

To: Marie, Victoria(victoria.way@gmail.com)
Subject: U.S. Trademark Application Serial No. 97119964 - MALIBU CARL
Sent: August 25, 2022 03:57:06 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[malibu](#)

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

U.S. Application Serial No. 97119964

Mark: MALIBU CARL

Correspondence Address:

MARIE, VICTORIA
P.O. BOX 6027
MALIBU CA 90264 UNITED STATES

Applicant: Marie, Victoria

Reference/Docket No. N/A

Correspondence Email Address: victoria.way@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.

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:

- Domicile Required
- Name of Individual - Written Consent
- Identification of Services
- Disclaimer

U.S. Pro se Applicant with a Post Office Box - Domicile Required & U.S.-licensed Attorney Advisory

Applicant must clarify its domicile street address because the domicile address of record identifies a post office box or mail forwarding service 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).

Applications must include an applicant's domicile address because such domicile determines whether an applicant is required to have a U.S.-licensed attorney represent it before the USPTO. *See* 37 C.F.R. §§2.11(a), 2.32(a)(2); TMEP §§601, 803.05. An applicant whose domicile is located outside of the United States or its territories must be represented at the USPTO by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state or territory. 37 C.F.R. §2.11(a); TMEP §601.01(a).

In this case, the application record lists applicant as an individual and specifies applicant's domicile as a post office box instead of a street address. In most cases, a post office box is not acceptable as a domicile address because it does not identify the location of the place applicant resides and intends to be applicant's principal home. *See* 37 C.F.R. §2.2(o)-(p); TMEP §601.01(b)(1).

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 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).

If applicant amends the application to list a domicile street address located outside of the United States or its territories, applicant must appoint a U.S.-licensed attorney under 37 C.F.R. §11.14 as its representative before the application may proceed to registration. *See* 37 C.F.R. §2.11(a); TMEP §601.01(a). *See* [Hiring a U.S.-licensed trademark attorney](#) for more information. However, if applicant establishes its domicile street address is located within the United States or its territories, applicant is not required to appoint a qualified U.S.-licensed attorney. *See* TMEP §601.01(b).

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 domicile address. Applicant should provide documentation showing the name and listed domicile address of the individual, for example one of the following: (1) a current, valid signed rental, lease, or mortgage agreement; (2) a current, valid homeowner’s, renter’s, or motor vehicle insurance policy; or (3) a computer-generated bill issued by a utility company dated no earlier than 60 days before the application filing date. 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 place where applicant resides and intends to be its principal home, 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.

To appoint a U.S.-licensed attorney in the application, applicant should submit a completed TEAS [Change Address or Representation](#) form. The newly-appointed attorney must submit a TEAS [Response to Examining Attorney Office Action](#) form indicating that an appointment of attorney has been made and address all other refusals or requirements in this action, if any. Alternatively, if applicant retains an attorney before filing the response, the attorney can respond to this Office action by using the appropriate TEAS response form and provide his or her attorney information in the form and sign it as applicant’s attorney. *See* 37 C.F.R. §2.17(b)(1)(ii); TMEP §604.01.

Name of Individual

Applicant must clarify whether the name MALIBU CARL in the mark identifies a particular living individual. *See* 37 C.F.R. §2.61(b); TMEP §§813, 1206.03. In this case, the application neither specifies whether the name in the mark identifies a particular living individual nor includes a written consent. *See* TMEP §§813.01(a)-(b), 1206.04(a), 1206.05.

To register a mark that consists of or comprises the name of a particular living individual, including a first name, pseudonym, stage name, or nickname, an applicant must provide a written consent personally signed by the named individual. 15 U.S.C. §1052(c); TMEP §§813, 1206.04(a).

Accordingly, if the name in the mark does not identify a particular living individual, applicant

must submit a statement to that effect (e.g., “The name shown in the mark does not identify a particular living individual.”).

However, if the name in the mark does identify a particular living individual, applicant must submit both of the following:

(1) The following **statement**: “The name(s) shown in the mark identifies a living individual(s) whose consent(s) to register is made of record.” If the name is a pseudonym, stage name, or nickname, applicant must provide the following statement: “MALIBU CARL identifies _____, a living individual whose consent is of record.”

(2) **A written consent**, personally signed by the named individual(s), as follows: “I, _____, consent to the use and registration of my name, MALIBU CARL, as a trademark and/or service mark with the USPTO.”

For an overview of the requirements for names appearing in marks, and instructions on how to satisfy this requirement using the online Trademark Electronic Application System (TEAS) response form, see the [Name/Portrait/Signature of Particular Living Individual in Mark webpage](#).

Applicant has a duty to respond directly and completely to this requirement for information. *See In re Ocean Tech., Inc.*, 2019 USPQ2d 450686, at *2 (TTAB 2019) (citing *In re AOP LLC*, 107 USPQ2d 1644, 1651 (TTAB 2013)); TMEP §814. Failure to comply with a requirement for information is an independent ground for refusing registration. *In re SICPA Holding SA*, 2021 USPQ2d 613, at *6 (TTAB 2021) (citing *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P’ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814).

Identification of Services - Clarification Required - Class 041

The wording “Entertainment services” in the identification of services is indefinite and must be clarified because it is ambiguous and unclear. *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 services. *See* TMEP §1402.01. If the services have no common commercial or generic name, applicant must describe or explain the nature of the services using clear and succinct language. *See id.*

Applicant may substitute the following wording, if accurate:

"Entertainment services, namely, [*insert type of services, e.g., wine tastings*], in **International Class 041**."

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.

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).

Disclaimer

Applicant must disclaim the wording “MALIBU” because it is primarily geographically descriptive of the origin of applicant’s services. *See* 15 U.S.C. §1052(e)(2); *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 959, 3 USPQ2d 1450, 1451-52 (Fed. Cir. 1987); TMEP §§1210.01(a), 1210.06(a), 1213.03(a).

The attached evidence from Oxford Dictionary shows that "Malibu" is a generally known geographic place or location. *See* TMEP §§1210.02 *et seq.* The services for which applicant seeks registration originate in this geographic place or location as shown by the applicant's address. *See* TMEP §1210.03. Because the services originate in this place or location, a public association of the services with the place is presumed. *See In re Hollywood Lawyers Online*, 110 USPQ2d 1852, 1858 (TTAB 2014) (citing *In re Spirits of New Merced, LLC*, 85 USPQ2d 1614, 1621 (TTAB 2007)); TMEP §§1210.02(a) 1210.04.

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

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

Pro Se Response Guidelines

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.

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. 97119964

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: Andrew Rhim

Statistics for Case 97119964						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97119964[sn]	1	0	1	1	0:00
2	"malibu carl"[bi,ti]	1	0	1	1	0:00
3	*m{v}l{v}bu*[bi,ti]	1324	0	0	0	0:01
4	*m{v}l{v}b*[bi,ti]	1972	0	0	0	0:02
5	*{"ck"}arl*[bi,ti]	4661	0	0	0	0:00
6	4 and 5	2	1	1	1	0:01
7	3 and "041"[cc]	395	0	0	0	0:01
8	3 not dead	343	0	0	0	0:00
9	7 not dead	127	0	127	127	0:00
10	5 and "041"[cc]	1546	0	0	0	0:01
11	5 and ("041" or a or b or "200")[ic]	506	0	0	0	0:02
12	10 not dead	655	0	0	0	0:00
13	11 not dead	223	0	223	223	0:01

Session started 08/25/2022 3:44 pm

Session ended 08/25/2022 3:50 pm

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Session duration 5 minutes 30 seconds

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Note To The File

Serial Number: 97119964
Date: 08/25/2022 3:44 pm
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MALIBU CARL

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