

To: Howard Thomas, Jamia(jamia@j5klegacy.com)
Subject: U.S. Trademark Application Serial No. 97119527 - J5K BUSINESS AND PERSONAL SUCCESS CONCEPT
Sent: August 26, 2022 03:03:38 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

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

U.S. Application Serial No. 97119527

Mark: J5K BUSINESS AND PERSONAL SUCCESS CONCEPT

Correspondence Address:

HOWARD THOMAS, JAMIA
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SEATTLE WA 98102 UNITED STATES

Applicant: Howard Thomas, Jamia

Reference/Docket No. N/A

Correspondence Email Address: jamia@j5klegacy.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

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
- Identification of Services – Amendment Required
- Multiple Class Application Requirements for a Section 1(b) Application
- Disclaimer of Descriptive Wording Required
- Advisory Regarding Hiring an Attorney

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.

Identification of Services – Amendment Required

The Trademark Act requires that a trademark or service mark application must include a “**specification** of ... the goods [or services]” in connection with which the mark is being used or will be used. 15 U.S.C. §1051(a)(2) (emphasis added), (b)(2) (emphasis added); *see* 15 U.S.C. §1053. Specifically, a complete application must include a “list of the **particular** goods or services on or in connection with which the applicant uses or intends to use the mark.” 37 C.F.R. §2.32(a)(6) (emphasis added). This requirement for a specification of the particular goods and/or services applies to applications filed under all statutory bases. *See* 15 U.S.C. §§1051(a)(2), 1051(b)(2), 1053, 1126(d)-(e), 1141f; 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.01(b)-(c).

The USPTO has the discretion to determine the degree of particularity needed to clearly identify goods and/or services covered by a mark. *In re SICPA Holding*, 2021 USPQ2d 613, at *4 (TTAB 2021) (quoting *In re Omega SA*, 494 F.3d 1362, 1365, 83 USPQ2d 1541, 1543-44 (Fed. Cir. 2007)). Accordingly, the USPTO requires the description of goods and/or services in a U.S. application to be specific, definite, clear, accurate, and concise. *In re tapio GmbH*, 2020 USPQ2d 11387, at *6 (TTAB 2020) (quoting *In re Cordua Rests., Inc.*, 823 F.3d 594, 605, 118 USPQ2d 1632, 1639 (Fed. Cir. 2016)); TMEP §1402.01.

“The purpose of the identification of goods [and/or services] is to provide the general population, including consumers and members of the relevant industry, with an understandable description of the goods and services, which is done by using the common commercial name for the goods [and/or services].” *In re Gulf Coast Nutritionals, Inc.*, 106 USPQ2d 1243, 1247 (TTAB 2013) (citing *In re Sones*, 590 F.3d 1282, 1289, 93 USPQ2d 1118, 1124 (Fed. Cir. 2009)). If there is no common, ordinary name for the goods and/or services, applicant should describe the goods and/or services using wording that would be generally understood by the average person. *See Schenley Indus., Inc. v. Battistoni*, 112 USPQ 485, 486 (Comm’r Pats. 1957); *Cal. Spray-Chem. Corp. v. Osmose Wood Pres. Co. of Am.*, 102 USPQ 321, 322 (Comm’r Pats. 1954); TMEP §1402.01.

An in depth knowledge of the relevant field should not be necessary for understanding a description of the goods and/or services. TMEP §1402.01. “[T]echnical, high-sounding verbiage” should be avoided.

Cal. Spray-Chem. Corp. v. Osmose Wood Pres. Co. of Am., 102 USPQ at 322.

Applicant must correct the punctuation in the identification to clarify the individual items in the list of goods and/or services. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01(a). Proper punctuation in identifications is necessary to delineate explicitly each product or service within a list and to avoid ambiguity. Commas, semicolons, and apostrophes are the only punctuation that should be used in an identification of goods and/or services. TMEP §1402.01(a). An applicant should *not* use colons, periods, exclamation points, and question marks in an identification. *Id.* In addition, applicants should not use symbols in the identification such as asterisks (*), at symbols (@), or carets. *Id.*

In general, **commas** should be used in an identification (1) to separate a series of related items identified within a particular category of goods or services, (2) before and after “namely,” and (3) between each item in a list of goods or services following “namely” (e.g., personal care products, namely, body lotion, bar soap, shampoo). *Id.* **Semicolons** generally should be used to separate a series of distinct categories of goods or services within an international class (e.g., personal care products, namely, body lotion; deodorizers for pets; glass cleaners). *Id.*

Thus Applicant should use semicolons to separate out distinct categories of goods. Here, Applicant has grouped numerous indefinite and overbroad services together with commas and used periods at several points. This is not correct formatting for an Identification of Services.

Applicant must clarify the wording “Consulting, training and facilitation, education and development services.” in the identification of goods and/or services in International Class 035 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not make clear what the services are. Consulting services are distinct from educational services. Further, this wording does identify services in more than one international class. Consulting services are classified based on the underlying subject matter. Applicant has not provided a subject matter, which makes it difficult to suggest where the consulting services should be classified. As applicant's mark contains the wording BUSINESS and PERSONAL SUCCESS those will be used to provide suggestions. However, Applicant may need to further specify the subject matter of these services being offered.

Applicant may substitute the following wording, if accurate: "Business consultation" in Class 035

Similarly, It is not clear what type of training and facilitation is being provided. Nor is it clear how facilitation relates to the training being provided. Looking at the usage of commas it appears that the facilitation is related to the training being provided in some way.

Applicant may substitute the following wording, if accurate: “Business training and facilitation.” in Class 041

Similarly, it is not clear what education and development services are being provided. Education services generally need to specify the form of instruction (classes, seminars, workshops, etc.) as well as the subject matter of those classes. These are generally classified in Class 041.

Applicant may substitute the following wording, if accurate: "Education and development services, namely classes, seminars, and workshops in the field of business and personal success." in Class 041.

Applicant has classified “Leadership, middle management and frontline skills training and

development” in International Class 035; however, the proper classification is International Class 041. Therefore, applicant may respond by (1) adding International Class 041 to the application and reclassifying these goods and/or services in the proper international class, (2) deleting “Leadership, middle management and frontline skills training and development” from the application, or (3) deleting the remainder of the items in the identification and reclassifying the specified goods and/or services in the proper international class. *See* 37 C.F.R. §§2.86(a), 6.1; TMEP §§1403.02 *et seq.* If applicant adds one or more international classes to the application, applicant must comply with the multiple-class requirements specified in this Office action.

The wording “Leadership, middle management and frontline skills training and development” in the identification of services is indefinite and must be clarified because this contains more than one distinct service. Additionally, specificity about the field of these training services is needed *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Applicant may substitute the following wording, if accurate: "Leadership development training in the field of business; business training, namely middle management and front line worker skills training and development."

Applicant must clarify the wording “Speaking, motivating and inspiring events” in the identification of goods and/or services in International Class 035 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not make clear what the services are. Further, this wording could identify goods and/or services in more than one international class. Notably none of these services belong in Class 035. It is difficult to tell from the limited information available, but Applicant seems to be describing three different types of services. The first would be a speaking service. The second would be some type of motivation service. The final service involves some type of event hosting. It is not clear what type of event an "inspiring events" would envision. A suggestion based on the vague wording will be provided, but Applicant is encouraged to review these suggestions closely and consider adding additional detail as appropriate.

Applicant may substitute the following wording, if accurate:

“Educational and entertainment services, namely, providing motivational speaking services in the field of business; Educational and entertainment services, namely, providing motivational and educational speakers in the field of self- and personal improvement; Organizing events in the field of business and personal improvement for cultural or educational purposes.” in Class 041

and/or

"Personal growth and motivation consulting services." in Class 045

Applicant may substitute the following wording, if accurate:

- International Class 035: "Business consultation."
- International Class 041: "Business training and facilitation; Education and development services, namely classes, seminars, and workshops in the field of business and personal success; Leadership development training in the field of business; business training, namely middle management and front line worker skills training and development; Educational and entertainment services, namely, providing motivational speaking services in the field of

business; Educational and entertainment services, namely, providing motivational and educational speakers in the field of self- and personal improvement; Organizing events in the field of business and personal improvement for cultural or educational purposes."

- International Class 045: "Personal growth and motivation consulting services."

If applicant adopts the suggested amendment of the identification of goods and/or services, then applicant must amend the classification to International Classes 035, 041, and 045. *See* 37 C.F.R. §§2.32(a)(7), 2.85; TMEP §§805, 1401.

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). *See* TMEP §1402.04.

Multiple Class Application Requirements for a Section 1(b) Application

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

- (1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.
- (2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO's current fee schedule](#)). The application identifies goods and/or services that are classified in at least 3 classes; however, applicant submitted a fee(s) sufficient for only 1 class. Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(b) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the [Multiple-class Application webpage](#).

Disclaimer of Descriptive Wording Required

A "disclaimer" is a statement in the application record that an applicant does not claim exclusive rights to an unregistrable component of the mark. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 979-80, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213. A disclaimer does not physically remove the disclaimed matter from the mark or otherwise affect the appearance of the mark. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d at 979, 144 USPQ2d at 433; TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. *See In re Stereotaxis Inc.*, 429 F.3d 1039, 1041, 77 USPQ2d 1087, 1089 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant must disclaim the wording “BUSINESS AND PERSONAL SUCCESS CONCEPT” because it is merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant’s goods and/or 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).

The attached evidence from The American Heritage Dictionary shows the word BUSINESS means “[t]he activity of buying and selling commodities, products, or services.” Applicant’s services likely involve BUSINESS related topics. The attached evidence from The American Heritage Dictionary shows the word PERSONAL means “[o]f or relating to a particular person”. Applicant’s services likely focus on individuals, and motivating them to succeed in the workplace. Additionally, the attached evidence from The American Heritage Dictionary shows the word SUCCESS means “The achievement of something desired, planned, or attempted.” Here, the root of Applicant’s services is helping others to succeed, whether in business or personally. Lastly, the attached evidence from The American Heritage Dictionary shows the word CONCEPT means “A general idea or understanding of something.” Combined, BUSINESS AND PERSONAL SUCCESS CONCEPT describes services that impart ideas of how to succeed in both business and personal matters. Thus, the wording merely describes applicant’s services, which include consultations, training services, speaking, and motivating. Many of these could involve sharing concepts of how to be successful in business or how to succeed in reaching personal goals.

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

No claim is made to the exclusive right to use “BUSINESS AND PERSONAL SUCCESS CONCEPT” 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](#).

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 an 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.](#)

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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.
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THE USAGE PANEL

The Usage Panel is a group of nearly 200 prominent scholars, creative writers, journalists, diplomats, and others in occupations requiring mastery of language. Annual surveys have gauged the acceptability of particular usages and grammatical constructions.

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per·son·al (pərˈsɒ-nəl)

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adj.

1. Of or relating to a particular person; private: *"Like their personal lives, women's history is fragmented, interrupted"* (Elizabeth Janeway).
2.
 - a. Done, made, or performed in person: *a personal appearance*.
 - b. Done to or for or directed toward a particular person: *a personal favor*.
3. Concerning a particular person and that person's private business, interests, or activities; intimate: *I have something personal to tell you*.
4.
 - a. Aimed pointedly at the most intimate aspects of a person, especially in a critical or hostile manner: *an uncalled-for, highly personal remark*.
 - b. Tending to make remarks, or be unduly questioning, about another's affairs: *As the student debate got heated, it got personal*.
5. Of or relating to the body or physical being: *personal cleanliness*.
6. Relating to or having the nature of a person or self-conscious being: *belief in a personal God*.
7. Law Of or relating to the person: *personal property as opposed to real property; personal jurisdiction as opposed to in rem jurisdiction*.
8. Grammar Indicating grammatical person.

n.

1. A personal item or notice in a newspaper.
2. **personals** A column in a newspaper or magazine featuring personal notices.

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Indo-European & Semitic Roots Appendices

Thousands of entries in the dictionary include etymologies that trace their origins back to reconstructed proto-languages. You can obtain more information about these forms in our online appendices:

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SUC·CESS (sək-sēs)

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- n.
1. The achievement of something desired, planned, or attempted: *attributed their success in business to hard work.*
 2.
 - a. The gaining of fame or prosperity: *an artist spoiled by success.*
 - b. The extent of such gain.
 3. One that is successful: *The plan was a success.*
 4. Archaic A result or an outcome.

[Latin *successus*, from past participle of *succedere*, to succeed; see *succen-*.]

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concept (kən'sept)

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n.

1. A general idea or understanding of something: *the concept of inertia; the concept of free will*. See *Synonyms at Idea*.
2. A plan or original idea: *The original concept was for a building with 12 floors*.
3. A unifying idea or theme, especially for a product or service: *a new restaurant concept*.

adj.

1. Having an experimental or strikingly different design, especially to test or demonstrate new features: *a concept car*.

[Late Latin *conceptus*, from Latin, past participle of *conspicere*, to conceive; see *conceive*.]

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The AMERICAN HERITAGE dictionary of the English Language

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busi·ness (bīz'nis)

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n.

1. The activity of buying and selling commodities, products, or services: *new systems now being used in business.*
2. The amount or volume of this activity: *Business was off all day.*
3.
 - a. The variety of this activity in which a person is engaged: *the wholesale food business.*
 - b. A specific occupation or pursuit: *the best designer in the business.*
4. A commercial enterprise or establishment: *he bought his uncle's construction business.*
5. Commercial dealings; patronage: *she took her business to a trustworthy salesperson.*
6.
 - a. One's rightful or proper concern or interest: *"The business of America is business" (Calvin Coolidge).*
 - b. Something involving one personally: *It's none of my business.*
7. Serious work or endeavor: *get right down to business.*
8. An affair or matter: *"We will proceed no further in this business" (Shakespeare).*
9. An incidental action performed by an actor on the stage to fill a pause between lines or to provide interesting detail.
10. Informal Strong verbal criticism; scolding: *gave me the business for being late.*
11. Informal Urination or defecation: *The dog did its business on the lawn.*
12. Obsolete The condition of being busy.

[Middle English *businessse*, from *busy*; see *busy*.]

Synonyms: business, industry, commerce, trade, traffic

These nouns apply to forms of activity that have the objective of supplying products or services for a fee. *Business* pertains broadly to commercial, financial, and industrial activity, and more narrowly to specific fields or firms engaging in this activity: *a company that does business over the internet; went into the software consulting business; owns a dry-cleaning business.* *Industry* entails the production and manufacture of goods or commodities, especially on a large scale: *the computer industry.* *Commerce* and *trade* refer to the exchange and distribution of goods or commodities: *laws regulating interstate commerce; involved in the domestic fur trade.* *Traffic* pertains in particular to businesses engaged in the transportation of goods or passengers: *renovated the docks to attract shipping traffic.* The word may also suggest illegal trade: *discovered a brisk traffic in stolen goods.*

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Indo-European & Semitic Roots Appendices

Thousands of entries in the dictionary include etymologies that trace their origins back to reconstructed proto-languages. You can obtain more information about these forms in our online appendices:

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on August 26, 2022 for
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