

**To:** Dilonga, Jacques([jdilonga@hotmail.com](mailto:jdilonga@hotmail.com))  
**Subject:** U.S. Trademark Application Serial No. 97119233 - E  
**Sent:** August 22, 2022 03:21:27 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.** 97119233

**Mark:** E

**Correspondence Address:**

Dilonga, Jacques  
3962 Sword Dancer Way  
Grand Prairie TX 75052 UNITED STATES

**Applicant:** Dilonga, Jacques

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

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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 22, 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.

**SUMMARY OF ISSUES:**

- Amended Drawing Page Not Acceptable

## 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.

### **Amended Drawing Page Not Acceptable**

Applicant has requested to amend the mark in the application. The USPTO cannot accept the proposed changes because they would materially alter the mark in the drawing filed with the original application or as previously amended. 37 C.F.R. §2.72(a)(2), (b)(2); TMEP §807.14. Accordingly, the proposed amendment will not be entered; the previous drawing of the mark will remain operative. *See* TMEP §807.17.

The original drawing shows the mark as a stylized letter "e". The proposed amended drawing shows the mark as featuring a long-sleeved shirt with a stylized letter "e" on the upper left of the shirt.

The USPTO cannot accept an amendment to a mark if it will materially alter the mark in the drawing filed with the original application, or in a previously accepted amended drawing. 37 C.F.R. §2.72(a)(2), (b)(2); TMEP §807.14. An amendment to the mark is material when the USPTO would need to republish the mark with the change in the USPTO *Trademark Official Gazette* to fairly present the mark to the public. *In re Thrifty, Inc.*, 274 F.3d 1349, 1352, 61 USPQ2d 1121, 1123-24 (Fed. Cir. 2001) (citing *In re Hacot-Columbier*, 105 F.3d 616, 620, 41 USPQ2d 1523, 1526 (Fed. Cir. 1997)); TMEP §807.14.

That is, an amendment is material if the altered mark does not retain “the essence of the original mark” or if the new and old forms do not “create the impression of being essentially the same mark.” *In re Hacot-Columbier*, 105 F.3d at 620, 41 USPQ2d at 1526 (quoting *Visa Int’l Serv. Ass’n v. Life-Code Sys., Inc.*, 220 USPQ 740, 743-44 (TTAB 1983)); *see, e.g., In re Who? Vision Sys., Inc.*, 57 USPQ2d 1211, 1218 (TTAB 2000) (amendment from “TACILESENSE” to “TACTILESENSE” a material alteration); *In re CTB Inc.*, 52 USPQ2d 1471, 1475 (TTAB 1999) (amendment of TURBO with a design to just the typed word TURBO without design a material alteration).

When determining materiality, the addition of any element that would require a further search of the USPTO database for conflicting marks is also relevant. *In re Guitar Straps Online LLC*, 103 USPQ2d 1745, 1747 (TTAB 2012) (citing *In re Pierce Foods Corp.*, 230 USPQ 307, 308-09 (TTAB 1986)); *In re Who? Vision Sys. Inc.*, 57 USPQ2d at 1218-19; TMEP §807.14.

In the present case, applicant’s proposed amendment would materially alter the mark in the drawing filed with the original application or as previously amended because the addition of the long-sleeved shirt adds a design element that materially alters the commercial impression of the mark.

To avoid the application from abandoning, applicant must respond to this issue. TMEP §807.17. Applicant may respond by (1) withdrawing the request to amend the drawing, or (2) arguing that

the proposed amendment is not a material alteration of the mark.

For more information about changes to the mark in the drawing after the application filing date, please go to the [Drawing 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.

### **Closing**

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.

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 22, 2022 for  
**U.S. Trademark Application Serial No. 97119233**

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: Ty Murray

Statistics for Case 97119233						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	"e"[fm]	3726	0	0	0	0:00
2	"e"[fm] and ("025" a b 200)[ic]	452	39	181	181	0:02
3	"e"[fm] and "025"[cc] not 2	1215	0	325	325	0:02
4	"e"[bi,ti]	62657	0	0	0	0:01
5	4 and ("025" a b 200)[ic]	5317	0	0	0	0:02
6	5 not (2 3)	4865	0	1481	1481	0:02

Session started 08/22/2022 1:54 pm

Session ended 08/22/2022 2:34 pm

Total search duration 9.00

Session duration 40 minutes 54 seconds

Adjacency Level 1

Near Level 1