

**To:** Bole Yuan([stevenyuan@lawvictor-ip.com](mailto:stevenyuan@lawvictor-ip.com))  
**Subject:** U.S. Trademark Application Serial No. 97120662 - NEATNESS - 21-11-03765  
**Sent:** August 23, 2022 09:43:20 AM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[6261288](#)

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

**U.S. Application Serial No.** 97120662

**Mark:** NEATNESS

**Correspondence Address:**

BOLE YUAN  
204 S 3RD ST  
PHILADELPHIA PA 19106 UNITED STATES

**Applicant:** Luo, Wenmin

**Reference/Docket No.** 21-11-03765

**Correspondence Email Address:** [stevenyuan@lawvictor-ip.com](mailto:stevenyuan@lawvictor-ip.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**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue below. 15 U.S.C. §1062(b); 37 C.F.R.

§§2.62(a), 2.65(a); TMEP §§711, 718.03.

### **SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 6261288 (NEATNESSOME). Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

The Applicant's mark is **NEATNESS (+styl.)** for "Bottle openers, electric and non-electric; Cleaning brushes for household use; Containers for household or kitchen use not of precious metal; Containers for household or kitchen use of precious metal; Drinking bottles for sports; Garbage cans; Household containers for foods; Household utensils, namely, graters; Ice cube trays; Insulated containers for food or beverages; Insulated mugs; Mixing bowls; Non-electric ice crushers; Non-electric rotary cheese graters; Salad spinners; Salt and pepper shakers; Shower racks; Step trash cans".

The Registrant's mark is **NEATNESSOME (+styl.)** for "Baskets for household purposes; Baskets for waste paper littering for household purposes; Baskets of wicker for household purposes; Baskets of wood for household purposes; Baskets of metal for household purposes; Baskets of cloth for household purposes; Buckets of woven fabric; Collapsible fabric storage container for domestic use; Flower baskets; Laundry baskets; Laundry bins for domestic or household use; Laundry bins for household purposes; Laundry hampers for domestic or household use; Plant baskets; Waste baskets; Waste paper baskets".

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by-case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods. *See In re Viterro Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

### **COMPARISON OF THE MARKS**

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks

confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

Applicant's mark is **NEATNESS (+styl.)**.

Registrant's mark is **NEATNESSOME (+styl.)**.

In this case, both marks feature the common wording "NEATNESS". Marks may be confusingly similar in appearance where similar terms or phrases or similar parts of terms or phrases appear in the compared marks and create a similar overall commercial impression. *See Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689, 690-91 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1495, 1 USPQ2d 1813, 1817 (Fed. Cir. 1987) (holding COMMCASH and COMMUNICASH confusingly similar); *In re Corning Glass Works*, 229 USPQ 65, 66 (TTAB 1985) (holding CONFIRM and CONFIRMCELLS confusingly similar); *In re Pellerin Milnor Corp.*, 221 USPQ 558, 560 (TTAB 1983) (holding MILTRON and MILLTRONICS confusingly similar); TMEP §1207.01(b)(ii)-(iii).

The entirety of applicant's mark is encompassed by the registered mark. Incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (holding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL LANCER and design and BENGAL confusingly similar); *Double Coin Holdings, Ltd. v. Tru Dev.*, 2019 USPQ2d 377409, at \*6-7 (TTAB 2019) (holding ROAD WARRIOR and WARRIOR (stylized) confusingly similar); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1090 (TTAB 2016) (holding JAWS DEVOUR YOUR HUNGER and JAWS confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are identical in part.

Although applicant’s mark does not contain the entirety of the registered mark, applicant’s mark is likely to appear to prospective purchasers as a shortened form of registrant’s mark. *See In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010) (quoting *United States Shoe Corp.*, 229 USPQ 707, 709 (TTAB 1985)). Thus, merely omitting some of the wording from a registered mark may not overcome a likelihood of confusion. *See In re Mighty Leaf Tea*, 601 F.3d 1342, 94 USPQ2d 1257; *In re Optica Int’l*, 196 USPQ 775, 778 (TTAB 1977); TMEP §1207.01(b)(ii)-(iii). In this case, applicant’s mark does not create a distinct commercial impression from the registered mark because it contains the common wording "NEATNESS", but does not add any wording that would distinguish it from the registered mark.

Furthermore, where the goods of an applicant and registrant are legally identical, the degree of similarity between the marks required to support a finding that confusion is likely declines. *See Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1373, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *In re Viterro Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(b).

## COMPARISON OF THE GOODS

The goods are compared to determine whether they are similar, commercially related, or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101

USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi). The compared goods need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Determining likelihood of confusion is based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. See *In re Detroit Athletic Co.*, 903 F.3d 1297, 1307, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (citing *In re i.am.symbolic, llc*, 866 F.3d 1315, 1325, 123 USPQ2d 1744, 1749 (Fed. Cir. 2017)).

In this case, the application uses broad wording to describe its containers for household or kitchen use and garbage cans, which presumably encompasses all goods of the type described, including registrant’s narrower baskets for household purposes, collapsible fabric storage container for domestic use, and buckets of woven fabric, and waste baskets. See, e.g., *In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015). Thus, applicant’s and registrant’s goods are legally identical. See, e.g., *In re i.am.symbolic, llc*, 127 USPQ2d 1627, 1629 (TTAB 2018) (citing *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336, 209 USPQ 986, 988 (C.C.P.A. 1981); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1745 (TTAB 2014); *Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1847 n.9 (TTAB 2004)).

Additionally, the goods of the parties have no restrictions as to nature, type, channels of trade, or classes of purchasers and are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Thus, applicant’s and registrant’s goods and/or services are related.

The remaining goods are a variety of related household goods.

The overriding concern is not only to prevent buyer confusion as to the source of the goods, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. See *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); see *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

In light of the similarities between the marks and the relatedness of the goods, it is likely that consumers who encounter the parties’ goods will falsely conclude that they originate from the same source.

Although applicant’s mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration.

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.](#)

/Crystal H. Yi/  
Crystal H. Yi  
Trademark Attorney  
Law Office 123  
(571) 270-0763  
crystal.yi@uspto.gov  
(571) 270-0763  
crystal.yi@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.

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

 NEATNESSOME

**Mark Punctuated**

NEATNESSOME

**Translation**

**Goods/Services**

- IC 021. US 002 013 023 029 030 033 040 050.G & S: Baskets for household purposes; Baskets for waste paper littering for household purposes; Baskets of wicker for household purposes; Baskets of wood for household purposes; Baskets of metal for household purposes; Baskets of cloth for household purposes; Buckets of woven fabric; Collapsible fabric storage container for domestic use; Flower baskets; Laundry baskets; Laundry bins for domestic or household use; Laundry bins for household purposes; Laundry hampers for domestic or household use; Plant baskets; Waste baskets; Waste paper baskets. FIRST USE: 20200617. FIRST USE IN COMMERCE: 20200617

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Design Code**

**Serial Number**

90034600

**Filing Date**

20200703

**Current Filing Basis**

1A

**Original Filing Basis**

1A

**Publication for Opposition Date**

20201117

**Registration Number**

6261288

**Date Registered**

20210202

**Owner**

(REGISTRANT) Laizhou Runfull Arts & Crafts Co.,ltd limited company (ltd.) CHINA Rm.325 Bldg. 1, WanhaoCommercialBldg. Guangzhou East Road Laizhou CHINA 261400

**Priority Date**

**Disclaimer Statement**

**Description of Mark**

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Live Dead Indicator**

LIVE

**Attorney of Record**

Angus Ni

## 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. 97120662**

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: Crystal Yi

| Statistics for Case<br>97120662 |   |                |               |                     |                       |                           |
|---------------------------------|---|----------------|---------------|---------------------|-----------------------|---------------------------|
| #                               | Search  | Total<br>Marks | Dead<br>Marks | Live Viewed<br>Docs | Live Viewed<br>Images | Status/Search<br>Duration |
| 1                               | 97120593[sn]  | 1              | 0             | 0                   | 0                     | 0:00                      |
| 2                               | (*n{"ieya"1:2}tn{v}{"sz"}*)[bi,ti] not dead[ld]     | 12             | 0             | 12                  | 12                    | 0:01                      |
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| 5                               | 3 and 4   | 4103           | 0             | 0                   | 0                     | 0:03                      |
| 6                               | (*n{"iey"}{"ieya"}t* "n e a t")[bi,ti] not dead[ld] | 1283           | 0             | 0                   | 0                     | 0:01                      |
| 7                               | 6 and 4   | 55             | 0             | 55                  | 55                    | 0:02                      |
| 8                               | 6 and "021"[cc]                                     | 484            | 0             | 484                 | 484                   | 0:02                      |
| 9                               | 6 and "006"[cc]                                     | 344            | 0             | 0                   | 0                     | 0:02                      |
| 10                              | 6 and "007"[cc]                                     | 303            | 0             | 0                   | 0                     | 0:02                      |
| 11                              | 9 not 8   | 63             | 0             | 63                  | 63                    | 0:01                      |
| 12                              | 10 not (8 9)  | 45             | 0             | 45                  | 45                    | 0:01                      |

Session started 08/23/2022 8:57 am

Session ended 08/23/2022 9:07 am

Total search duration 22.00

Session duration 9 minutes 32 seconds

Adjacency Level 1

Near Level 1