

To: Shan Zhu(shan.zhulaw@gmail.com)
Subject: U.S. Trademark Application Serial No. 97119403 - HYKOLITY - Sha2102
Sent: August 24, 2022 03:32:02 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[5259281](#)

[1.jpg](#)

[2.jpg](#)

[3.jpg](#)

[4.jpg](#)

[5.jpg](#)

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

U.S. Application Serial No. 97119403

Mark: HYKOLITY

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Applicant: Luo, Yichang

Reference/Docket No. Sha2102

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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 24, 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.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark(s) in U.S. Registration No(s). 5259281. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration(s).

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 and/or services 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, 177 USPQ 563 (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/or services, and similarity of the trade channels of the goods and/or services. *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.*

For the reasons discussed below, the examining attorney concludes that confusion as to the source of goods and/or services is likely between the applicant's mark HYKOLITY, for *Lampshades; Arc lamps; Electric lamps; Flashlights; Incandescent lamps; Lamp shades; Lamps; Light bulbs; Electric bulbs; LED lamps*, and the registrant's mark HYKOLITY, and design, for *Flood lights; LED and HID light fixtures; LED candles; LED flashlights; LED flood lights and LED work lights for construction settings; LED lamps; LED landscape lights; LED light apparatus that clips on to a handbag, used to illuminate a handbag; LED light assemblies for street lights, signs, commercial lighting, automobiles, buildings, and other architectural uses; LED light bulbs; LED light machines; LED light strips for decorative purposes; LED lighting fixtures for indoor and outdoor lighting applications; LED lights for lighting purposes incorporated into key chains, small toys or other similar personal items; LED lights for strings, flowers, branches and other ornamental decorations; LED luminaires; LED mood lights; LED strobe lights to be placed on public safety vehicles; LED underwater lights; Light bulbs; Ceiling light fittings; Electric light bulbs; Fixtures for incandescent light bulbs; Fluorescent electric light bulbs; Halogen light bulbs; LED (light emitting diode) lighting fixtures; Optical lens covers that improve light output and uniformity and protect the LED, sold as a feature of an LED lighting system; Tools, components and supplies for use in making signs, namely, fluorescent, HID, LED and incandescent bulbs, lamps and fixtures.*

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 Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Ist USA Realty Prof’ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

In this case, the marks all consist of, or include, the same distinctive and dominant term “HYKOLITY.”

The registered mark includes additional minor design matter and a stylized font. However, the applied-for mark appears in standard characters and could be rendered in a manner similar or identical to that of the registered mark. A mark in typed or standard characters may be displayed in any lettering style; the rights reside in the wording or other literal element and not in any particular display or rendition. *See In re Viterro Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1909 (Fed. Cir. 2012); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); 37 C.F.R. §2.52(a); TMEP §1207.01(c)(iii). Thus, a mark presented in stylized characters and/or with a design element generally will not avoid likelihood of confusion with a mark in typed or standard characters because the word portion could be presented in the same manner of display. *See, e.g., In re Viterro Inc.*, 671 F.3d at 1363, 101 USPQ2d at 1909; *Squirtco v. Tomy Corp.*, 697 F.2d 1038, 1041, 216 USPQ 937, 939 (Fed. Cir. 1983) (stating that “the argument concerning a difference in type style is not viable where one party asserts rights in no particular display”).

Comparison of the Goods and/or Services

The goods and/or services of the parties 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) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] 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).

Additionally, a likelihood of confusion determination is based on the description of the goods and/or services 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 parties' goods both include light bulbs and LED lamps. Further, the applicant's "Arc lamps; Electric lamps; Flashlights; Incandescent lamps, lamps, and electric bulbs," encompass one or

more of the following goods covered in the registration: "LED and HID light fixtures; LED flashlights; Electric light bulbs; Fixtures for incandescent light bulbs; Tools, components and supplies for use in making signs, namely, fluorescent, HID, LED and incandescent bulbs, lamps and fixtures." See attached evidence from Wikipedia.org (accessed 8/24/2022) indicating HID lamps are types of arc lamps. As such, the parties' goods overlap with each other and 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 and/or services 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 Viterra 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.

Finally, applicant's lamp shades are closely related to the various lamps and lighting fixtures identified by both parties because such goods commonly share the same channels of trade. See attached evidence from <https://gaylordslampandshade.com/>, <https://www.lampsunlimitedmclean.com/>, and <https://www.shadesoflight.com/> (all accessed 8/24/2022).

For the reasons discussed above, registration must be refused under Trademark Act Section 2(d). Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

How to respond. [Click to file a response to this nonfinal Office action.](#)

/Lief Martin/
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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.

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

hykoly

Mark Punctuated
HYKOLITY

Translation

Goods/Services

- IC 011. US 013 021 023 031 034.G & S: Flood lights; LED and HID light fixtures; LED candles; LED flashlights; LED flood lights and LED work lights for construction settings; LED lamps; LED landscape lights; LED light apparatus that clips on to a handbag, used to illuminate a handbag; LED light assemblies for street lights, signs, commercial lighting, automobiles, buildings, and other architectural uses; LED light bulbs; LED light machines; LED light strips for decorative purposes; LED lighting fixtures for indoor and outdoor lighting applications; LED lights for lighting purposes incorporated into key chains, small toys or other similar personal items; LED lights for strings, flowers, branches and other ornamental decorations; LED luminaires; LED mood lights; LED strobe lights to be placed on public safety vehicles; LED underwater lights; Light bulbs; Ceiling light fittings; Electric light bulbs; Fixtures for incandescent light bulbs; Fluorescent electric light bulbs; Halogen light bulbs; LED (light emitting diode) lighting fixtures; Optical lens covers that improve light output and uniformity and protect the LED, sold as a feature of an LED lighting system; Tools, components and supplies for use in making signs, namely, fluorescent, HID, LED and incandescent bulbs, lamps and fixtures. FIRST USE: 20160505. FIRST USE IN COMMERCE: 20160602

Mark Drawing Code

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

Design Code

Serial Number
87144017

Filing Date
20160819

Current Filing Basis
1A

Original Filing Basis
1A

Publication for Opposition Date
20170523

Registration Number
5259281

Date Registered
20170808

Owner

(REGISTRANT) ShenZhen RunSenSheng Trading Co.,Ltd. LIMITED LIABILITY COMPANY CHINA 2304,
Building B, Xinghe World No.1 Yabao Road, Bantian Street Shenzhen City CHINA 518000

Priority Date

Disclaimer Statement

Description of Mark

Color is not claimed as a feature of the mark. The mark consists of the stylized wording "HYKOLITY".

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Omar F. Darwich

TMNG Legacy Documents

TM EXAM DOCKET

LIGHT FIXTURE (noun) American

Gaylords Lamps and Shades


gaylordslampandshade.com

AppsTMNG DOCKETinternet reimb portalID MANUALID VERIFIERUSPTO Intranet Ho...TRAMLinksID Man1LookTMEPIndividual Examiner...docketDocket Information...acrocredo

Gaylords Lamps and Shades

Gaylord's is OPEN!
11am - 4pm

6931 ARLINGTON ROAD, SUITE A
BETHESDA, MD 20814



ABOUT US

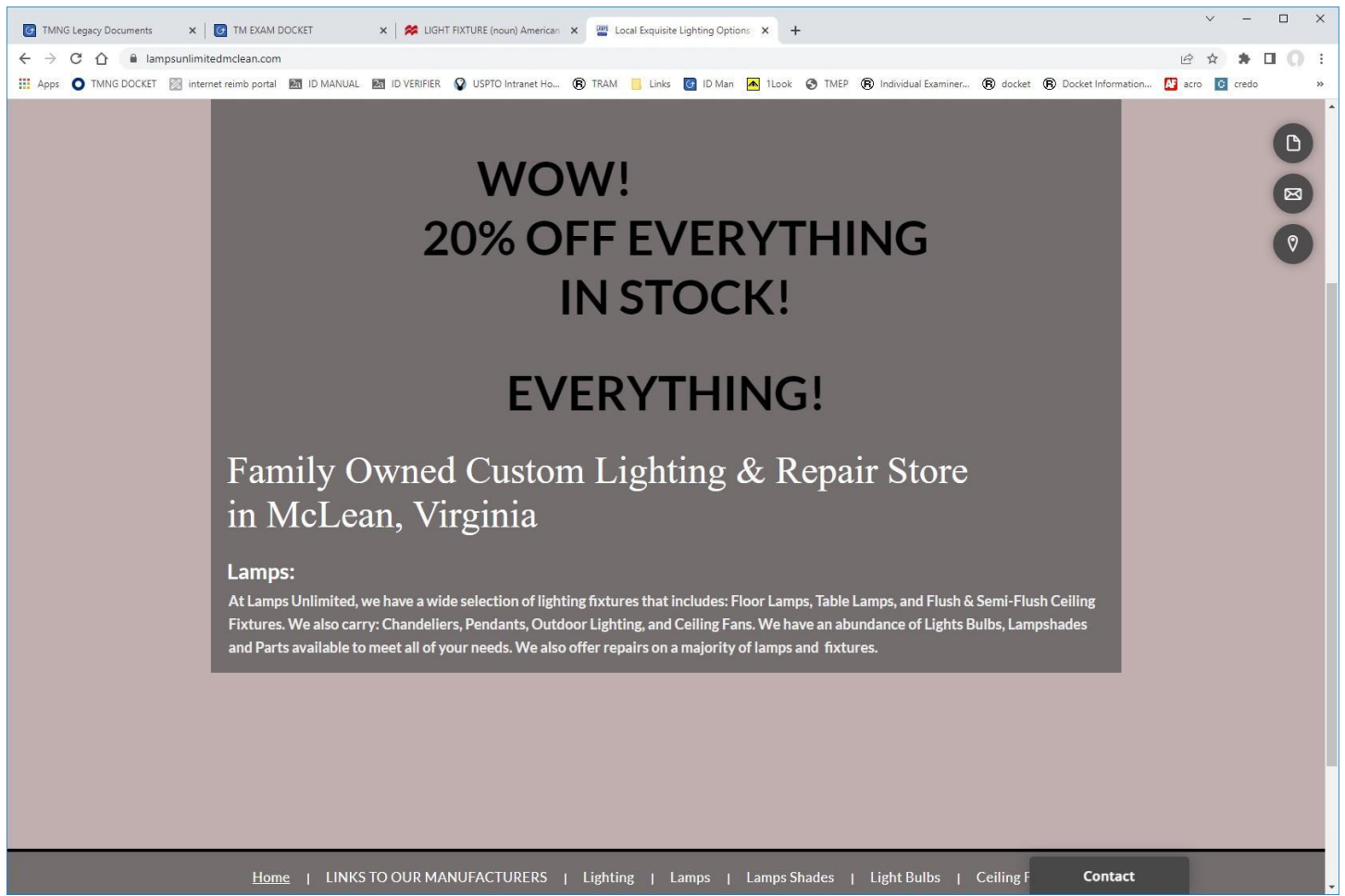
We have the largest and most varied selection of lampshades and fixtures in the entire Washington, DC area.

We will meet or beat any online price for any lamp or fixture.

Our business started in 1953 and we are still the premier lamp & shade store in the DC area. Most employees have been with us for 4-18 years.

We sell Holtkoetter Lamps.

We do expert repairs.



TMNG Legacy Documents | TM EXAM DOCKET | LIGHT FIXTURE (noun) American | Shades of Light | Unique High Q

shadesoflight.com

Apps | TMNG DOCKET | internet reimb portal | ID MANUAL | ID VERIFIER | USPTO Intranet Ho... | TRAM | Links | ID Man | 1Look | TMEP | Individual Examiner... | docket | Docket Information... | acro | credo

Stores | 1-800-262-6612 | Account | Gift Registry

SHADES OF LIGHT

Search

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CHANDELIERS & PENDANTS

BATH & WALL LIGHTS

CEILING LIGHTS

FANS

OUTDOOR LIGHTS

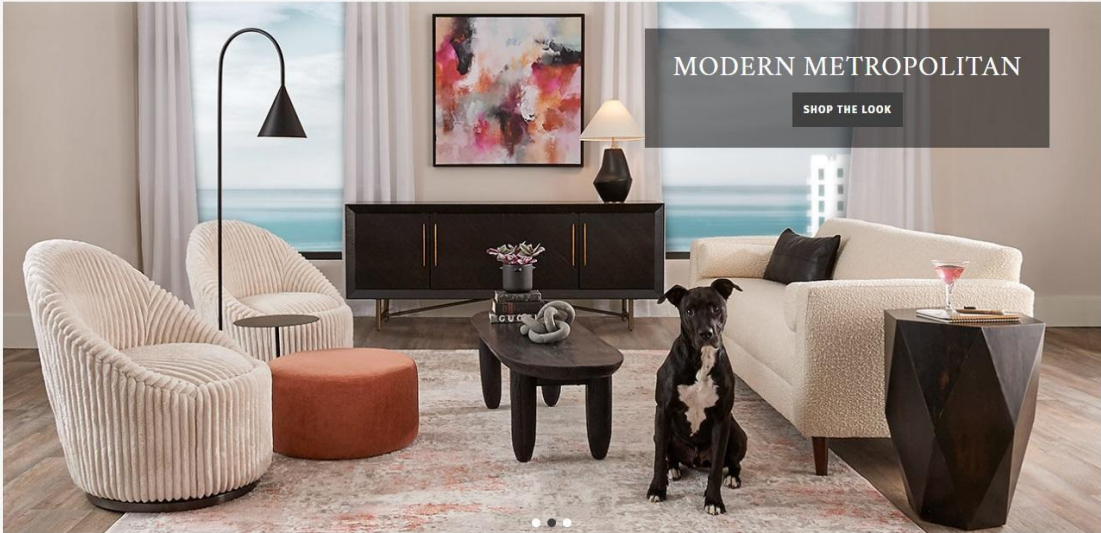
LAMPS & SHADES

MIRRORS & HOME DECOR

FURNITURE

RUGS



NEW & INSPIRING



MODERN METROPOLITAN

SHOP THE LOOK

DISTINGUISH YOUR STYLE



<https://www.shadesoflight.com/categories/modern-metropolitan>

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 24, 2022 for
U.S. Trademark Application Serial No. 97119403

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:lmartin ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	97119403[SN]
02	13	0	12	11	0:02	*h{"iye"}{"ckqx"1:2}{v}{ "l"1:2}{v}{ "dt"}*[bi,ti] not dead[lid]
03	68375	N/A	0	0	0:02	*l{"iye"}{"dt"1:2}{ "iey"}*[bi,ti] not dead[lid]
04	29515	N/A	0	0	0:02	*l{"iye"}{"dt"1:2}{ "iey"1:2}[bi,ti] not dead[lid]
05	26296	N/A	0	0	0:02	*l{"iy"}{"dt"1:2}{ "iey"1:2}[bi,ti] not dead[lid]
06	16677	N/A	0	0	0:02	*l{"iy"}{"dt"1:2}{ "iy"1:2}[bi,ti] not dead[lid]
07	16586	N/A	0	0	0:01	*l{"iy"}{"dt"1:2}{ "y"1:2}[bi,ti] not dead[lid]
08	16535	N/A	0	0	0:02	*l{"iy"}{"dt"}{"y"1:2}[bi,ti] not dead[lid]
09	16520	N/A	0	0	0:02	*l{"iy"}{"t"}{"y"1:2}[bi,ti] not dead[lid]
10	419	0	419	406	0:14	*{"ckq"}{v}l{"iy"}{"t"}{"y"1:2}[bi,ti] not dead[lid]
11	1550	0	1550	1523	0:02	*h{"iye"}{"ckqx"}*[bi,ti] and 3

Session started 8/24/2022 1:38:11 PM

Session finished 8/24/2022 2:48:27 PM

Total search duration 0 minutes 32 seconds

Session duration 70 minutes 16 seconds

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Sent to TICRS as Serial Number: 97119403