

**To:** Sandra D Francis([cherryashleyzinc@gmail.com](mailto:cherryashleyzinc@gmail.com))  
**Subject:** U.S. Trademark Application Serial No. 97118543 - CHERRYBAEY  
**Sent:** August 22, 2022 02:04:07 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto: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.** 97118543

**Mark:** CHERRYBAEY

**Correspondence Address:**

Sandra D Francis  
511 West Main Street  
Stamford CT 06902 UNITED STATES

**Applicant:** Sandra D Francis

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

**Correspondence Email Address:** [cherryashleyzinc@gmail.com](mailto:cherryashleyzinc@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 22, 2022

**INTRODUCTION**

The referenced application and preliminary amendment have 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 OFFICE'S DATABASE OF MARKS

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

### SUMMARY OF ISSUES:

- REQUIREMENT - IDENTIFICATION OF GOODS
- REQUIREMENT - COLOR CLAIM AND MARK DESCRIPTION

### REQUIREMENT - IDENTIFICATION OF GOODS

For each item specified in the submitted listing of goods, the identification indicates that the intended users are "men woman boys and girls." Applicant must correct and add punctuation in the identification to clarify the individual intended users in the lists for each of the goods. *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. The suggested amendment below adds in commas between the different intended users and also modifies the word "woman" to be the plural "women" in order to match the other intended user entries.

Applicant should note that any wording in **bold**, in *italics*, underlined and/or in ALL CAPS below offers guidance and/or shows the changes being proposed for the identification of goods and/or services. If there is wording in the applicant's version of the identification of goods and/or services which should be removed, it will be shown with a line through it such as this: ~~striketrough~~. When making its amendments, applicant should enter them in standard font, not in **bold**, in *italics*, underlined or in ALL CAPS.

Applicant may substitute the following wording, if accurate:

Class 25: Headwear for men, women, boys and girls; Hooded sweatshirts for men, women, boys and girls; Jackets for men, women, boys, girls; Shirts for men, women, boys and girls; Shorts for men, women, boys and girls; Sweaters for men, women, boys, girls; Sweatpants for men, women, boys and girls; Sweatshirts for men, women, boys and girls; T-shirts for men, women, boys and girls

*See* TMEP §§1402.01, 1402.03.

An applicant may only amend an identification to clarify or limit the goods, but not to add to or broaden the scope of the goods. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07. Generally, any deleted goods 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.

### REQUIREMENT - COLOR CLAIM AND MARK DESCRIPTION

Applicant must amend the color claim and description to identify all the colors in the drawing of the mark. *See* 37 C.F.R. §2.52(b)(1); TMEP §807.07(a)-(a)(ii). The following colors have been omitted from the color claim: black. In addition, the following colors have been omitted from the description:

black.

A complete color claim must reference all the colors appearing in the drawing of the mark. *See* 37 C.F.R. §2.52(b)(1); TMEP §§807.07(a) *et seq.* Similarly, a complete description of a mark depicted in color must specify where the colors appear in the literal and design elements of the mark. *See* 37 C.F.R. §§2.37, 2.52(b)(1); TMEP §§807.07(a) *et seq.* If black, white, and/or gray represent background, outlining, shading, and/or transparent areas and are not part of the mark, applicant must so specify in the description. *See* TMEP §807.07(d).

The current color claim and mark description uses highly subjective color descriptors which must be replaced because generic color names must be used to describe the colors in a color claim and description, e.g., red, yellow, blue. TMEP §807.07(a)(i)-(ii). Furthermore, applicant must submit an amended description of the mark because the current one is incomplete and does not describe all the significant aspects of the mark, in particular, the actual wording which appears in the mark. 37 C.F.R. §2.37; *see* TMEP §§808.01, 808.02. Descriptions must be accurate and identify all the literal and design elements in the mark. *See* 37 C.F.R. §2.37; TMEP §§808 *et seq.*

The following color claim and description are suggested, if accurate:

Color claim: **“The colors brown, tan, beige and black are claimed as a feature of the mark.”**

Description: **“The mark consists of the stylized wording "CHERRYBAEY" where the bottom of portion of the second letter "Y" extends under the word to underline the letters "BAE" and has the appearance of a cherry stem. The upper half of the letters in the wording are colored in tan with beige highlights at the top and the lower half of the letters, including the cherry stem underline, are colored in brown and the cherry stem has a tan highlight. The letters are then outlined in beige with an additional black outline followed by a final beige outline. The color white indicates transparent area and is not a part of the mark.”**

## CONCLUSION

**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.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant’s rights. *See* TMEP §§705.02, 709.06.

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

/Stefan Oehrlein/  
Trademark Examining Attorney  
Law Office 115  
(571) 272-1308  
stefan.oehrlein@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.

## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on August 22, 2022 for  
**U.S. Trademark Application Serial No. 97118543**

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:soehrlein \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	2	0	2	2	0:01	97118543 97117868
02	624	N/A	2	2	0:02	050908[dc] not dead[ld]
03	6767	N/A	0	0	0:02	270304[dc] not dead[ld]
04	31548	N/A	0	0	0:01	261713[dc] not dead[ld]
05	5728	N/A	0	0	0:02	290107[dc] not dead[ld]
06	76	0	9	76	0:01	2 and (3 4 5)
07	379	N/A	0	0	0:01	4 and (3 5)
08	378	0	15	378	0:01	7 not 6
09	127	N/A	0	0	0:01	3 and 5
10	119	0	12	119	0:01	9 not (6 8)
11	548	0	10	548	0:01	2 not 6

Session started 8/22/2022 1:31:37 PM

Session finished 8/22/2022 1:47:58 PM

Total search duration 0 minutes 14 seconds

Session duration 16 minutes 21 seconds

Default NEAR limit=1ADJ limit=1

Sent to TIGRS as Serial Number: 97118543

\*\*\* User:soehrlein \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	2	0	2	2	0:01	97118543 97117868
02	8	3	5	4	0:01	(Sandra and Francis)[on]
03	3326390	N/A	0	0	0:01	"025"[cc]
04	1062571	N/A	0	0	0:02	"025"[ic] ("a" "B" "200")[ic]
05	1195025	N/A	0	0	0:02	"035"[ic] ("a" "B" "200")[ic]
06	4372	N/A	0	0	0:15	(*{"SZC"1:2}H{V1:3}{ "R"1:2}{ "E"0:1}{ "iy"}* *{"SZC"1:2}H{V1:3}{ "R"1:2}ee*)[bi,ti] not dead[ld]
07	997	N/A	0	0	0:01	*CHERRY*[bi,ti] not dead[ld]
08	175441	N/A	0	0	0:02	(*b{"A"}{"aeiy"0:1}{ "G"0:1}{ "h"0:1}* *b{"e"}{"iyah"}{"G"0:1}{ "h"0:1}*)[bi,ti] not dead[ld]
09	8533	N/A	0	0	0:01	*BA{"IYE"}*[bi,ti] not dead[ld]
10	8	0	8	8	0:01	*BAey*[bi,ti] not dead[ld]
11	710	N/A	0	0	0:01	*BAe*[bi,ti] not dead[ld]
12	2	0	2	2	0:01	7 and 11
13	194	0	30	194	0:01	6 and 8
14	77	0	18	77	0:01	(4 and 7) not (13)
15	84	0	22	84	0:01	(5 and 7) not (13 14)
16	57	0	19	57	0:02	(3 and 7) not (13 14 15)
17	334	0	17	334	0:01	(4 and 6) not (13 14 15 16)
18	499	0	13	499	0:01	(5 and 6) not (13 14 15 16 17)
19	268	0	18	268	0:01	(3 and 11) not (13)
20	973	0	13	973	0:01	(4 and 9) not (13 19)
21	623	0	19	623	0:01	(5 and 9) not (13 19 20)

Session started 8/22/2022 12:53:02 PM

Session finished 8/22/2022 1:12:22 PM

Total search duration 0 minutes 39 seconds

Session duration 19 minutes 20 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICSRS as Serial Number: 97118543