

**To:** Alexandria R. Munro([docketing@goodhue.com](mailto:docketing@goodhue.com))  
**Subject:** U.S. Trademark Application Serial No. 97118726 - SAFE-TEST POINT - GRACE\_T0012  
**Sent:** August 24, 2022 09:41:25 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[MW\\_safe\\_def.jpg](#)  
[MW\\_Test\\_Def.jpg](#)  
[MW\\_Test\\_Def\\_2.jpg](#)  
[MW\\_Point\\_Def\\_1.jpg](#)  
[screenshot-www-graceport-com-safetestpoint-16612048748421](#)  
[screenshot-shop-graceport-com-products-r-3mt-1k-kit-f-16612140911811](#)

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

**U.S. Application Serial No.** 97118726

**Mark:** SAFE-TEST POINT

**Correspondence Address:**

ALEXANDRIA R. MUNRO  
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12951 UNIVERSITY AVE., STE 201  
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**Applicant:** Grace Technologies, Inc.

**Reference/Docket No.** GRACE\_T0012

**Correspondence Email Address:** [docketing@goodhue.com](mailto:docketing@goodhue.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(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:

- Section 2(e)(1) Merely Descriptive Refusal
- Identification of Goods

#### **Section 2(e)(1) Merely Descriptive Refusal**

Registration is refused because the applied-for mark merely describes a feature, purpose, and/or function of applicant's goods. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods and/or services. TMEP §1209.01(b); *see, e.g., In re TriVita, Inc.*, 783 F.3d 872, 874, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 543 (1920)).

In the present case, the applicant has applied for the mark "SAFE-TEST POINT" in standard characters for goods identified as "electrical safety and monitoring devices" in Class 9.

The attached evidence, from the Merriam-Webster Online Dictionary shows that the wording "SAFE" refers to "affording safety or security from danger, risk, or difficulty" or "free from harm or risk", "TEST" means "a critical examination, observation, or evaluation", and that the word "POINT" means "a particular place". The applicant provides "electrical safety and monitoring devices". Moreover, the other attached evidence, from the applicant's own website, shows that the applicant's devices provide "qualified workers a safer and more productive way to perform the Absence of Voltage Test (AVT) from outside the electrical cabinet". Thus, the each of the individual words, "SAFE", "TEST", and "POINT", describe the applicant's goods because the applicant's goods are a particular place or "POINT" for electricians to critically examine, monitor, and evaluate an electrical device free from harm or risk of electric shock.

Furthermore, even the combined wording, "SAFE-TEST POINT", describes the applicant's goods as well. Generally, if the individual components of a mark retain their descriptive meaning in relation to the goods and/or services, the combination results in a composite mark that is itself descriptive and not registrable. *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1516 (TTAB 2016) (citing *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1317-18 (TTAB 2002)); TMEP §1209.03(d); *see, e.g., DuoProSS*

*Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1255, 103 USPQ2d 1753, 1758 (Fed. Cir. 2012) (holding SNAP SIMPLY SAFER merely descriptive for various medical devices, such as hypodermic, aspiration, and injection needles and syringes); *In re Fallon*, 2020 USPQ2d 11249, at \*12 (TTAB 2020) (holding THERMAL MATRIX merely descriptive of a heat-responsive, malleable liner that is an integral component of an oral dental appliance).

Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods and/or services is the combined mark registrable. *See In re Omniome, Inc.*, 2020 USPQ2d 3222, at \*4 (TTAB 2019) (citing *In re Colonial Stores, Inc.*, 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968); *In re Shutts*, 217 USPQ 363, 364-65 (TTAB 1983)); *In re Positec Grp. Ltd.*, 108 USPQ2d 1161, 1162-63 (TTAB 2013).

In this case, both the individual components and the composite result are descriptive of applicant's goods and/or services and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods and/or services. Specifically, the wording "SAFE-TEST POINT" indicates a particular place at which one can critically examine, monitor, and evaluate something free from harm or risk. As noted above, the applicant's goods allow electricians to safely test electrical equipment free from harm or risk at a particular point on the device. In other words, the applicant's goods are, quite literally, a "SAFE-TEST POINT".

While the wording "SAFE-TEST" has a hyphen in between that wording, that hyphen is also insufficient to overcome the descriptive nature of the mark. Adding punctuation marks to a descriptive term will not ordinarily change the term into a non-descriptive one. *In re Mecca Grade Growers, LLC*, 125 USPQ2d 1950, 1955 (TTAB 2018); TMEP §1209.03(u); *see DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1253-54, 103 USPQ2d 1753, 1757-58 (Fed. Cir. 2012). Here, the hyphen in between "SAFE" and "TEST" does not change the meaning of the overall wording.

Therefore, for the reasons stated above, the applied-for mark is refused registration under Section 2(e)(1) for being merely descriptive of the applicant's goods.

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal, applicant must also respond to the requirement set forth below.

### **Identification of Goods**

Applicant must clarify the wording "Electrical safety and monitoring devices" in the identification of goods because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because the nature of the goods is unclear, and it is unclear whether "safety" and "monitoring" refer to different devices, or whether this wording is meant to describe one device. Because of this, this wording could identify goods in more than one international class. For example, "electrical safety devices in the nature of LED safety lamps" are in International Class 11, and "electrical safety devices in the nature of fuses and resistors for distributing or controlling electric current" would be in International Class 09. With all of that being said, because it appears to be the case that the applicant is providing electrical current safety-related goods in Class 9, the amended identification below takes that into account.

Applicant may substitute the following wording, if accurate:

Class 9: Electrical safety and monitoring devices, **namely, [applicant must specify this wording by providing the common commercial name of said devices properly classified in Class 9, e.g., electronic devices for measuring electric currents, electric monitors for monitoring electric current, voltage, and electrical signals, electrical voltage testers]**

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

### **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.

**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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safe

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# safe adjective

Save Word

\ˈsāf\

safer, safest

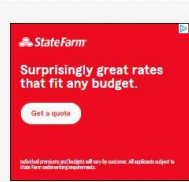
## Definition of safe (Entry 1 of 2)

- 1 : free from harm or risk : **UNHURT**
- 2 **a** : secure from threat of danger, harm, or loss  
**b** : successful at getting to a base in baseball without being put out
- 3 : affording **safety** or security from danger, risk, or difficulty
- 4 *obsolete, of mental or moral faculties* : **HEALTHY, SOUND**
- 5 **a** : not threatening danger : **HARMLESS**  
**b** : unlikely to produce controversy or contradiction
- 6 **a** : not likely to take risks : **CAUTIOUS**  
**b** : **TRUSTWORTHY, RELIABLE**

# safe noun

## Definition of safe (Entry 2 of 2)

- 1 : a place or receptacle to keep articles (such as valuables) safe
- 2 : **CONDOM.sense.1**



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https://www.merriam-webster.com/dictionary/safe



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test

Dictionary

Thesaurus

Plan a beautiful, personal remembrance.  
CREMATIONS | LIFE CELEBRATIONS | CEMETERIES

Dignity

LEARN MORE

# test noun (n)

Save Word

\ˈtɛst\

## Definition of test (Entry 1 of 5)

- 1 a : a means of testing: such as
  - (1) : something (such as a series of questions or exercises) for measuring the skill, knowledge, intelligence, capacities, or aptitudes of an individual or group
  - (2) : a procedure, reaction, or reagent used to identify or characterize a substance or constituent
- b : a positive result in such a test
- 2 a (1) : a critical examination, observation, or evaluation : TRIAL  
*specifically* : the procedure of submitting a statement to such conditions or operations as will lead to its proof or disproof or to its acceptance or rejection  
*//* a test of a statistical hypothesis  
(2) : a basis for evaluation : CRITERION
- b : an ordeal or oath required as proof of conformity with a set of beliefs
- c *chiefly British* : CUPEL
- 3 : a result or value determined by testing
- 4 : TEST MATCH

## test verb

tested; testing; tests

Definition  
transitive

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test

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## test verb

tested; testing; tests

### Definition of test (Entry 2 of 5)

*transitive verb*

- 1 : to put to test or proof : **TRY** —often used with *out*
- 2 : to require a doctrinal oath of

*intransitive verb*

- 1 **a** : to undergo a test  
**b** : to be assigned a standing or evaluation on the basis of **tests**  
// *tested positive for cocaine*  
// *the cake tested done*
- 2 : to apply a test as a means of analysis or diagnosis —used with *for*  
// *test for mechanical aptitude*

**test the waters** or *less commonly test the water*

: to make a preliminary test or survey (as of reaction or interest) before embarking on a course of action

## test adjective

### Definition of test (Entry 3 of 5)

- 1 : of, relating to, or constituting a test
- 2 : subjected to, used for, or revealed by **testing**  
// *a test group*  
// *test data*

## test noun (2)

### Definition of test (Entry 4 of 5)

: an external hard or firm covering (such as a

test report

Adobe

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**REVEAL** A daily challenge for crossword fanatics. **TAKE THE QUIZ »**

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point



Dictionary

Thesaurus

# point noun

Save Word

\ˈpɔɪnt\

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

- 1 a (1) : an individual detail : ITEM  
(2) : a distinguishing detail  
// tact is one of her strong *points*  
b : the most important essential in a discussion or matter  
// missed the whole *point* of the joke  
c : COGENCY
- 2 *obsolete* : physical condition
- 3 : an end or object to be achieved : PURPOSE  
// did not see what *point* there was in continuing the discussion
- 4 a : a geometric element that has zero dimensions and a location determinable by an ordered set of coordinates  
b (1) : a narrowly localized place having a precisely indicated position  
// walked to a *point* 50 yards north of the building  
(2) : a particular place : LOCALITY  
// have come from distant *points*  
c (1) : an exact moment  
// at this *point* I was interrupted  
(2) : a time interval immediately before something indicated : VERGE  
// at the *point* of death  
d (1) : a particular step, stage, or degree in development  
// had reached the *point* where nothing seemed to matter anymore  
(2) : a definite position in a scale
- 5 a : the terminal usually sharp or narrowly rounded part of something : TIP  
b : a weapon or tool having such a part and used for stabbing or piercing:



### WORD OF THE DAY

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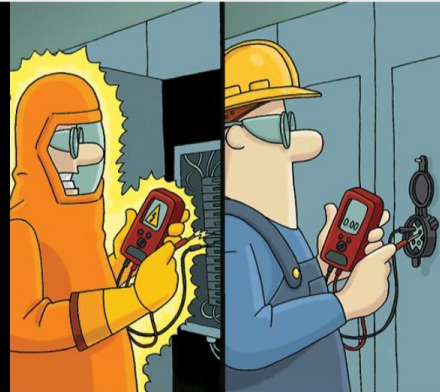
BLOG & PODCAST

## A Better & Safer Absence of Voltage Test Method

Two of the top ten most cited OSHA violations are related to the control of hazardous energy and the use of electrical work practices. In the United States alone, we have an average of 150 fatalities per year due to "exposure to electricity" and more than 50,000 are injured for disregarding Lockout/Tagout protocols resulting in electrocution and arc flash.

Our Safe-Test Point device provides a safer and more productive method of performing Lockout/Tagout (LOTO). When used in conjunction with an adequately rated portable test device, it is an acceptable method for verifying absence of voltage testing per Article 120.5, step 7, NFPA 70E, 2018.

[REQUEST SAMPLE](#)



## About the Safe-Test Point™

The Safe-Test Point device is a Permanent Electrical Safety Device (PESD) that allows qualified workers a safer and more productive way to perform the Absence of Voltage Test (AVT) from outside the electrical cabinet. These devices can be mounted directly on any enclosure with the option to test either the line side, load side, or both.

This high impedance protected device allows for a closed-door absence of voltage test. It contains four test point jacks that are hardwired directly to energy sources and allows measurement of AC/DC voltages by inserting the insulated meter probes into any two test points. It is designed to be used with standard meter probes, not just for safety, but also for convenience.





test point jacks to take a voltage reading either phase to phase or phase to ground.

## Features & Benefits

- High impedance protected device that improves safety and reduces risk by allowing for a **closed-door absence of voltage test**
- **Self-powered**, no additional power supply required (no need for a battery)
- Operational Voltage Range of 600 AC/DC
- Suitable for **CAT III/IV** applications
- Easy installation and can be used in conjunction with your existing safety procedures
- Tool-entry dust cap option to prevent unauthorized access and protect the unit from contamination
- Meets NFPA 70E, Article 120.5, Step 7 (Live-dead-live test (or) Three-Point test)
- cUL Listed for UL 61010-1, CE Marked



## Applications

The Safe-Test Point PESD is recommended for any location that requires mechanical or electrical Lockout/Tagout. It is a permanently mounted device that can be mounted directly onto any enclosure, door or flange. It can be used to test load-side, line-side voltage, or both. Below are some common applications:

- Disconnect Switches
- Motor Control Center Buckets
- Equipment with high incident energy
- Energized equipment that is frequently accessed

It can also be combined with our Voltage Indicator to provide visual or redundant verification of voltage for mechanical Lockout/Tagout.



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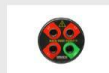
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BLOG & PODCAST

## R-3MT-1K-KIT-F | Flange Mount Safe-Test Point


1000V, 4-Wire Safe-Test Point with safety label and dust cap, horizontal mount



Web Price \$280.00

Quantity

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Product Details

Approvals / Certifications

CAD Drawings

Datasheets and Documentation

FAQ

### > Product Specifications

#### Product Description

Permanent Electrical Safety Device (PESD) that allows workers to safely perform an absence of voltage test from outside the electrical cabinet with a portable test instrument. The new R-3MT-1K allows measurement of up to 1,000 VAC/VDC by inserting the insulated meter probes into any two test point lanks to take a voltage reading

We warrant these prices and any other prices printed on this document.

#### Component Details

Part Number	R-3MT-1K-KIT-F
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#### Electrical Specifications

UL Operational Voltage Range AC Single or 3-Phase	0-1000VAC phase to phase or phase to ground 0-400Hz
UL Operational Voltage Range DC or Stored Energy	0-1000VDC, any (2) wires line-to-line or line-to-ground
Storage Temperature Range	-45°C to + 85°C
Operational Temperature Range	-20°C to +55°C

#### Mechanical Specifications

Installation	30mm Pushbutton Hole
UL Type	4, 4X, 12 & 13
Orientation	Flange

#### Geometric Data

Label Dimensions	4.323"W x 4.60"H
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#### Commercial Data

Country of Origin	US
Schedule B Code	8538.90.8160

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## CONTACT US

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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. 97118726**

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.