

To: Samuels, Jamiyl N(jamiylsamuels716@gmail.com)
Subject: U.S. Trademark Application Serial No. 97120328 - THE SENSATIONALLY SUPER SANDY
Sent: August 25, 2022 04:31:14 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. 97120328

Mark: THE SENSATIONALLY SUPER SANDY

Correspondence Address:

SAMUELS, JAMIYL N
14643 222ND STREET
SPRINGFIELD GARDENS NY 11413 UNITED STATES

Applicant: Samuels, Jamiyl N

Reference/Docket No. N/A

Correspondence Email Address: jamiylsamuels716@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 25, 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:

- Sections 1, 2, & 45 Refusal – Title of a Single Work
- Applicants' Entity Types Uncertain

SECTIONS 1, 2, & 45 REFUSAL – TITLE OF A SINGLE WORK

Registration is refused because the applied-for mark, as used on the specimen of record, is used only as the title of a single creative work, namely, the title of a specific book; it does not function as a trademark to identify and distinguish applicant's goods from those of others and to indicate the source of applicant's goods. Trademark Act Sections 1, 2, and 45, 15 U.S.C. §§1051-1052, 1127; *see Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1162-63, 64 USPQ2d 1375, 1378-79 (Fed. Cir. 2002); *In re Cooper*, 254 F.2d 611, 615-16, 117 USPQ 396, 399-400 (C.C.P.A. 1958); TMEP §1202.08.

In this case, the submitted specimen shows the applied-for mark, THE SENSATIONALLY SUPER SANDY, appearing describe location, on a book cover. Such use shows the mark is displayed prominently in a large stylized on the front cover of a book and in a manner consistent with book titles. There is no evidence in the application record that applicant's book is part of a series of creative works, nor are there other specimens or evidence in the record otherwise showing proper trademark use of the applied-for mark for the identified goods. Therefore, consumers would view the applied-for mark as the title of a single work, rather than as a trademark to indicate the source of applicant's goods and to distinguish them from the goods of others.

In appropriate circumstances, applicant may overcome this refusal by satisfying one of the following options:

(1) **Submit evidence** that the applied-for mark is used to identify a **series** of creative works.

(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). This option will later necessitate additional fee(s) and filing requirements.

For an overview of these response options and instructions on how to satisfy each option using the Trademark Electronic Application System (TEAS) response form, see the [Title of a Single Work webpage](#).

APPLICANTS' ENTITY TYPES UNCERTAIN

The name of individual persons, i.e. "Samuels, Jamiyl N" and "Samuels, Tracy-Ann," appear in the sections of the application intended for the trademark owners' names; however, the legal entity is set forth each joint applicant is a partnership. Applicants must clarify this inconsistency. *See* 37 C.F.R. §§2.32(a)(2), (a)(3)(i)-(iii), 2.61(b); TMEP §803.03.

If applicants are individuals, applicants must request that the legal entity for each be amended to “individual” and must indicate his or her country of citizenship. *See* 37 C.F.R. §2.32(a)(3)(i); TMEP §803.03(a).

If applicant is a single partnership, applicant must (1) confirm that the individual name is the partnership’s name or provide the correct name of the partnership, and (2) specify the state or foreign country under whose laws the partnership is organized. *See* 37 C.F.R. §2.32(a)(3)(ii); TMEP §803.03(b). For U.S. partnerships, applicant must also list, if not yet specified, the names, legal entities, and national citizenship (for individuals), or the U.S. state or foreign country of organization or incorporation (for businesses) of all general partners. 37 C.F.R. §2.32(a)(iii); TMEP §803.03(b). For foreign partnerships, the names and citizenships of the general partners are not required. *See* TMEP §803.03(b).

If applicant is a single partnership, applicants may request that the application be amended to delete one of the joint applicants.

The following format should be used to identify a partnership:

U.S. partnership: “_____, a partnership organized under the laws of _____, composed of _____ (specify name, legal entity, and citizenship of each individual general partner; and/or name, legal entity, and state or foreign country of incorporation or organization of each juristic general partner).”

Foreign partnership: “_____, a partnership organized under the laws of _____.”

Id.

Alternatively, if applicant is applying as joint owners/applicants, applicant must specify the names of each joint applicant and his or her country of citizenship. *See* 37 C.F.R. §2.32(a)(3)(i); TMEP §803.03(d).

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration will be refused because the application was void as filed. *See* 37 C.F.R. §2.71(d); TMEP §§803.06, 1201.02(b). An application must be filed by the party who owns or is entitled to use the mark as of the application filing date. *See* 37 C.F.R. §2.71(d); TMEP §1201.02(b).

ADVISORY – HIRING TRADEMARK COUNSEL SUGGESTED

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.

ADVISORY – 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.](#)

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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 25, 2022 for
U.S. Trademark Application Serial No. 97120328

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: Christopher Law

Statistics for Case 97120328						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	*{"szc"}{v}n{"szc"}{v}t*[bi,ti] and live[ld]	1504	0	0	0	0:01
2	*{"szc"}{v}p{v}r*[bi,ti] and live[ld]	13319	0	0	0	0:02
3	*{"szc"}{v}nd*[bi,ti] and live[ld]	27977	0	0	0	0:00
4	1 and 2 and 3	1	0	1	1	0:02
5	1 and (2 3)	28	0	28	28	0:03
6	2 and 3	140	0	140	140	0:03

Session started 08/25/2022 4:02 pm

Session ended 08/25/2022 4:10 pm

Total search duration 11.00

Session duration 7 minutes 40 seconds

Adjacency Level 1

Near Level 1