

**To:** Austin Dula([adula@dbcllp.com](mailto:adula@dbcllp.com))  
**Subject:** U.S. Trademark Application Serial No. 97120792 - 2 JONES RANCH - 8571-600USTM  
**Sent:** August 24, 2022 09:37:07 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

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

**U.S. Application Serial No.** 97120792

**Mark:** 2 JONES RANCH

**Correspondence Address:**

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**Applicant:** Billy Bobby Jones

**Reference/Docket No.** 8571-600USTM

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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 24, 2022

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issues 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 and 45 Refusal – Merely Ornamental
- Requirement: Identification of Goods
- Advisory: Multiple Class Application Requirements

### SECTIONS 1, 2, AND 45 REFUSAL – MERELY ORNAMENTAL

Registration is refused because the applied-for mark as used on the specimen of record is merely a decorative or ornamental feature of applicant's clothing and, thus, does not function as a trademark to indicate the source of applicant's clothing and to identify and distinguish applicant's clothing from others. Trademark Act Sections 1, 2, and 45, 15 U.S.C. §§1051-1052, 1127; *see In re Lululemon Athletica Can. Inc.*, 105 USPQ2d 1684, 1689 (TTAB 2013); *In re Pro-Line Corp.*, 28 USPQ2d 1141, 1142 (TTAB 1993); TMEP §§904.07(b), 1202.03 *et seq.*

The size, location, dominance, and significance of the alleged mark as used on the goods are all relevant factors in determining the commercial impression of the applied-for mark. *See, e.g., In re Peace Love World Live, LLC*, 127 USPQ2d 1400, 1403 (TTAB 2018) (quoting *In re Hulting*, 107 USPQ2d 1175, 1178 (TTAB 2013)); *In re Lululemon Athletica Can. Inc.*, 105 USPQ2d at 1687 (quoting *In re Right-On Co.*, 87 USPQ2d 1152, 1156 (TTAB 2008)); TMEP §1202.03(a).

With respect to clothing, consumers may recognize small designs or discrete wording as trademarks, rather than as merely ornamental features, when located, for example, on the pocket or breast area of a shirt. *See* TMEP §1202.03(a). Consumers may not, however, perceive larger designs or slogans as trademarks when such matter is prominently displayed across the front of a t-shirt. *See In re Pro-Line Corp.*, 28 USPQ2d at 1142; *In re Dimitri's Inc.*, 9 USPQ2d 1666, 1667-68 (TTAB 1988); TMEP §1202.03(a), (b), (f)(i), (f)(ii).

In this case, the submitted specimen shows the applied-for mark, 2 JONES RANCH, located directly on front of a shirt, where ornamental elements often appear. *See* TMEP §1202.03(a), (b). Furthermore, the mark is displayed in a relatively large size on the clothing such that it dominates the overall appearance of the goods. Lastly, the applied-for mark appears to be a design element that is used in a merely decorative manner that would be perceived by consumers as having little or no particular source-identifying significance.

Therefore, consumers would view the applied-for mark as a decorative or ornamental feature of the goods, rather than as a trademark to indicate the source of applicant's goods and to distinguish them from others.

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

- (1) Submit a different specimen (a verified [“substitute” specimen](#)) that was in actual use in commerce at least as early as the filing date of the application (or prior to the

filing of an amendment to allege use) and that shows proper trademark use for the identified goods in International Class 25. Examples of acceptable specimens that show non-ornamental use on clothing include hang tags and labels used inside a garment.

(2) Amend to the [Supplemental Register](#), which is a second trademark register for marks not yet eligible for registration on the Principal Register, but which may become capable over time of functioning as source indicators.

(3) Claim acquired distinctiveness under Trademark Act Section 2(f) by submitting [evidence](#) that the applied-for mark has become distinctive of applicant's goods; that is, proof that applicant's extensive use and promotion of the mark allowed consumers now directly to associate the mark with applicant as the source of the goods.

(4) Submit evidence that the applied-for mark is an [indicator of secondary source](#); that is, proof that the mark is already recognized as a source indicator for *other* goods or services that applicant sells/offers.

(5) Amend the filing basis to [intent to use under Section 1\(b\)](#). This option will later necessitate additional fee(s) and filing requirements.

For an overview of the response options above and instructions on how to satisfy each option online using the Trademark Electronic Application System (TEAS) form, see the [Ornamental Refusal webpage](#).

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

#### REQUIREMENT: IDENTIFICATION OF GOODS

The word "apparel" and "casual clothing" in the identification of goods is indefinite and too broad and must be clarified because the word does not make clear the nature of the goods and could identify goods in more than one international class. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. The following are examples of acceptable identifications: "clothing for protection against accidents, irradiation and fire" in International Class 9; "surgical gowns" in International Class 10; "pet clothing" in International Class 18; and "shirts," "shorts," and "pants" in International Class 25. Therefore, applicant must amend the identification to specify the type of clothing.

If applicant's "apparel" and "casual clothing" is in International Class 25, applicant may amend the identification to insert the word "namely," after apparel" and "clothing" and then list the specific types of clothing items in that class (e.g., shirts, pants, coats, dresses).

Applicant may substitute the following wording, if accurate (additions are shown in bold, deletions are in strike-through):

International Class 025: Shirts; Hats; Apparel, **namely, shirts and pants**; Casual clothing, **namely, shirts and pants**

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.

## MULTIPLE-CLASS APPLICATION REQUIREMENTS

The application references goods based on use in commerce in potentially more than one international class; therefore, applicant must satisfy all the requirements below for each international class:

(1) **List the goods by their international class number** in consecutive numerical order, starting with the lowest numbered class (for example, International Class 3: perfume; International Class 18: cosmetic bags sold empty).

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

(3) **Submit verified dates of first use of the mark** anywhere and in commerce for each international class. [See more information about verified dates of use.](#)

(4) **Submit a specimen for each international class.** The current specimen is not acceptable for any international class. [See more information about specimens.](#)

**Examples of specimens.** Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). A webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (c).

Specimens for services must show a direct association between the mark and the services and include: (1) copies of advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services. *See* 37 C.F.R. §2.56(b)(2), (c); TMEP §1301.04(a), (h)(iv)(C).

Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the TEAS form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

(5) **Submit a verified statement** that “The specimen was in use in commerce

**on or in connection with the goods and/or services listed in the application at least as early as the filing date of the application.”** [See more information about verification.](#)

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

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

**Assistance available.** 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 24, 2022 for  
**U.S. Trademark Application Serial No. 97120792**

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.

Statistics for Case 97120792						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	ranch[bi,ti] and live[ld]	2535	0	0	0	0:03
2	{"w"0:1}{ "r"1:2}a{ "n"1:2}{ "st"1:2}ch[bi,ti] and live[ld]	0	0	0	0	0:01
3	{"w"0:1}{ "r"1:2}a{ "n"1:2}{ "st"0:2}ch[bi,ti] and live[ld]	2536	0	0	0	0:00
4	*ranch*[bi,ti] and live[ld]	3881	0	0	0	0:01
5	*{ "r"1:2}a{ "n"1:2}{ "st"0:2}ch*[bi,ti] and live[ld]	3891	0	0	0	0:00
6	*{ "r"1:2}a{ "n"1:2}{ "st"0:2}{ "cs" }h*[bi,ti] and live[ld]	3938	0	0	0	0:01
7	jones[bi,ti] and live[ld]	836	0	0	0	0:02
8	*jones*[bi,ti] and live[ld]	880	0	0	0	0:01
9	*jone*[bi,ti] and live[ld]	948	0	0	0	0:01
10	*{ "gj" }o{ "aeu"0:1}{ "n"1:2}{ "e"0:1}{ "sz" }*[bi,ti] and live[ld]	1717	0	0	0	0:15
11	"2"[bi,ti] and live[ld]	5968	0	0	0	0:01
12	*2*[bi,ti] and live[ld]	40125	0	0	0	0:01
13	("2" "two")[bi,ti] and live[ld]	29697	0	0	0	0:01
14	(*2* *two*)[bi,ti] and live[ld]	52553	0	0	0	0:01
15	6 and (9 10)	1	0	1	1	0:13
16	6 and 14	90	0	90	90	0:01
17	(9 10) and 14	27	0	27	27	0:13
18	9 and "025"[cc]	388	0	388	388	0:01
19	1 and "025"[cc]	640	0	0	0	0:01
20	6 and ("025" A B "200")[ic]	384	0	384	384	0:02
21	6 and ("025" "018" A B "200")[ic]	426	0	0	0	0:01
22	3 and ("025" "018" "014" A B "200")[ic]	318	0	318	318	0:01
23	3 and ("025" "018" "014" "035" A B "200")[ic]	556	0	0	0	0:01
24	11 and ("025" A B "200")[ic]	772	0	0	0	0:01
25	24 and ("3" "5")[md] and live[ld]	375	0	375	375	0:02
26	11 and "025"[cc] and ("3" "5")[md] and live[ld]	817	0	375	817	0:01
27	(261701 and 261705)[dc] and live[ld]	61624	0	0	0	0:00
28	27 and ("025" A B "200")[ic]	6753	0	0	0	0:01
29	14 and 27	2168	0	0	0	0:01
30	29 and "025"[cc]	735	0	29	735	0:01
31	(9 10 6) and 27	148	0	33	148	0:14



Statistics for Case 97120792						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
<b>32</b>	15 16 17 18 20 22	899	0	0	0	0:14
<b>33</b>	15 16 17 18 20 22 25	1273	0	1273	1273	0:14
<b>34</b>	26 30 31	1640	0	409	1640	0:13

Session started 08/24/2022 8:51 pm

Session ended 08/24/2022 9:16 pm

Total search duration 125.00

Session duration 24 minutes 53 seconds

Adjacency Level 1

Near Level 1