

**To:** Thomas L. Difloure([tdifloure@gmail.com](mailto:tdifloure@gmail.com))  
**Subject:** U.S. Trademark Application Serial No. 97120354 - MASSAGE TRIBE  
**Sent:** August 26, 2022 12:10:26 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[97120354 address.jpg](#)  
[massage definition.jpg](#)

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

**U.S. Application Serial No.** 97120354

**Mark:** MASSAGE TRIBE

**Correspondence Address:**

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**Applicant:** Fireheart Music, Inc.

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

**Correspondence Email Address:** [tdifloure@gmail.com](mailto:tdifloure@gmail.com)

**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 26, 2022

**Database Search:** 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.

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

### **Summary of Issues Applicant Must Address**

- Applicant's Domicile Street Address
- Disclaimer

### **Applicant's Domicile Street Address**

**Applicant must clarify its domicile street address** because the domicile address of record identifies a post office box or mail forwarding service that does not appear to be applicant's permanent legal place of residence or principal place of business. *See* 37 C.F.R. §§2.11(b), 2.189; TMEP §601.01(b)(1). A domicile address must identify either (1) the permanent legal place of residence, which is the place an individual applicant resides and intends to be the applicant's principal home; or (2) the principal place of business, which is the juristic applicant's headquarters where its senior executives or officers ordinarily direct and control the entity's activities. *See* 37 C.F.R. §2.2(o)-(p); TMEP §803.05(a). All applications must include the applicant's domicile address, which is required for a complete application. *See* 37 C.F.R. §§2.22(a)(1), 2.32(a)(2), 2.189.

In this case, the application record lists applicant as a juristic entity and specifies applicant's domicile as a post office box or mail forwarding service. The attached web page indicates that 2785 Pacific Coast Hwy., Torrance, California, is the address of a UPS store. In most cases, a post office box or mail forwarding service is not acceptable as a domicile address because it does not identify the location of applicant's headquarters where the entity's senior executives or officers ordinarily direct and control the entity's activities. *See* 37 C.F.R. §2.2(o)-(p); TMEP §601.01(b)(1).

**Response options.** Applicant must provide its domicile street address. *See* 37 C.F.R. §2.32(a)(2), 2.189; TMEP §803.05. Alternatively, applicant may provide (1) documentation showing that the listed address is, in fact, applicant's domicile, or (2) a detailed explanation supporting that applicant has no fixed physical address. *See* 37 C.F.R. §2.11(b); TMEP §601.01(b)-(b)(1).

**To provide applicant's domicile street address.** After opening the correct Trademark Electronic Application System (TEAS) response form and entering the serial number, (1) answer "yes" to question 5 and click "Continue;" (2) on the "Owner Information" page, in the "Domicile Address" field, uncheck the box stating the domicile and mailing address are not the same; and (3) below the checkbox provide applicant's domicile street address. Applicant's domicile street address will be hidden from public view if it is entered into the "Domicile Address" field. However, any street address listed in the "Mailing Address" field will be publicly viewable.

**To provide documentation to support applicant's domicile address.** Applicant should provide the most recent documentation showing that the address is the applicant's business headquarters, for example one of the following: (1) the most recent final annual or quarterly report or other similar report; or (2) a current, valid signed rental, lease, or mortgage agreement for office space. TMEP §601.01(b)-(b)(1); *see* 37 C.F.R. §2.11(b). Submitted documentation must show the name, listed domicile address, and the date of the document but should redact other personal and financial information.

To provide this documentation, open the correct TEAS response form and enter the serial number,

answer “yes” to question 3, and on the “Additional Statement(s)” page, below the “Miscellaneous Statement” field, click the button below the text box to attach documentation to support the U.S. street address.

**To provide a detailed explanation that applicant has no fixed physical address.** If applicant has no physical headquarters where its senior executives or officers ordinarily direct and control the business (e.g., because the business is conducted virtually), applicant should state for the record that applicant has no fixed physical address and provide a detailed explanation of the circumstances.

To provide this explanation, open the correct TEAS response form and enter the serial number, answer “yes” to question 3, and on the “Additional Statement(s)” page, in the “Miscellaneous Statement” field, enter the referenced explanation in the text box.

### **Disclaimer**

Applicant must disclaim the term “massage” because it is merely descriptive of a feature of applicant’s goods. *See* 15 U.S.C. §1052(e)(1); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

A disclaimer is a statement in the application record that an applicant does not claim exclusive rights to an unregistrable component of the mark. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 979-80, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213. A disclaimer does not physically remove the disclaimed matter from the mark or otherwise affect the appearance of the mark. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d at 979, 144 USPQ2d at 433; TMEP §1213.

The attached dictionary entry shows that “massage” means “manipulation of tissues (by rubbing, kneading, or tapping) with the hand or an instrument for relaxation or therapeutic purposes.” The applicant’s specimen of use indicates that its goods are used as an accompaniment to massage. This evidence is linked to the goods at issue in that the evidence shows that “massage” is descriptive of a feature of the goods. The applicant’s goods are described broadly enough to include music used during massage.

Purchasers who encounter the word “massage” with the identified goods would immediately understand that the applicant’s goods concern massage; therefore, the exclusive rights to use of the term “massage” must be disclaimed.

Applicant may respond to this issue by submitting a disclaimer in the following format:

**No claim is made to the exclusive right to use “MASSAGE” apart from the mark as shown.**

For an overview of disclaimers and instructions on how to provide one using the Trademark Electronic Application System (TEAS), see the [Disclaimer webpage](#).

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

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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.

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12:42:30 PM 8/23/2022

# massage noun

 Save Word

mas·sage | \ mə-ˈsāzh , -ˈsāj  \

## Definition of *massage* (Entry 1 of 2)

: manipulation of tissues (as by rubbing, kneading, or tapping) with the hand or an instrument for relaxation or therapeutic purposes

// gave him a neck *massage*

# massage verb

massaged; massaging

## Definition of *massage* (Entry 2 of 2)

transitive verb

1 : to subject to massage

2 a : to treat flatteringly : BLANDISH

b : MANIPULATE, DOCTOR

// *massaged* the data to help his cause

↓ Other Words from *massage*

↓ Synonyms

↓ More Example Sentences

↓ Phrases Containing *massage*





## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on August 26, 2022 for  
**U.S. Trademark Application Serial No. 97120354**

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.