored ale.
2. Prior-pending Application Serial No. 99197835 for THE FLICKIN' BEAN. This application is referenced as an advisory prior-pending application. The record reproduced in the Office Action identifies services in Classes 41 and 43, including special event planning for social entertainment purposes, providing food and drink via a mobile truck, and bar services. This application has not matured into a registration according to the Office Action, and it is not the basis for the present Section 2(d) refusal. Applicant addresses the advisory separately below.
3. Registration No. 6777985 for LOBOS COFFEE ROASTERS. This registration includes coffee-related goods, coffee-containing beer goods, and coffee shop/restaurant-type services. At most, it shows that one registrant has registered a mark for both coffee-related and beer-related goods/services. It does not establish that consumers encountering BEAN FLICKERS COFFEE CO. for coffee goods and BEAN FLICKER for coffee-flavored ale would assume common source, particularly where the respective marks convey the different coffee-company and ale-product impressions discussed above.

4. Registration No. 7064145 for OLENTANGY RIVER BREWING COMPANY. The record reproduced in the Office Action indicates that this registration includes coffee goods, beer/ale goods, and related bar/restaurant services, and that the registration is on the Supplemental Register. This evidence again shows that certain businesses may offer both coffee-related and beer-related items under a single business mark. It does not establish that all coffee goods and coffee-flavored ale are commercially related for Section 2(d) purposes, nor does it overcome the differences in the marks' overall impressions here.
5. Design-only registration owned by Night Shift Brewing, Inc. The Office Action evidence summary indicates that this design-only registration covers coffee goods, beer/ale, hard cider, hard seltzer, retail store services, and restaurant/bar services. A design-only house-mark registration covering a broad range of goods and services does not show that consumers would treat Applicant's coffee-company mark and Registrant's standalone coffee-flavored-ale mark as indicating the same source.
6. Registration for NIGHT SHIFT BREWING. The Office Action evidence summary indicates that this registration covers coffee goods, beer/ale, hard cider, hard seltzer, retail store services, and restaurant/bar services. This evidence is consistent with the proposition that some brewery-branded businesses may also offer coffee goods or services. It does not establish that the particular goods at issue here are sufficiently related to create likely confusion when sold under the different overall marks BEAN FLICKERS COFFEE CO. and BEAN FLICKER.
7. Additional attachment listed in the Office Action. The Office Action packet excerpt cuts off before the full goods/services for this attachment are shown. Applicant cannot meaningfully address the specific probative value of that attachment from the truncated excerpt alone. To the extent the attachment is offered as another third-party registration covering both coffee-related and beer/ale-related goods or services, Applicant's response is the same: such evidence may show that some entities offer both categories, but it does not compel a finding of likely confusion in view of the full differences between the marks and the specific goods identified here.
8. Dictionary evidence for "CO." The dictionary evidence supports the disclaimer requirement for CO. as an abbreviation for "company." Applicant has complied with that requirement above. The dictionary evidence does not establish that Applicant's Class 30 goods and Registrant's Class 32 coffee-flavored ale are likely to emanate from the same source under the marks at issue.

D. Balancing the Relevant DuPont Factors

Considering the record as a whole, the relevant DuPont factors weigh against a likelihood of confusion. The marks share similar wording, but Applicant's full mark BEAN FLICKERS COFFEE CO. conveys the impression of a coffee company, while the cited mark BEAN FLICKER is registered for a coffee-flavored ale. The shared wording includes matter that is descriptive or highly suggestive in the coffee context. The goods are not identical: Applicant's Class 30 coffee, tea, cocoa, chocolate, and coffee-based goods differ from Registrant's Class 32 coffee-flavored ale. The third-party registration evidence shows, at most, that some businesses may offer both coffee-related and beer/ale-related goods or services, but it does not establish that consumers are likely to confuse the particular marks and goods at issue.

For these reasons, Applicant respectfully submits that confusion is not likely and requests withdrawal of the Section 2(d) refusal.

III. PRIOR-PENDING APPLICATION ADVISORY

Applicant acknowledges the advisory regarding prior-pending U.S. Application Serial No. 99197835 for THE FLICKIN' BEAN. The Office Action states that the referenced application has not yet matured into a registration and that Applicant may address any later refusal if one issues. Applicant respectfully notes that no refusal based on that application is presently

before Applicant. Applicant therefore reserves the right to address any asserted conflict with that application if and when a refusal is issued.

IV. REQUEST TO CHANGE OWNER NAME DENIED

Applicant acknowledges the Examining Attorney's statement that the prior request to amend the owner name has been denied. This response does not rely on acceptance of any owner-name amendment. Applicant requests continued examination of the application based on the owner information currently of record unless and until a separate compliant owner-name correction, assignment recordation, or successor-in-interest showing is completed and accepted in accordance with USPTO requirements.

V. CONCLUSION

Applicant has entered the required disclaimer and has addressed the Section 2(d) refusal, the prior-pending application advisory, and the owner-name issue identified in the Office Action. For the foregoing reasons, Applicant respectfully requests that the Examining Attorney accept the disclaimer, withdraw the Section 2(d) refusal, and approve the application for publication.

Respectfully submitted,

/Counsel for Applicant/

GleanMark draft — attorney review required before filing