

To: John L. Wood(jwood@emlaw.com)
Subject: U.S. Trademark Application Serial No. 97119664 - 4TH-WAVE AI
Sent: August 24, 2022 12:40:26 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[screenshot-www-merriam-webster-com-dictionary-ai-16613588663111](#)
[screenshot-www-merriam-webster-com-dictionary-artificial-20intelligence-16613592054341](#)

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

U.S. Application Serial No. 97119664

Mark: 4TH-WAVE AI

Correspondence Address:

JOHN L. WOOD
EGERTON MCAFEE ARMISTEAD & DAVIS, P. C.
900 S. GAY STREET 14TH FLOOR
KNOXVILLE TN 37902 UNITED STATES

Applicant: Simulation Dynamics, Inc.

Reference/Docket No. N/A

Correspondence Email Address: jwood@emlaw.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 24, 2022

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue 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:

- Disclaimer Required
- Requirement for Information - Domicile Address

Disclaimer Required

Applicant must disclaim the wording “AI” because it is merely descriptive of a quality, characteristic, function, feature, purpose, or use 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).

The attached evidence shows this wording is commonly used in connection with similar goods to mean "artificial intelligence", which is defined to mean "the capability of a machine to imitate intelligent human behavior". *See* attached Internet dictionary evidence. Thus, the wording merely describes applicant’s goods because it immediately refers to the fact that the applicant's software incorporates "AI" into its operation as a feature of the applicant's software.

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

No claim is made to the exclusive right to use “AI” 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](#).

Applicant must also respond to the requirement set forth below.

Requirement for Information - Domicile Address

Applicant must clarify its domicile street address because the domicile address of record is for a third-party commercial mail receiving agency and 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).

In this case, the application record lists applicant as a juristic entity and specifies applicant’s domicile address as follows: 576 Foothills Plaza PMB 176, Maryville TN 37801. This address has been identified as a commercial mail receiving agency by the U.S. Postal Service Coding Accuracy Support System (CASS) and thus does not appear to be 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 §601.01(b)(1).

Commercial mail receiving agencies are private businesses that accept mail from the U.S. Postal Service on behalf of third parties.

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 U.S. domicile 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), 803.05(a).

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 U.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.

Response Guidelines

For this application to proceed, applicant must explicitly address each requirement in this Office action. For a requirement, applicant should set forth the changes or statements. Please see [“Responding to Office Actions”](#) and the informational [video “Response to Office Action”](#) for more information and tips on responding.

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 requirements 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.](#)

/Brandon Arey/
Brandon Arey
Trademark Examining Attorney
Law Office 127
(571) 270-5154
brandon.arey@uspto.gov

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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ai

Dictionary Thesaurus

State Farm

Save an average of 30% with Drive Safe & Save™

Discounts may exceed 30% & vary state-to-state (NY capped at 20%). Not available in CA, MA & FL. Discount available in NC, depending on facts. Setup required.

ai noun

Save Word

ˈaɪ
plural ais

Definition of ai (Entry 1 of 2)

: THREE-TOED SLOTH

// A sloth is a slow-moving arboreal (tree-dwelling) mammal and the name *ai* was given to this creature because of its high-pitched screech.

— Al Perkins

// Three-toed sloth is a common crossword puzzle clue for the word "*ai*."

— Marty Noble

AI abbreviation

Definition of AI (Entry 2 of 2)

- 1 ad interim
- 2 airborne intercept
- 3 air interception
- 4 artificial insemination
- 5 artificial intelligence

First Known Use of ai

Noun

1625, in the meaning defined [above](#)

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WORD OF THE DAY

glitch

[See Definitions and Examples »](#)

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Discounts may exceed 30% & vary state-to-state (NY capped at 20%). Not available in CA, MA & FL. Discount available in NC, depending on facts. Setup required.

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Commonly Confused Words Quiz

I went to the _____ store to buy a birthday card.

Average worded per thousand words based on a 2021 national survey by State Parks of word policy holders who reported wordings by watching to State Parks.

History and Etymology for *ai*

Noun

borrowed from Portuguese *ai* "sloth (the animal)," borrowed from Tupi *ai*

NOTE: The Tupi form is based on that given by Aryon Rodrigues in "Contribuição para a etimologia dos brasileirismos," *Revista Portuguesa de Filologia*, vol. 9, I-II (1958-59), p. 14. The word can be found with various spellings in a number of early sources: André Thevet, *Les singularitez de la France Antarctique*, 1558 (*Haü, Haüthi*); Jean de Léry, *Histoire d'un voyage fait en la terre du Bresil*, 1578 (*Hay*); letter of José de Anchieta, 1560, in Serafim Leite, editor, *Cartas dos primeiros Jesuítas do Brasil*, vol. 3 [1958], p. 222, cited in Antônio Geraldo da Cunha, *Dicionário histórico das palavras portuguesas de origem tupi*, São Paulo, 1978 ("Est aliud animal quod Indi *aig*, nos propter nimiam tarditatem pigritiam dicimus" — "There is another animal that the Indians call *aig*, that we call on account of its excessive slowness the sloth"); Gabriel Soares de Sousa, *Tratado descritivo do Brasil*, 1587 (*ahy*).

Learn More About *ai*

Share *ai*



Time Traveler for *ai*



The first known use of *ai* was in 1625

[See more words from the same year](#)

Dictionary Entries Near *ai*

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[ai](#)

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Statistics for *ai*

Look-up Popularity

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Cite this Entry

"*ai*." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/ai>. Accessed 24 Aug. 2022.

Style: MLA

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or
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AI abbreviation

Medical Definition of *AI*

artificial insemination

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English: [Translation of *ai* for Spanish Speakers](#)

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WORDS AT PLAY



'Dunderhead' and Other 'Nicer' Ways to Say Stupid

As illustrated by some very
smart pups

10 Words from Place Names

Bikini, bourbon, and
badminton were places first

'Pride': The Word That Went From Vice to Strength

Do you take pride in Pride?

When Were Words First Used?

Look up any year to find out

ASK THE EDITORS



Literally

How to use a word that
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'All Intensive Purposes' or 'All Intents and Purposes'?

We're intent on clearing it up



Lay vs. Lie

Editor Emily Brewster
clarifies the difference.



Hot Mess

"The public is a hot mess"

WORD GAMES



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Roll up your sleeves and
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artificial intelligence

Dictionary Thesaurus

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artificial intelligence noun



Definition of *artificial intelligence*

- 1 : a branch of computer science dealing with the simulation of intelligent behavior in computers
- 2 : the capability of a machine to imitate intelligent human behavior

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Examples of *artificial intelligence* in a Sentence

// a robot with *artificial intelligence*

Recent Examples on the Web

// Research in gastroenterology is keenly interested in *artificial intelligence*, for example, but its applications have been surprisingly narrow, with heavy emphasis thus far on augmenting the successful endoscopic detection of precancerous lesions.

— *Wired*, 11 Aug. 2022

// Puri first learned about the capabilities of *artificial intelligence* just after ninth grade, when she was selected to attend Stanford A.I. Lab's summer program.

— Margaret Osborne, *Smithsonian Magazine*, 4 Aug. 2022

// Their personality, memories and cognitive functions are being overwritten by an *artificial intelligence*, Johnny Silverhand, a rocker and branded terrorist brought to virtual life by Keanu Reeves.

— Gene Park, *Washington Post*, 27 July 2022

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Surgeon

Judge

Acrobat

These example sentences are selected automatically from various online news sources to reflect current usage of the word 'artificial intelligence.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. [Send us feedback](#).

First Known Use of *artificial intelligence*

1955, in the meaning defined at [sense 1](#)

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Time Traveler for *artificial intelligence*

 The first known use of *artificial intelligence* was in 1955

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From the Editors at Merriam-Webster



Machine Learning

The capability of a machine to improve its own performance

Dictionary Entries Near *artificial intelligence*

[artificial insemination](#)

artificial intelligence

[artificialize](#)

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Statistics for *artificial intelligence*

Last Updated

24 Aug 2022

Look-up Popularity

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"Artificial intelligence." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/artificial%20intelligence>. Accessed 24 Aug. 2022.

Style: MLA

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or
FALSE

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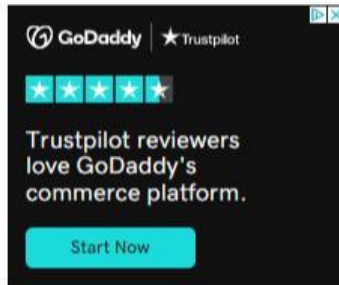
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"The public is a hot mess"

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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. 97119664

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.

User: Brandon Arey

Statistics for Case 97119664						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97119664[sn]	1	0	0	0	0:00
2	*4th*[bi,ti]not dead[ld]	267	0	267	267	0:02
3	*fourth*[bi,ti]not dead[ld]	405	0	0	0	0:01
4	*w{ v }v*[bi,ti]not dead[ld]	6443	0	0	0	0:01
5	*ai*[bi,ti]not dead[ld]	145000	0	0	0	0:01
6	*artificial*[bi,ti]not dead[ld]	745	0	0	0	0:02
7	*intelligence*[bi,ti]not dead[ld]	2840	0	0	0	0:01
8	("a i" *ai*)[bi,ti] not dead[ld]	145158	0	0	0	0:01
9	2 and (3 4 6 7 8)	166	0	166	166	0:01
10	3 and (4 6 7 8)	31	0	31	31	0:01
11	4 and (6 7 8)	250	0	250	250	0:02
12	6 and (7 8)	606	0	606	606	0:01
13	7 and 8	627	0	627	627	0:01
14	13 not 12	111	0	111	111	0:01
15	3 not 2	242	0	242	242	0:01
16	*w{"aiey"}v*[bi,ti]not dead[ld]	6046	0	0	0	0:00
17	*w{"ay"}v*[bi,ti]not dead[ld]	4981	0	0	0	0:01
18	17 and "009"[cc]	2875	0	0	0	0:01
19	17 and ("009" "042" "035" a b "200")[ic]	1778	0	0	0	0:01
20	*wave*[bi,ti]	13764	0	0	0	0:01
21	*wave*[bi,ti]not dead[ld]	4659	0	0	0	0:01
22	*wave{"sz"0:1}[bi,ti]not dead[ld]	4369	0	0	0	0:00
23	22 and "009"[cc]	2550	0	0	0	0:00
24	wave{"sz"0:1}[bi,ti]not dead[ld]	3908	0	0	0	0:01
25	24 and "009"[cc]	2260	0	0	0	0:00
26	24 and ("009" a b "200")[ic]	867	0	867	867	0:01
27	24 and ("042" a b "200")[ic]	395	0	395	395	0:02
28	26 not 27	731	0	731	731	0:01
29	24 and ("035" a b "200")[ic]	351	0	0	0	0:01
30	29 not (28 27)	253	0	253	253	0:02
31	"4th wave"[bi,ti]not dead[ld]	2	0	2	2	0:01
32	"fourth wave"[bi,ti]not dead[ld]	3	0	3	3	0:00
33	"Simulation Dynamics"[on]	7	0	1	1	0:01

Session started 08/24/2022 10:45 am

Session ended 08/24/2022 11:14 am

Total search duration 32.00

Session duration 29 minutes 13 seconds

Adjacency Level 1

Near Level 1