

**To:** Sarah I. Cohen([scohen@lombardip.com](mailto:scohen@lombardip.com))  
**Subject:** U.S. Trademark Application Serial No. 97120649 - KAMPACK  
**Sent:** August 24, 2022 06:49:46 AM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[4344068](#)

**United States Patent and Trademark Office (USPTO)  
Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97120649

**Mark:** KAMPACK

**Correspondence Address:**

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NEW YORK CITY NY 10169 UNITED STATES

**Applicant:** Kampack Inc.

**Reference/Docket No.** N/A

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**NONFINAL OFFICE ACTION**

**The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be [abandoned](#).** Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

**Issue date:** August 24, 2022

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

## SEARCH OF USPTO DATABASE OF MARKS

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

## SUMMARY OF ISSUES

- Refusal under Trademark Act Sections 1 and 45 – Specimen Refused
- Application Not Signed
- Requirement to Amend the Identification of Goods
- Requirement to Amend the Classification of Goods
- Information Regarding Multiple-Class Application Requirements

## SPECIMEN REFUSED

**Specimen is not an acceptable webpage display.** Registration is refused because the specimen in International Class(es) 16 is not acceptable as a display associated with the goods and does not show the applied-for mark as actually used in commerce. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §2.56(a), (b)(1); *see* TMEP §§904, 904.03(g)-(i), 904.07(a). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

A webpage or catalog display specimen (1) must show use of the mark directly associated with the goods and (2) such use must be of a point-of-sale nature. 37 C.F.R. §2.56(b)(1). This means that this type of display specimen must include the following:

- (1) **A picture or sufficient textual description of the goods;**
- (2) **The mark associated with the goods;** and
- (3) **A means for ordering the goods** such as a “shopping cart” button/link, an order form, or a telephone number for placing orders.

*See In re Sones*, 590 F.3d 1282, 1286-89, 93 USPQ2d 1118, 1122-24 (Fed. Cir. 2009); *In re Azteca Sys., Inc.*, 102 USPQ2d 1955, 1957-58 (TTAB 2012); *In re Dell Inc.*, 71 USPQ2d 1725, 1727 (TTAB 2004); *Lands’ End v. Manbeck*, 797 F. Supp. 511, 514, 24 USPQ2d 1314, 1316 (E.D. Va. 1992); TMEP §904.03(h), (i)-.03(i)(D).

In this case, the specimen does not show a picture or textual description of the actual goods that may be purchased or a sufficient means for ordering the goods. Specifically, the applicant's website appears to discuss the types of products it offered, but the specimen does not show the actual goods that are available or how to order them.

A specimen with a telephone number, internet address, and/or mailing address that appears only with corporate contact information may not show sufficient means for ordering the goods. *See In re Genitope Corp.*, 78 USPQ2d 1819, 1822 (TTAB 2006); TMEP §904.03(i)(C)(2). In that circumstance, the specimen may also need to include instructions on how to place an order or an offer to accept orders. *See In re Quantum Foods, Inc.*, 94 USPQ2d 1375, 1379 (TTAB 2010); TMEP §904.03(i)(C)(2). In this case, the telephone number and email address for "sales" is only a means for gathering more information related to the goods and is not a means for actually ordering them.

Accordingly, such material is mere advertising, which is not acceptable as a specimen for goods. *See In re Yarnell Ice Cream, LLC*, 2019 USPQ2d 265039, at \*15-16 (TTAB 2019) (quoting *In re Siny Corp.*, 920 F.3d 1331, 1336, 2019 USPQ2d 127099, at \*2-3 (Fed. Cir. 2019)); *see also Avakoff v. S. Pac. Co.*, 765 F.2d 1097, 1098, 226 USPQ 435, 436 (Fed. Cir. 1985); TMEP §904.04(b), (c).

**Examples of specimens.** Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). As specified above, a webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (c). Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the TEAS form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

**Response options.** Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

(1) Submit a different specimen (a verified [“substitute” specimen](#)) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the goods identified in the application or amendment to allege use. A “verified substitute specimen” is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.

(2) Amend the filing basis to [intent to use under Section 1\(b\)](#) (which includes withdrawing an amendment to allege use, if one was filed), as no specimen is required before publication. This option will later necessitate additional fee(s) and filing requirements, including a specimen.

For an overview of the response options referenced above and instructions on how to satisfy these options using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

*Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration. However, if applicant responds to the*

*refusal(s), applicant must also respond to the requirement(s) set forth below.*

## **APPLICATION NOT SIGNED**

The application was unsigned, resulting in the application not being properly verified. *See* TMEP §804. Applicant must properly sign and therefore verify the application in an affidavit or signed declaration under 37 C.F.R. §2.20. *See* 37 C.F.R. §§2.2(n), 2.33(a)-(b)(1), (c), 2.34(a)(1)(i); TMEP §804.02.

The following statements must be verified: That applicant believes applicant is the owner of the mark; that the mark is in use in commerce and was in use in commerce as of the application filing date; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive; that the specimen shows the mark as used on or in connection with the goods or services as of the application filing date; and that the facts set forth in the application are true. 37 C.F.R. §§2.33(b)(1), (c), 2.34(a)(1)(i), 2.59(a).

For more information about the verified statement and instructions on providing one using the online Trademark Electronic Application System (TEAS) response form, see the [Verified statement](#) webpage.

## **IDENTIFICATION OF GOODS**

The wording "corrugated paper and cardboard point-of-sale displays, both bearing printing and those having no printing thereon, namely, counter displays, floor displays, pop-up displays, standee displays, pallet displays, dump displays, powerwing display, and box displays" in the identification of goods for International Class 16 must be clarified because it is too broad and could include goods in other international classes. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. In particular, this wording could encompass goods that are in the nature of furniture, which are in Class 20, and the "dump displays" may include "carts", which are in Class 12. As shown in bold type below, the applicant also needs to include the purpose of the goods. *ee* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03.

The wording "standee" in the identification of goods is a registered mark not owned by applicant; accordingly, applicant must amend the identification to delete this wording and, if not already included in the identification, provide the common commercial or generic name of the goods. TMEP §1402.09; *see* 37 C.F.R. §2.32(a)(6); *Camloc Fastener Corp. v. Grant*, 119 USPQ 264, 264 n.1 (TTAB 1958). *See* attached U.S. Registration No. 4344068.

Identifications of goods should generally be comprised of generic everyday wording for the goods, and exclude proprietary or potentially-proprietary wording, such as a registered term. *See* TMEP §§1402.01, 1402.09. The misspelling or phonetic equivalent of a registered mark should similarly be excluded, unless it is the common name of the goods. TMEP §1402.09. A registered mark indicates origin in one particular party and so may not be used to identify goods and/or services that originate in a party other than that registrant. TMEP §1402.09 (citing *Camloc Fastener Corp. v. Grant*, 119 USPQ at 264 n.1).

Applicant may replace such wording with the following, if appropriate: "cardboard floor display units for merchandising products" or "display stands", in Class 20.

Also, applicant must correct the punctuation in the identification to clarify the individual items in the list of goods and/or services. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01(a). Proper punctuation in identifications is necessary to delineate explicitly each product or service within a list and to avoid ambiguity. Commas, semicolons, and apostrophes are the only punctuation that should be used in an identification of goods and/or services. TMEP §1402.01(a). An applicant should *not* use colons, periods, exclamation points, and question marks in an identification. *Id.* In addition, applicants should not use symbols in the identification such as asterisks (\*), at symbols (@), or carets. *Id.*

In general, **commas** should be used in an identification (1) to separate a series of related items identified within a particular category of goods or services, (2) before and after “namely,” and (3) between each item in a list of goods or services following “namely” (e.g., personal care products, namely, body lotion, bar soap, shampoo). *Id.* **Semicolons** generally should be used to separate a series of distinct categories of goods or services within an international class (e.g., personal care products, namely, body lotion; deodorizers for pets; glass cleaners). *Id.*

Thus, applicant should replace the term “and” after “cardboard” with a semi-colon, if the paper and cardboard are separate goods from the point-of-sale displays.

Applicant may substitute the following wording, if accurate:

#### **Class 12**

**Carts being dump displays of** corrugated paper and cardboard **for merchandising products**, both bearing printing and those having no printing thereon

#### **Class 16**

Paper, cardboard; ~~and~~ corrugated paper and cardboard point-of-sale displays **for merchandising products**, both bearing printing and those having no printing thereon, namely, counter displays, ~~floor displays~~, pop-up displays **in the nature of {specify form, e.g. banners or boxes}**, ~~standee displays~~, ~~pallet displays~~, dump displays **being boxes**, ~~powerwing display~~, and box displays

#### **Class 20**

Corrugated paper and cardboard point-of-sale displays **for merchandising products**, both bearing printing and those having no printing thereon, namely, floor displays, ~~standee displays~~ **stands**, pallet displays **being display stands**, dump displays **being floor displays**, powerwing display **being floor display stands**, ~~and box displays~~

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO’s online searchable [\*U.S. Acceptable Identification of Goods and Services Manual\*](#). *See* TMEP §1402.04.

## CLASSIFICATION OF GOODS

If applicant adopts the suggested amendment of the identification of goods, then applicant must amend the classification to International Classes 12, 16 and 20. *See* 37 C.F.R. §§2.32(a)(7), 2.85; TMEP §§805, 1401.

The USPTO follows the *International Classification of Goods and Services for the Purposes of the Registration of Marks* (also called the “Nice Classification” system), established by the World Intellectual Property Organization, to organize and classify goods and services for the purpose of registering marks. Nice Classification has 45 numbered classes with class headings that describe in broad terms the types of goods and services in each class. *See* 37 C.F.R. §2.85(a); TMEP §§1401.02, 1401.02(a).

An applicant must adopt the appropriate international classification number for the goods and/or services identified in the application. “Proper classification allows for administrative recordkeeping, enables accurate and efficient public searches of USPTO records, and facilitates examination of applications filed with the USPTO by aligning fees with costs.” *In re Carlton Cellars, LLC*, 2020 USPQ2d 10150, at \*2 (TTAB 2020).

Classification of goods and services is a purely administrative matter within the sole discretion of the USPTO. *See In re Faucher Indus. Inc.*, 107 USPQ2d 1355, 1357 (TTAB 2013) (quoting *In re Tee-Pak, Inc.*, 164 USPQ 88, 89 (TTAB 1969)).

## MULTIPLE-CLASS APPLICATION REQUIREMENTS

The application references goods based on use in commerce in more than one international class; therefore, applicant must satisfy all the requirements below for each international class:

(1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class (for example, International Class 3: perfume; International Class 18: cosmetic bags sold empty).

(2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO’s current fee schedule](#)). Specifically, the application identifies goods based on use in commerce that are classified in at least 3 classes; however, applicant submitted a fee(s) sufficient for only 1 class. Applicant must either (a) submit the filing fees for the classes not covered by the submitted fees or (b) restrict the application to the number of classes covered by the fees already paid.

(3) **Submit verified dates of first use of the mark** anywhere and in commerce for each international class. [See more information about verified dates of use.](#)

(4) **Submit a specimen for each international class.** The current specimen is not acceptable for any international class. [See more information about specimens.](#)

**Examples of specimens.** Specimens for goods include a photograph of (1) the actual

goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). A webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (c).

Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the TEAS form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

(5) **Submit a verified statement** that “**The specimen was in use in commerce on or in connection with the goods and/or services listed in the application at least as early as the filing date of the application.**” [See more information about verification.](#)

*See* 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(a) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the [Multiple-class Application webpage](#).

### **Fees for Additional Classes**

The fee for adding classes to a TEAS Standard application is \$350 per class. *See* 37 C.F.R. §2.6(a)(1)(iii). For more information about adding classes to an application, see the [Multiple-class Application webpage](#).

## **RESPONSE GUIDELINES**

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**How to respond.** [Click to file a response to this nonfinal Office action.](#)

/Alyssa Steel/  
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## RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance or [unforeseen circumstances](#) could affect an applicant's ability to timely respond.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.



**(4) STANDARD CHARACTER MARK**

**Standee**

**Mark Punctuated**

STANDEE

**Translation**

**Goods/Services**

- IC 020. US 002 013 022 025 032 050.G & S: Office furniture. FIRST USE: 20120620. FIRST USE IN COMMERCE: 20120720

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Design Code**

**Serial Number**

85647970

**Filing Date**

20120610

**Current Filing Basis**

1A

**Original Filing Basis**

1B

**Publication for Opposition Date**

20121113

**Registration Number**

4344068

**Date Registered**

20130528

**Owner**

(REGISTRANT) BRITCAN, INC. DBA RICH LTD. CORPORATION CALIFORNIA 3809 Ocean Ranch Blvd., Suite 110 Oceanside CALIFORNIA 92056 (LAST LISTED OWNER) CAPITOLA ENTERPRISES, INC. CORPORATION CALIFORNIA 3809 OCEAN RANCH BLVD. SUITE 110 OCEANSIDE CALIFORNIA 92056

**Priority Date**

**Disclaimer Statement**

**Description of Mark**

**Type of Mark**

TRADEMARK

**Register**  
PRINCIPAL

**Live Dead Indicator**  
LIVE

**Attorney of Record**

## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on August 24, 2022 for  
**U.S. Trademark Application Serial No. 97120649**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action in order to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be **[abandoned](#)**. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO **[website](#)**, the application process, the status of your application, and whether there are outstanding deadlines to the **[Trademark Assistance Center \(TAC\)](#)**.

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

### GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the **[Trademark Status & Document Retrieval \(TSDR\)](#)** database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. And all official USPTO correspondence will only be emailed from the domain “@uspto.gov.” Verify the correspondence originated from us by using your Serial Number in our database, **[TSDR](#)**, to confirm that it appears under the “Documents” tab, or contact the **[Trademark Assistance Center](#)**.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.

# Note To The File

Serial Number: 97120649  
Date: 08/24/2022 6:45 am  
Created by: Alyssa Steel

KAMPACK

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