**LEXDAO Trademark Response to OA**

**Summary of Issues:**

1. Descriptive Refusal 2(e)(1)
2. Information/ Documentation of Applicant’s Services
3. Clarify Legal Entity
4. Clarify Domicile Address
5. **DESCRIPTIVE REFUSAL — Solution(s)**
6. **Submit Evidence & Arguments against Merely Descriptive 2(e)(1) Refusal to support registration of “LEXDAO” on Principal Register**. Registration refused because TM *describes* applicant’s services. The word “LEX” means Law in dictionary. The word “DAO” means Decentralized Autonomous Organization. The services/class we filed is Class 45 (1. providing information & news regarding legal & blockchain technology AND 2. legal research in the field of blockchain technology and cryptocurrency").

**Evidence & Arguments against 2(e)(1) Refusal:**

1. **Obtain “Secondary Meaning”** —You can prove that your trademark LEXDAO has received “Secondary Meaning” by (i) Direct Evidence and (ii) Circumstantial Evidence.
2. Direct Evidence includes: customer/member surveys and testimonials (*look for samples; ask chatgpt to draft some*)
3. Circumstantial Evidence consists of data regarding: (i) the number of years the trademark has been in use; (ii) marketing materials; (iii) the number of customers/members; and (iv) sale revenue figures.

**AND/OR**

1. **File on Supplemental Register —** File on Supplemental Register and after 5 Years of a TM being on the Supplemental Register, it is considered stronger and has often obtained “secondary meaning” or “acquired distinctiveness”. At that time, you can apply for the mark to be placed on the Principal Register. There is no guarantee that it will be granted, but in many cases these applications are successful.

Resources:

* Other similar TMs that overcame USPTO descriptive refusal
* LexusNexus
* Caselaw

1. **INFORMATION/ DOCUMENTATION OF APPLICANT’S SERVICES**
2. **Submit — Fact sheets, instruction manuals, brochures, advertisements and/or pertinent screenshots of applicant’s website** as it relates to the services in the application, including any materials using the terms (“LEXDAO”) in the applied-for mark.

Screenshots/ Doc.’s to Submit:

* LexDAO’s Discord instructions/ rules for new members (include the annual price to join)
* Tweets of LexDAO asking for new members (if none, ask them to tweet one. Example: “Join LexDAO today if you are interested in researching blockchains & law!”)
* Make a LexDAO advertisement directed to recruiting law students
* *\*\*\*Make sure the word “LEXDAO” is displayed on all these screenshots!!*
* *\*\*\*All Screenshots of websites MUST Include: (i) the date it was accessed, screenshotted or printed (include a timestamp), and (ii) the complete URL address must appear at the top of the screenshot image.*
* *\*\*\*save a list of all URL’s*

1. **Describe** — If materials unavailable then applicant must provide a detailed factual description of the services. For services, the factual information must make clear **what the services** **are** and **how they are rendered**, salient **features**, and **prospective customers** and channels of trade.

Description of LexDAO’s Services:

* What services? \_\_\_\_\_
* How are services rendered? Rendered in online study groups and meetings. [*Elaborate here...*]
* Salient features of services: \_\_\_\_\_\_
* Prospective customers: \_\_\_\_\_\_
* Channels of trade: \_\_\_\_\_\_\_\_\_\_

1. **Answers to Questions:**

* What is the significance of the term LEX appearing in the mark? \_\_\_\_
* What is the significance of the term DAO appearing in the mark? \_\_\_\_
* Is applicant organized as a "decentralized autonomous organization" as that wording is defined above and in the attached evidence from Investopedia? \_\_\_\_
* How does applicant's organization differ from the description of a "decentralized autonomous organization" as that wording is defined above and in the attached evidence from Investopedia? \_\_\_\_\_
* Do applicant's competitors use either the term LEX and/or DAO to describe their services? \_\_\_\_\_
* Who are the typical consumers of applicant's services? People interested in web3; lawyers; law students; coders; engineers.

1. **CLARIFY LEGAL ENTITY**
2. The legal entity can’t be both an “LLC” and a non-profit association. We filed as “LexDAO, LLC a non-profit association”
3. If the entity is an association, then indicate whether it is “incorporated” or “unincorporated” and under what State.

**ANSWER**: \_\_\_\_\_\_\_

1. **CLARIFY DOMICILE ADDRESS**
2. Can’t be a registered agent address.
3. It must be a physical office address in the state which the legal entity is formed.

**ANSWER**: \_\_\_\_\_\_\_