

To: GILL PLUS JILL(stephanie@chezbouic.com)
Subject: U.S. Trademark Application Serial No. 97120153 - GILL + JILL
Sent: August 23, 2022 03:37:17 PM 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. 97120153

Mark: GILL + JILL

Correspondence Address:

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DUBLIN CA 94568 UNITED STATES

Applicant: GILL PLUS JILL

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 issues 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

- Sections 1 and 45 Refusal - Specimen Not Acceptable - This Partial Refusal Applies to Class 16
- Classification & Identification of Goods Amendment Requirement
- Multiple-Class Application Requirements

Sections 1 and 45 Refusal - Specimen Not Acceptable - This Partial Refusal Applies to Class

Specimen does not show use in specific class(es). Registration is refused because the specimen does not show the applied-for mark as actually used in commerce in connection with any of the goods specified in International Class 16. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); *In re Keep A Breast Found.*, 123 USPQ2d 1869, 1876-79 (TTAB 2017); TMEP §§904, 904.07(a), 1301.04(d), (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 goods and/or services identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a); *see In re Gulf Coast Nutritionals, Inc.*, 106 USPQ2d 1243, 1247 (TTAB 2013).

Specifically, none of the submitted specimens show books or art in International Class 16. Rather, the specimens submitted only show candles.

Examples of specimens. Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). A webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (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 or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the goods and/or services identified in the application or amendment to allege use. 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 or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.

(2) Amend the filing basis to [intent to use under Section 1\(b\)](#) (which includes withdrawing an amendment to allege use, if one was filed), 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](#).

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 the requirements set forth below.

Classification & Identification of Goods Amendment Requirement

Applicant has classified "candles" in International Class 21; however, the proper classification is International Class 4. Therefore, applicant may respond by (1) adding International Class 4 to the application and reclassifying these goods and/or services in the proper international class, (2) deleting "candles" 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 identification for "books" in International Class 16 is indefinite and too broad and must be clarified because the wording does not make clear whether the "books" are goods or services and if those goods or services are in more than one international class. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.03(e), 1402.11(a)(x). Thus, applicant must amend the identification to specify the format, type, and subject matter of the books. *See* TMEP §§1402.03(e), 1402.11(a)(x).

With respect to format, applicant must specify whether the books are (1) electronic and downloadable in International Class 9, (2) electronic and recorded on computer media in International Class 9, (3) printed in International Class 16, and/or (4) provided online and non-downloadable in International Class 41. In addition, applicant must indicate the subject matter (e.g., history, biology). *See* TMEP §§1402.03(e), 1402.11(a)(x).

The following are examples of acceptable formats for identifications for books (additional information must be provided in each identification below, as indicated in the curly brackets):

Downloadable electronic books in the field of {*indicate subject matter*} in International Class 9;

Printed books in the field of {*indicate subject matter*} in International Class 16; or

Providing online non-downloadable books in the field of {*indicate subject matter*} in International Class 41.

Applicant must clarify the wording "art" in the identification of goods in International Class 16 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 specify the nature or material composition of the goods. Further, this wording could identify goods in more than one international class. For example, "works of art of paper" are in International Class 16 and "works of art of precious metal" are in International Class 14.

The wording "and other gifts" in the identification of goods is indefinite and must be clarified because it fails to identify specific goods. *See* TMEP §1402.03(a). Therefore, applicant must delete this indefinite wording from the identification and specify the common commercial or generic name for these goods. In an identification, an applicant must use the common commercial or generic name for the goods, be specific and all-inclusive, and avoid using indefinite words or phrases. TMEP §§1402.01, 1402.03(a). Further, applicant may amend the identification to list only those items that are within the scope of the goods set forth in the initial application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §§1402.06 *et seq.*, 1402.07. Scope is generally determined by the ordinary meaning of the wording in the identification. TMEP §1402.07(a).

The examining attorney's suggested amendments to the identification are in bold text below. Applicant may adopt the following wording, if accurate:

International Class 4: candles

International Class 9: downloadable electronic books in the field of {*indicate subject matter*}

International Class 16: Printed books in the field of {*indicate subject matter*}

International Class 21: candle holders

International Class 41: Providing online non-downloadable books in the field of {*indicate subject matter*}

Applicant should note the following additional requirement.

Multiple-Class Application Requirements

The application references goods and/or services based on use in commerce in more than one international class; therefore, applicant must satisfy all the requirements below for each international class:

- (1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class (for example, International Class 3: perfume; International Class 18: cosmetic bags sold empty).
- (2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO's current fee schedule](#)). Specifically, the application identifies goods and/or services based on use in commerce that are classified in at least 5 classes; however, applicant submitted a fee(s) sufficient for only 2 classes. Applicant must either (a) submit the filing fees for the classes not covered by the submitted fees or (b) restrict the application to the number of classes covered by the fees already paid.

(3) **Submit verified dates of first use of the mark** anywhere and in commerce **for each international class**. [See more information about verified dates of use.](#)

(4) **Submit a specimen for each international class**. The current specimen is acceptable for class 4; and applicant needs a specimen for classes 9, 16, 21, 41. [See more information about specimens.](#)

Examples of specimens. Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). A webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (c).

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).

(5) **Submit a verified statement** that **“The specimen was in use in commerce on or in connection with the goods and/or services listed in the application at least as early as the filing date of the application.”** [See more information about verification.](#)

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

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

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.

Advisory: Legal 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.

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 23, 2022 for
U.S. Trademark Application Serial No. 97120153

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: Paige Siegel

| Statistics for Case 97120153 | | | | | | |
|---------------------------------|--|----------------|---------------|---------------------|-----------------------|---------------------------|
| # | Search | Total Marks | Dead Marks | Live Viewed Docs | Live Viewed Images | Status/Search Duration |
| 1 | *{"gj"}{"iy":2}l*[bi,ti] not dead[ld] | 3955 | 0 | 0 | 0 | 0:01 |
| 2 | 1 and ("016" "021")[cc] | 2363 | 0 | 0 | 0 | 0:01 |
| 3 | 1 and ("016" "021" "035" "042" a b "200")[ic] | 1274 | 0 | 0 | 0 | 0:02 |
| 4 | 1 and ("016" "021" "035" a b "200")[ic] | 861 | 0 | 0 | 0 | 0:01 |
| 5 | 1 and ("016" "021" a b "200")[ic] | 320 | 0 | 168 | 168 | 0:02 |
| 6 | (*g{"iy"}l* and *j{"iy"}l*[bi,ti] not dead[ld] | 3 | 0 | 3 | 3 | 0:01 |
| 7 | 1 and "004"[ic] | 30 | 0 | 30 | 30 | 0:02 |
| 8 | 1 and "004"[cc] | 1133 | 0 | 0 | 0 | 0:01 |
| 9 | 1 and ("003" "005" "011")[ic] | 388 | 0 | 388 | 388 | 0:02 |
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| 13 | 12 and ("009")[ic] | 70 | 0 | 70 | 70 | 0:01 |
| 14 | 12 and ("041")[ic] | 127 | 0 | 127 | 127 | 0:01 |

Session started 08/23/2022 10:47 am

Session ended 08/23/2022 11:27 am

Total search duration 25.00

Session duration 40 minutes 8 seconds

Adjacency Level 1

Near Level 1

User: Paige Siegel

| Statistics for Case 97120153 | | | | | | |
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| 8 | 1 and "004"[cc] | 1133 | 0 | 0 | 0 | 0:01 |
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| 13 | 12 and ("009")[ic] | 70 | 0 | 70 | 70 | 0:01 |

Session started 08/23/2022 10:47 am

Session ended 08/23/2022 11:20 am

Total search duration 24.00

Session duration 33 minutes 32 seconds

Adjacency Level 1

Near Level 1

User: Paige Siegel

| Statistics for Case 97120153 | | | | | | |
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| # | Search | Total Marks | Dead Marks | Live Viewed Docs | Live Viewed Images | Status/Search Duration |
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| 2 | 1 and ("016" "021")[cc] | 2363 | 0 | 0 | 0 | 0:01 |
| 3 | 1 and ("016" "021" "035" "042" a b "200")[ic] | 1274 | 0 | 0 | 0 | 0:02 |
| 4 | 1 and ("016" "021" "035" a b "200")[ic] | 861 | 0 | 0 | 0 | 0:01 |
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| 8 | 1 and "004"[cc] | 1133 | 0 | 0 | 0 | 0:01 |
| 9 | 1 and ("003" "005" "011")[ic] | 388 | 0 | 388 | 388 | 0:02 |
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Session started 08/23/2022 10:47 am

Session ended 08/23/2022 11:07 am

Total search duration 22.00

Session duration 19 minutes 46 seconds

Adjacency Level 1

Near Level 1