

To: Todd A. Denys(TADenys@pbnlaw.com)
Subject: U.S. Trademark Application Serial No. 97119056 - DEADHEADS - 3121-115
Sent: August 26, 2022 10:38:36 AM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[90741657](#)

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

U.S. Application Serial No. 97119056

Mark: DEADHEADS

Correspondence Address:

TODD A. DENYS
PORZIO, BROMBERG & NEWMAN, P.C.
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PRINCETON NJ 08540 UNITED STATES

Applicant: GMI Labs Inc.

Reference/Docket No. 3121-115

Correspondence Email Address: TADenys@pbnlaw.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

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

- Prior-Filed Application(s)
- Identification Of Goods and Services Requires Amendment

Prior-Filed Application(s)

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting registered marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02. However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

The filing date of pending U.S. Application Serial No. 90741657 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Applicant must also respond to the requirement(s) set forth below.

Identification Of Goods and Services Requires Amendment

The wording in the identification of goods and services is indefinite and must be clarified. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

The applicant insufficiently describes the following goods and services:

Class 9

- The wording "non-fungible tokens" identifications are indefinite because the specific asset must be specified and further indicated to be downloadable, and further non-fungible tokens represent specific digital items and merely authenticate their ownership. The identification of goods must be amended to reflect that.

Class 35

- The Class 35 services are confusingly drafted, as it is not clear what this service is providing exactly.

Class 41

- Some of the Class 41 entertainment services are confusingly drafted as it is not clear what entertainment service is being provided.

If accurate, and inserting specific information where directed, the applicant may adopt any or all of the following identifications of goods and services. Additions are in **bold**. See TMEP §1402.01.

- Class 9: **Downloadable** assets, namely, [indicate specific asset here, e.g., multimedia file containing artwork, text, audio, and video relating to {indicate field or subject matter of file}] **authenticated by** non-fungible tokens (NFTs); Digital collectible item, namely, [indicate specific asset here, e.g., multimedia file containing artwork, text, audio, and video relating to {indicate field or subject matter of file}] **authenticated by** non-fungible tokens (NFTs)
- Class 35: **Provision of** an online marketplace **for buyers and sellers of downloadable** digital {indicate type of downloadable digital goods, e.g., art images, music, video clips, etc.} **authenticated by** non-fungible tokens (NFTs)
- Class 41: Entertainment services, namely, providing artwork and interactive artwork **for viewing, said artwork authenticated by** digital non-fungible tokens; entertainment services in the nature of providing online, non-downloadable virtual goods, namely, digital collectible artworks **authenticated by** non-fungible tokens; entertainment services, namely, production and distribution of ongoing digital programs and motion pictures for distribution by television, the Internet and social media, featuring characters based on digital art and non-fungible tokens (NFTs); providing a website featuring non-downloadable videos and digital programs and motion pictures featuring characters based on digital art and non-fungible tokens (NFTs)

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.

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)

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.](#)

/Amit Shoor/
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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.

(4) STANDARD CHARACTER MARK

The Deadhead Bears

Mark Punctuated

THE DEADHEAD BEARS

Translation

Goods/Services

- IC 041. US 100 101 107.G & S: Entertainment services in the nature of continuing program series, featuring live action, comedy and drama distributed via cable television, broadcast television, internet, video-on-demand, and through other forms of transmission media; providing online information in the field of entertainment concerning television programs; Entertainment services in the nature of continuing program series, namely, animated cartoons, distributed via cable television, broadcast television, internet, video-on-demand, and through other forms of transmission media; providing online information in the field of entertainment concerning television programs. FIRST USE: 19940315. FIRST USE IN COMMERCE: 19950807

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

90741657

Filing Date

20210528

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20220628

Registration Number

Date Registered

Owner

(APPLICANT) Catskill Pictures LIMITED LIABILITY COMPANY NEW YORK 280 Rt 211 E, Suite 7
Middletown NEW YORK 10940

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Javier Gomez

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 26, 2022 for
U.S. Trademark Application Serial No. 97119056

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: Amit Shoor

Statistics for Case 97119056						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	*DE{"A"0:1}{ "D":2}HE{"A"0:1}D*[bi,ti] not dead[lid]	10	0	10	10	0:02
2	*DE{"A"0:1}{ "D":2}*[bi,ti] not dead[lid]	6789	0	0	0	0:00
3	*HE{"A"0:1}D*[bi,ti] not dead[lid]	13862	0	0	0	0:01
4	2 AND 3	133	0	129	129	0:01
5	dead*[bi,ti] not dead[lid]	1345	0	0	0	0:01
6	5 AND ("009" "035" "041")[cc]	824	0	0	0	0:01
7	5 AND ("009" "035" "041" "035" "042" a b "20 0")[ic]	593	0	593	593	0:01
8	*HEAD*[bi,ti] not dead[lid]	5905	0	0	0	0:01
9	8AND ("009" "035" "041")[cc]	6301745	0	0	0	0:15
10	8 AND ("009" "035" "041")[cc]	3426	0	0	0	0:15
11	8 AND ("009" "035" "041" "035" "042" a b "20 0")[ic]	2274	0	0	0	0:10
12	*HEAD{"SCZ"}[bi,ti] not dead[lid]	629	0	0	0	0:01
13	12 AND ("009" "035" "041")[cc]	355	0	355	355	0:01

Session started 08/26/2022 10:10 am

Session ended 08/26/2022 10:23 am

Total search duration 50.00

Session duration 12 minutes 24 seconds

Adjacency Level 1

Near Level 1