

To: Lillian H Khosravi(lillian.khosravi.law@gmail.com)
Subject: U.S. Trademark Application Serial No. 97118879 - JUSTBREATHE RELAX AND RECHARGE
Sent: August 26, 2022 08:38:05 AM EDT
Sent As: 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. 97118879

Mark: JUSTBREATHE RELAX AND RECHARGE

Correspondence Address:

LILLIAN H KHOSRAVI
THE LAW OFFICE OF LILLIAN KHOSRAVI
1000 TOWN CENTER DR, SUITE 300
OXNARD CA 93036 UNITED STATES

Applicant: Sadigh, Kerri

Reference/Docket No. N/A

Correspondence Email Address: lillian.khosravi.law@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 26, 2022

The referenced application has been reviewed by the assigned trademark examining attorney.

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.

Applicant must respond timely and completely to the issue(s) below to enable further prosecution of the application. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Description of the mark and color claim

Although applicant submitted a drawing showing the mark in color with a color claim, applicant did not provide the required description that specifies where each color appears in the literal and design elements in the mark. *See* 37 C.F.R. §§2.37, 2.52(b)(1); TMEP §807.07(a)-(a)(ii). Therefore, applicant must provide this description. *See* TMEP §807.07(a)(ii).

Generic color names must be used to describe the colors in the mark, e.g., red, yellow, blue. TMEP §807.07(a)(i)-(ii). 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 following description is suggested, if accurate: The mark consists of of the words "JUSTBREATHE" in black where there is a yellow drop in the "u" and the words "RELAX AND RECHARGE" in black under the word "BREATHE".

Although applicant submitted a color drawing with a description referencing colors in the mark, applicant did not provide a list of all the colors claimed as a feature of the mark, known as a color claim. Therefore, applicant must provide this required color claim. 37 C.F.R. §2.52(b)(1); *see* TMEP §§807.07(a) *et seq.*

Specifically, the color white, which is enclosed in the drop is not specified as a feature or just background. It appears on the use that the white is only background. As such, the following color claim is suggested, if accurate: **"The colors black and yellow are claimed as a feature of the mark. The color white is only background and is not part of the mark."** TMEP §807.07(a)(i).

If the color white is meant to be part of the yellow drop, applicant must claim the colors black, white and yellow.

Response guidelines

Applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the trademark examining attorney, (2) the serial number and filing date of the application, (3) the date of issuance of this Office action, (4) applicant's name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end and the trademark will fail to register. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a); TMEP §§718.01, 718.02. Additionally, the USPTO will not refund the application filing fee, which is a required processing fee. *See* 37 C.F.R. §§2.6(a)(1)(i)-(iv), 2.209(a); TMEP §405.04.

When an application has abandoned for failure to respond to an Office action, an applicant may timely file a petition to revive the application, which, if granted, would allow the application to return to active status. *See* 37 C.F.R. §2.66; TMEP §1714. The petition must be filed within two months of the date of

issuance of the notice of abandonment and may be filed online via the Trademark Electronic Application System (TEAS) with a \$100 fee. See 37 C.F.R. §§2.6(a)(15)(ii), 2.66(a)(1), (b)(1).

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

/K. Margaret Le/
K. Margaret Le
(571) 272-9456
margaret.le@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 26, 2022 for
U.S. Trademark Application Serial No. 97118879

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: Khuong Le

Statistics for Case 97118879						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97118879[sn]	1	0	0	0	0:00
2	*just*[bi,ti] and live[ld]	7594	0	0	0	0:01
3	*breath*[bi,ti] and live[ld]	1547	0	0	0	0:02
4	*rela{"ckqx"}*[bi,ti] and live[ld]	1085	0	0	0	0:02
5	*charg*[bi,ti] and live[ld]	1875	0	0	0	0:01
6	2 and (3 4 5)	43	0	43	43	0:01
7	3 and (4 5)	8	0	3	3	0:00
8	4 and 5	5	0	5	5	0:00

Session started 08/26/2022 8:29 am

Session ended 08/26/2022 8:33 am

Total search duration 7.00

Session duration 3 minutes 12 seconds

Adjacency Level 1

Near Level 1