

**To:** Morales, Jorge Antonio([jorjiboi@yahoo.com](mailto:jorjiboi@yahoo.com))  
**Subject:** U.S. Trademark Application Serial No. 97120699 - SANTA MONICA BRAKE  
**Sent:** August 23, 2022 01:42:55 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[Wiki1.jpg](#)

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

**U.S. Application Serial No.** 97120699

**Mark:** SANTA MONICA BRAKE

**Correspondence Address:**

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INGLEWOOD CA 90302 UNITED STATES

**Applicant:** Morales, Jorge Antonio

**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 23, 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.

**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:**

1. Section 2(e)(2) Refusal - Primarily Geographically Descriptive
2. Advisory: Amendment to Supplemental Register Suggested
3. Specimen Refusal - Drawing or Rendering of Mark Does Not Show Use in Commerce
4. Clarification of Entity Information Required
5. Advisory: Applicant May Wish To Seek Trademark Counsel

### **SECTION 2(e)(2) REFUSAL – PRIMARILY GEOGRAPHICALLY DESCRIPTIVE**

Registration is refused because the applied-for mark is primarily geographically descriptive of the origin of applicant's services. Trademark Act Section 2(e)(2), 15 U.S.C. §1052(e)(2); *see* TMEP §§1210, 1210.01(a).

A mark is primarily geographically descriptive when the following is demonstrated:

- (1) The primary significance of the mark to the purchasing public is a generally known location;
- (2) The services originate in the place identified in the mark; and
- (3) The purchasing public would be likely to believe that the services originate in the geographic place identified in the mark; that is, to make a services-place association.

*See Spiritline Cruises LLC v. Tour Mgmt. Servs., Inc.*, 2020 USPQ2d 48324, at \*5 (TTAB 2020) (citing *In re Nantucket, Inc.*, 677 F.2d 95, 96-97, 213 USPQ 889, 891 (C.C.P.A. 1982)); *see also In re Newbridge Cutlery Co.*, 776 F.3d 854, 860-61, 113 USPQ2d 1445, 1448-49 (Fed. Cir. 2015); *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 959, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987); *In re JT Tobacconists*, 59 USPQ2d 1080, 1081 (TTAB 2001)); TMEP §1210.01(a).

In the present case, all three of the above criteria are met:

- SANTA MONICA is a generally known location. *See* specifically, attached from *Wikipedia* ("Santa Monica...is a beachfront city in western Los Angeles County, California, United States...The 2020 U.S. Census population of Santa Monica was 93,076").
- For services to originate in a geographic place, the record must show that they are rendered at least in part in the geographic place. *See In re Chalk's Int'l Airline Inc.*, 21 USPQ2d 1637 (TTAB 1991) (holding PARADISE ISLAND AIRLINES primarily geographically descriptive of air transportation services of passengers and/or goods that are performed at least in part on Paradise Island); *In re Cal. Pizza Kitchen Inc.*, 10 USPQ2d 1704 (TTAB 1988) (holding CALIFORNIA PIZZA KITCHEN primarily geographically descriptive of restaurant services rendered in California and outside the state as well); *In re Opryland USA Inc.*, 1 USPQ2d 1409 (TTAB 1986) (holding THE NASHVILLE NETWORK primarily geographically descriptive of

television production and distribution services provided in Nashville); TMEP §1210.03. In the present case, applicant states that the services originate in SANTA MONICA. *See* specifically, "Significance of Mark" statement in application ("Santa Monica Brake appearing in the mark means or signifies or is a term of art for auto repair done in Santa Monica in the relevant trade or industry or as used in connection with the goods/services listed in the application.") and "Miscellaneous Statement" in the application ("Santa Monica Brake is an auto repair shop located in Santa Monica, California, that performs auto repair, especially on brake systems").

- A services-place association may be presumed where (1) the location in the mark is generally known to the purchasing public, (2) the term's geographical significance is its primary significance, and (3) the services do, in fact, originate from the named location in the mark. TMEP §1210.04; *see, e.g., In re Cal. Pizza Kitchen Inc.*, 10 USPQ2d 1704, 1705 (TTAB 1988) (finding a services-place association was presumed between applicant's restaurant services and California because the services originated in California); *In re Handler Fenton Ws., Inc.*, 214 USPQ 848, 850 (TTAB 1982) (finding a goods-place association was presumed between applicant's t-shirts and Denver because the goods had their geographical origin in Denver); *see also In re Nantucket, Inc.*, 677 F.2d 95, 102, 213 USPQ 889, 895 (C.C.P.A. 1982) (Nies, J., concurring) ("[W]e must start with the concept that a geographic name of a place of business is a descriptive term when used on the goods of that business. There is a public goods/place association, in effect, presumed." (internal footnote removed)). In the present case, a services-place association may be presumed since (1) SANTA MONICA is a generally known location, (2) the term's geographical significance is its primary significance and (3) the services do, in fact, originate in SANTA MONICA.

Finally, the additional descriptive and disclaimed wording in the mark, namely, "BRAKE" does not obviate this refusal, as the addition of generic or highly descriptive wording to a geographic word or term does not diminish that geographic word or term's primary geographic significance. TMEP §1210.02(c)(ii); *see, e.g., Spiritline Cruises LLC v. Tour Mgmt. Servs., Inc.*, 2020 USPQ2d 48324, at \*6-7 (TTAB 2020) (holding CHARLESTON HARBOR TOURS primarily geographically descriptive of various travel tour and cruise services because TOURS is generic for the services and CHARLESTON HARBOR is a well-known harbor in Charleston, South Carolina); *In re Hollywood Lawyers Online*, 110 USPQ2d 1852, 1853-54 (TTAB 2014) (holding HOLLYWOOD LAWYERS ONLINE primarily geographically descriptive of attorney referrals, online business information, and an online business directory).

As such, for the reasons discussed above, applicant's mark is refused registration on the Principal Register under Trademark Act Section 2(e)(2) for being primarily geographically descriptive.

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

#### **ADVISORY: AMENDMENT TO SUPPLEMENTAL REGISTER SUGGESTED**

The applied-for mark has been refused registration on the Principal Register. Applicant may respond to the refusal by submitting evidence and arguments in support of registration and/or by amending the application to seek registration on the Supplemental Register. *See* 15 U.S.C. §1091; 37 C.F.R. §§2.47, 2.75(a); TMEP §§801.02(b), 816. Amending to the Supplemental Register does not preclude applicant from submitting evidence and arguments against the refusal(s). TMEP §816.04.

Although registration on the Supplemental Register does not afford all the benefits of registration on the Principal Register, it does provide the following advantages to the registrant:

(1) Use of the registration symbol ® with the registered mark in connection with the designated goods and/or services, which provides public notice of the registration and potentially deters third parties from using confusingly similar marks.

(2) Inclusion of the registered mark in the USPTO's database of registered and pending marks, which will (a) make it easier for third parties to find it in trademark search reports, (b) provide public notice of the registration, and thus (c) potentially deter third parties from using confusingly similar marks.

(3) Use of the registration by a USPTO trademark examining attorney as a bar to registering confusingly similar marks in applications filed by third parties.

(4) Use of the registration as a basis to bring suit for trademark infringement in federal court, which, although more costly than state court, means judges with more trademark experience, often faster adjudications, and the opportunity to seek an injunction, actual damages, and attorneys' fees and costs.

(5) Use of the registration as a filing basis for a trademark application for registration in certain foreign countries, in accordance with international treaties.

*See* 15 U.S.C. §§1052(d), 1091, 1094; J. Thomas McCarthy, *McCarthy on Trademarks & Unfair Competition* §§19:33, 19:37 (rev. 4th ed. Supp. 2017).

Applicant should note the following additional ground for refusal.

### **SPECIMEN REFUSAL - DRAWING OR RENDERING OF MARK DOES NOT SHOW USE IN COMMERCE**

**Specimen is merely a drawing or depiction of the mark.** Registration is also 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 037. 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 services identified in the application. 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 and (b) shows the mark in actual use in commerce for the services identified in the application. 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.” The substitute specimen cannot be accepted without this statement.

(2) Amend the filing basis to [intent to use under Section 1\(b\)](#) 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](#).

### **CLARIFICATION OF ENTITY INFORMATION REQUIRED**

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).

### **ADVISORY: APPLICANT MAY WISH TO SEEK TRADEMARK COUNSEL**

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.

### **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.

**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.



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# Santa Monica, California

From Wikipedia, the free encyclopedia

Coordinates: 34°0′11″N 118°28′53″W﻿ / ﻿

*"Santa Monica" redirects here. For other uses, see [Santa Monica \(disambiguation\)](#).*

 This article needs to be **updated**. Please help update this article to reflect recent events or newly available information. *(December 2021)*

**Santa Monica** (Spanish for 'Saint Monica') is a beachfront city in western Los Angeles County, California, United States. Situated on *Santa Monica Bay*, it is bordered on five sides by different neighborhoods of the city of Los Angeles: Pacific Palisades to the north, Brentwood on the northeast, West Los Angeles on the east, Mar Vista on the southeast, and Venice on the south. The 2020 U.S. Census population of Santa Monica was 93,076. Due to its favorable climate and proximity to Los Angeles, Santa Monica became a resort town by the early 20th century, attracting celebrities such as Marion Davies to build magnificent beach front homes on Pacific Coast Highway (PCH). The city has experienced a boom since the late 1980s, through the revitalization of its downtown core, significant job growth, and increased tourism. Popular tourists sites include Pacific Park on the Santa Monica Pier<sup>[1]</sup> and Palisades Park atop a bluff over the Pacific Ocean. As in other coastal beach communities, *coastal erosion*, due to coastal infrastructure and high human usage, is an increasing challenge, and will become worse due to *sea level rise*. Santa Monica has a history of developing environmental and sustainability strategies, with the most recent focus on community-wide carbon neutrality by 2050 or sooner.

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**Santa Monica, California**

City

City of Santa Monica



Santa Monica's Ocean Avenue at sunset




Seal

Nickname(s): SaMo<sup>[1]</sup>

Motto(s): *Populus felix in urbe felice* (Latin)

(English: "happy people in a happy city"; or alternatively "fortunate people in a fortunate land")<sup>[2]</sup>



Location within Los Angeles County



## 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. 97120699**

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.

# Note To The File

Serial Number: 97120699  
Date: 08/23/2022 1:25 pm  
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SANTA MONICA BRAKE

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3	*br{"e"0:1}a{"ckqx"}*[bi,ti] not dead[ld]	5853	0	0	0	0:01
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