

To: Conover, Zach(gutterslutslam@gmail.com)
Subject: U.S. Trademark Application Serial No. 97118556 - GUTTER SLUT
Sent: August 23, 2022 12:48:17 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

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

U.S. Application Serial No. 97118556

Mark: GUTTER SLUT

Correspondence Address:

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LEWISVILLE TX 75077 UNITED STATES

Applicant: Conover, Zach

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 23, 2022

Introduction

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.

Summary of Issues

- Search Results - No Conflicting Marks Found
- Identification of Goods – Amendment Required
- Multiple Class Application Requirements - Section 1(b)

Search Results - No Conflicting Marks Found

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.

Identification of Goods – Amendment Required

An applicant should not use its own registered or unregistered mark in an identification of goods and/or services. TMEP §1402.09. Identifications of goods and/or services should generally be comprised of generic everyday wording for the goods and/or services, 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 and/or services. TMEP §1402.09.

Here, the wording "Gutter Slut is a one man band . . ." appearing in the identification of goods for International Class 025 not only uses applicant's unregistered mark, the wording "is a one man band" also does not identify services. *See* TMEP §§1402.01, 1402.09. As such, this wording should be removed from the identification.

The Trademark Act requires that a trademark or service mark application must include a “**specification** of ... the goods [or services]” in connection with which the mark is being used or will be used. 15 U.S.C. §1051(a)(2) (emphasis added), (b)(2) (emphasis added); *see* 15 U.S.C. §1053. Specifically, a complete application must include a “list of the **particular** goods or services on or in connection with which the applicant uses or intends to use the mark.” 37 C.F.R. §2.32(a)(6) (emphasis added). This requirement for a specification of the particular goods and/or services applies to applications filed under all statutory bases. *See* 15 U.S.C. §§1051(a)(2), 1051(b)(2), 1053, 1126(d)-(e), 1141f; 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.01(b)-(c).

Along those lines, the remaining wording, "that will provide music via streaming and will sell band merchandise online" in the identification of goods in International Class 025 must be clarified because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. The wording "will provide music via streaming" is misclassified, as this wording represents a service, not goods properly classified in International Class 025. Moreover, this wording does not identify particular services and could encompass the telecommunications services of "Streaming of audio material on the Internet" in International Class 038 or "Entertainment services, namely, live performances by a musical band streamed over the Internet" in International Class 041. If accurate, applicant may respond by (1) adding International Class 041 to the application and reclassifying these services in the proper international class, (2) deleting “that will provide music via streaming” from the application, or (3) deleting the remainder of the items in the identification and reclassifying the specified services in the proper international class. *See* 37 C.F.R. §§2.86(a), 6.1; TMEP §§1403.02 *et seq.* If applicant adds one or more international classes to the application, applicant must comply with the multiple-class requirements specified in this Office action.

The wording “and will sell band merchandise online” in the identification of goods for International Class 025 is indefinite and must be clarified because this wording does not point to particular goods encompassed by “band merchandise.” *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Applicant must amend this wording to specify the common commercial or generic name of the goods. *See* TMEP §1402.01. If the goods have no common commercial or generic name, applicant must describe the product, its main purpose, and its intended uses. *See id.* Further, this wording could identify goods and services in more than one international class. For example, this wording could encompass “Downloadable audio recordings featuring music,” “Pre-recorded record albums featuring music,” “Pre-recorded CDs featuring music,” and “Pre-recorded DVDs featuring music,” all in International Class 009, “Stickers” and “Decals” in International Class 016, various clothing items in International Class 025, “Ornamental cloth patches” in International Class 026, and “On-line retail store services featuring downloadable pre-recorded music”, meaning the downloadable pre-recorded music of others, in International Class 035. Suggested amendments have been provided below as examples for applicant to incorporate, if accurate. As indicated above, if applicant adds one or more international classes to the application, applicant must comply with the multiple-class requirements specified in this Office action.

Applicant may substitute the following wording, if accurate (changes in bold and underlined):

- International Class **009: Downloadable audio recordings featuring music; Pre-recorded record albums featuring music; Pre-recorded CDs featuring music; Pre-recorded DVDs featuring music**
- International Class **016: Stickers; Decals**
- International Class 025: **Clothing, namely, {specify types of clothing, e.g., hats, beanies, t-shirts, sweatshirts}**
- International Class **026: Ornamental cloth patches**
- International Class **041: Entertainment services, namely, live performances by a musical band streamed over the Internet**

Applicant may amend the identification to clarify or limit the goods and services, but not to broaden or expand the goods and 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.

Multiple Class Application Requirements - Section 1(b)

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

- (1) **List the goods and/or services by their international class number** in

consecutive numerical order, starting with the lowest numbered class.

(2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO's current fee schedule](#)). The application identifies goods and/or services that are classified in at least **five (5)** classes; however, applicant submitted a fee(s) sufficient for only **one (1)** class(es). Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

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

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

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. 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 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.

Advisory regarding Hiring a Trademark Attorney

Because of the legal technicalities and strict deadlines of the trademark application process, applicant is encouraged to hire a private attorney who specializes in trademark matters to assist in this process. The assigned trademark examining attorney can provide only limited assistance explaining the content of an Office action and the application process. USPTO staff cannot provide legal advice or statements about an applicant's legal rights. TMEP §§705.02, 709.06. See [Hiring a U.S.-licensed trademark attorney](#) for more information.

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.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 23, 2022 for
U.S. Trademark Application Serial No. 97118556

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: 97118556

Date: 08/23/2022 11:41 am

Created by: Holland Hauenstein

GUTTER SLUT

Searched

- Google
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User: Holland Hauenstein

Statistics for Case 97118556						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97118556[sn]	1	0	0	0	0:01
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3	*{"scz"}l{v}{ "hw"0:1 }t*[bi,ti] not dead[ld]	149653	0	0	0	0:02
4	2 and 3	104	0	104	104	0:03
5	2 and ("025" "009" "041")[cc]	2140	0	0	0	0:02
6	2 and ("025" "009" "041" "014" "016" "018" "024" "026" "035" "042" a b "200")[ic]	1559	0	0	0	0:03
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Session started 08/22/2022 1:12 pm

Session ended 08/23/2022 11:41 am

Total search duration 22.00

Session duration 22 hours 28 minutes 45 seconds

Adjacency Level 1

Near Level 1