

**To:** Olivo, Zenia([andreas@tequila181.com](mailto:andreas@tequila181.com))  
**Subject:** U.S. Trademark Application Serial No. 97119987 - TEQUILA 181  
**Sent:** August 23, 2022 01:49:28 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[screenshot-www-tequila181-com-16612736622681\(1\)](#)

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

**U.S. Application Serial No.** 97119987

**Mark:** TEQUILA 181

**Correspondence Address:**

OLIVO, ZENIA  
7131 OVAL ROCK DR  
EL PASO TX 79912 UNITED STATES

**Applicant:** Olivo, Zenia

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

**Correspondence Email Address:** [andreas@tequila181.com](mailto:andreas@tequila181.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 23, 2022

**Introduction**

This Office action is supplemental to and supersedes the previous Office action issued on August 23, 2022 in connection with this application. The assigned trademark examining attorney inadvertently omitted a requirement relevant to the mark in the subject application. *See* TMEP §§706, 711.02.

Specifically, as detailed below, applicant's entity type is uncertain and must be clarified.

The trademark examining attorney apologizes for any inconvenience caused by the delay in raising this issue.

Applicant must address all issues raised in this Office action, in addition to the issues raised in the earlier Office action dated August 23, 2022. The issues raised in the previous August 23, 2022 Office action are as follows and are maintained: specimen refusal, requirement for disclaimer of descriptive wording, and requirement for information regarding mark significance.

The following is a SUMMARY OF ISSUES that applicant must address:

- NEW ISSUE: Applicant Must Clarify Entity Type
- Specimen is Merely a Drawing or Depiction of the Mark Refusal
- Disclaimer of Descriptive Wording Required
- Information regarding Mark Significance Required

Applicant must respond to all issues raised in this Office action and the previous August 23, 2022 Office action, within six (6) months of the date of issuance of this Office action. 37 C.F.R. §2.62(a); *see* TMEP §711.02. If applicant does not respond within this time limit, the application will be abandoned. 37 C.F.R. §2.65(a).

#### **NEW ISSUE: Applicant Must Clarify Entity Type**

The name of an individual person appears in the section of the application intended for the trademark owner's name; however, the legal entity is set forth as a limited liability company. Applicant must clarify this inconsistency. *See* 37 C.F.R. §§2.32(a)(2), (a)(3)(i)-(ii), 2.61(b); TMEP §803.02(a).

If applicant is an individual, applicant should simply request that the legal entity be amended to "individual" and must indicate his/her country of citizenship for the record. 37 C.F.R. §2.32(a)(3)(i); TMEP §803.03(a). Alternatively, if applicant is a limited liability company, applicant must provide the correct name of the limited liability company and the U.S. state or foreign country of incorporation or organization. 37 C.F.R. §2.32(a)(3)(ii); TMEP §803.03(h).

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration may 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).

#### **Specimen is Merely a Drawing or Depiction of the Mark Refusal**

Registration is refused because the specimen is merely a photocopy of the drawing or a depiction of the applied-for mark and does not show the applied-for mark as actually used in commerce with the services in International Class 35. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (c); *In re Chica*, 84 USPQ2d 1845, 1848 (TTAB 2007); TMEP §§904, 904.07(a), 1301.04(g)(i). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods and/or services identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R.

§§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

**Examples of specimens.** 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).

**Response options.** Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

(1) Submit a different specimen (a verified “[substitute](#)” specimen) that (a) 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 (b) shows the mark in actual use in commerce for the goods and/or services identified in the application or amendment to allege use. A “verified substitute specimen” is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.

(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), as no specimen is required before publication. This option will later necessitate additional fee(s) and filing requirements, including a specimen.

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

### Response Options to Refusals

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 and above.

### Disclaimer of Descriptive Wording Required

Applicant must disclaim the wording “TEQUILA” because it is merely descriptive of a feature of applicant's services. *See* 15 U.S.C. §1052(e)(1); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

As shown by the attached evidence from applicant's website, applicant is a "family owned **Tequila** and Mezcal Distributor based in Texas." Therefore, the wording TEQUILA is merely descriptive of the

purpose of applicant's distributorship services, that is, to distribute TEQUILA to consumers.

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

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

### **Information regarding Mark Significance Required**

To permit proper examination of the application, applicant must clarify whether wording in the mark has any particular significance, as follows:

(1) **Industry significance.** Explain whether the term “181” in the mark has any meaning or significance in the trade or industry in which applicant’s goods and/or services are manufactured or provided, any meaning or significance as applied to applicant’s goods and/or services, or if such wording is a term of art within applicant’s industry. Specifically, applicant must explain whether the term “181” has any meaning or significance as it relates to tequila and/or alcohol distributorship services

(2) **Geographical significance.** Explain whether the term “181” in the mark identifies or refers to a geographic place.

(3) **Other significance.** Respond to the following questions:

What does the term “181” mean, represent, and/or signify?

See 37 C.F.R. §2.61(b); TMEP §814. If the wording has no significance and is not a term of art in the relevant trade or industry or as used with applicant’s goods and/or services, and does not have any geographical or other significance, applicant must provide a statement to that effect. See 37 C.F.R. §2.61(b); TMEP §814.

To respond to the above requirement for information, open the appropriate Trademark Electronic Application System (TEAS) response form and enter the serial number, answer “yes” to question 3, and on the “Additional Statement(s)” page in either the “Significance of Wording, Letter(s), or Numeral(s)” text box(es) and/or the “Miscellaneous Statement” text box(es), enter the information and/or explain documentation being submitted with such information and attach it by clicking the button below the text box.

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).

### **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.

### **Advisory regarding Hiring Trademark Attorney**

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.

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

/Gabrielle M. Rennie/  
Gabrielle M. Rennie  
Trademark Examining Attorney  
Law Office 302  
(571) 272-0597  
[gabrielle.rennie@uspto.gov](mailto:gabrielle.rennie@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.

Tequila 181

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# Tequila 181 Agave Spirits Distribution







## ABOUT US

We are a Family owned Tequila and Mezcal Distributor based in Texas! While learning more about Tequila in Guadalajara and becoming good friends with the owners of the Casa Marnego Distillery we knew we wanted to share our knowledge and provide good quality tequila in the United States! Every drop of Tequila and Mezcal is a reminder of the hard work and dedication every distillery owner has put into their product. We recognize that effort and will showcase, and offer these exclusive Tequila and Mezcal brands in Texas.



## Amor Indio Collection







Casa Verde Blanco

Casa Verde Reposado

Casa Verde Añejo

Casa Verde Extra Añejo

Aged 6 months in American Oak Bourbon Barrels

Aged 1.5 years in American Oak Bourbon Barrels

Aged 5 years in American Oak Bourbon Barrels







Alma De Judas Mezcal - Espadín Joven

## Brand Videos





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## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on August 23, 2022 for  
**U.S. Trademark Application Serial No. 97119987**

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.

**To:** Olivo, Zenia([andreas@tequila181.com](mailto:andreas@tequila181.com))  
**Subject:** U.S. Trademark Application Serial No. 97119987 - TEQUILA 181  
**Sent:** August 23, 2022 01:31:42 PM EDT  
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**Attachments**

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Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97119987

**Mark:** TEQUILA 181

**Correspondence Address:**

OLIVO, ZENIA  
7131 OVAL ROCK DR  
EL PASO TX 79912 UNITED STATES

**Applicant:** Olivo, Zenia

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

**Correspondence Email Address:** [andreas@tequila181.com](mailto:andreas@tequila181.com)

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**Issue date:** August 23, 2022

**Introduction**

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.



## **Summary of Issues**

- Search Results - No Conflicting Marks Found
- Specimen is Merely a Drawing or Depiction of the Mark Refusal
- Disclaimer of Descriptive Wording Required
- Information regarding Mark Significance Required

## **Search Results - No Conflicting Marks Found**

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.

## **Specimen is Merely a Drawing or Depiction of the Mark Refusal**

Registration is refused because the specimen is merely a photocopy of the drawing or a depiction of the applied-for mark and does not show the applied-for mark as actually used in commerce with the services in International Class 35. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (c); *In re Chica*, 84 USPQ2d 1845, 1848 (TTAB 2007); TMEP §§904, 904.07(a), 1301.04(g)(i). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods and/or services identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

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**Response options.** Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified “[substitute](#)” specimen) that (a) 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 (b) shows the mark in actual use in commerce for the goods and/or services identified in the application or amendment to allege use. A “verified substitute specimen” is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.

(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), as no specimen is required before publication. This option will later necessitate additional fee(s) and filing requirements, including a specimen.

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Applicant must disclaim the wording “TEQUILA” because it is merely descriptive of a feature of applicant’s services. *See* 15 U.S.C. §1052(e)(1); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

As shown by the attached evidence from applicant's website, applicant is a "family owned **Tequila** and Mezcal Distributor based in Texas." Therefore, the wording TEQUILA is merely descriptive of the purpose of applicant's distributorship services, that is, to distribute TEQUILA to consumers.

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*See* 37 C.F.R. §2.61(b); TMEP §814. If the wording has no significance and is not a term of art in the relevant trade or industry or as used with applicant’s goods and/or services, and does not have any geographical or other significance, applicant must provide a statement to that effect. *See* 37 C.F.R. §2.61(b); TMEP §814.

To respond to the above requirement for information, open the appropriate Trademark Electronic Application System (TEAS) response form and enter the serial number, answer “yes” to question 3, and on the “Additional Statement(s)” page in either the “Significance of Wording, Letter(s), or Numeral(s)” text box(es) and/or the “Miscellaneous Statement” text box(es), enter the information and/or explain documentation being submitted with such information and attach it by clicking the button below the text box.

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### **Response Guidelines**

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

/Gabrielle M. Rennie/  
Gabrielle M. Rennie  
Trademark Examining Attorney  
Law Office 302  
(571) 272-0597  
gabrielle.rennie@uspto.gov

## RESPONSE GUIDANCE

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- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

Tequila 181

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# Tequila 181 Agave Spirits Distribution





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Aged 6 months in American Oak Bourbon Barrels

Aged 1.5 years in American Oak Bourbon Barrels

Aged 5 years in American Oak Bourbon Barrels





Alma De Judas Mezcal - Espadín Joven

## Brand Videos





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## United States Patent and Trademark Office (USPTO)

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- **[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](#)**.

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1	97119987[sn]	1	0	0	0	0:00
2	*t{"eiy"}{"ckqx"1:2}{v1:3}l*[bi,ti] not dead[l d]	7226	0	0	0	0:01
3	("1 8 1" "1 81" "18 1" *181* )[bi,ti] not dead[l d]	186	0	186	186	0:02
4	("one hundred eighty one" "one eight one" "eig hteen one")[bi,ti] not dead[l d]	65	0	65	65	0:01
5	2 and (3 4)	2	0	2	2	0:01

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