

To: Stephen T. Scherrer(stephen@scherrerpatentlaw.com)
Subject: U.S. Trademark Application Serial No. 97120501 - TURNIMATOR - SPM-005-T-US
Sent: August 23, 2022 09:25:00 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. 97120501

Mark: TURNIMATOR

Correspondence Address:

STEPHEN T. SCHERRER
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Applicant: Kyle Scheppman

Reference/Docket No. SPM-005-T-US

Correspondence Email Address: stephen@scherrerpatentlaw.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 23, 2022

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue 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:

- Amended Identification of Goods Required

AMENDED IDENTIFICATION OF GOODS REQUIRED

The wording "Control system for audio devices, namely, a control interface for controlling the position of potentiometers or switches on audio devices using expression pedals or footswitches" in International Class 9 is indefinite and must be clarified because the nature of the goods are not clear. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Applicant must further specify the nature of the goods. Where possible, applicant must amend the identification to specify the common commercial or generic name of the goods. *See* TMEP §1402.01. If the goods have no common commercial or generic name, applicant must describe the product, its main purpose, and its intended uses. *See id.* Further, because applicant has identified its goods as being a type of "system", applicant must clarify the goods by (1) describing the nature, purpose, or use of the system; and (2) listing the system's parts or components, using common generic terms and referencing the primary parts or components of the system first. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01. The system will be classified in the same international class as the primary parts or components of the system. TMEP §1401.05(d).

Applicant has included the term "or" in the identification of goods. However, this term is generally not accepted in identifications when (1) it is unclear whether applicant is using the mark, or intends to use the mark, on all the identified goods; (2) the nature of the goods is unclear; or (3) classification cannot be determined from such wording. *See* TMEP §1402.03(a). In this case, the nature of the goods are not clear because it is not clear if the control interface is for controlling the position of potentiometers, for controlling the position of switches, or both. Similarly, it is not clear if the control interface is intended to be used with expression pedals, with footswitches, or both.

An application must specify, in an explicit manner, the particular goods or services on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce. *See* 15 U.S.C. §1051(a)(2), (b)(2); 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Therefore, applicant should replace "or" with "and" in the identification of goods, if appropriate, or rewrite the identification with the "or" deleted and the goods specified using definite and unambiguous language.

Applicant may substitute the following wording, if accurate (suggested language in **bold**):

International Class 9: Control system for audio devices **comprised of an electronic** control interface for controlling the position of potentiometers **and** switches on audio devices **in the nature of** {clarify nature of audio devices, e.g., **guitar amplifiers**} using expression pedals **and** footswitches

Applicant may amend the identification to clarify or limit the goods, but not to broaden or expand the

goods 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 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.

RESPONSE GUIDELINES

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 requirement 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. 97120501

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: Pauline Ha

Statistics for Case 97120501						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97120501[sn]	1	0	1	1	0:00
2	(kyle and scheppman)[on]	2	0	2	2	0:00
3	*t{v:2}{ "r":2}n*[bi,ti] not dead[ld]	22294	0	0	0	0:03
4	*m{v:2}{ "t":2}{v:2}r*[bi,ti] not dead[ld]	10880	0	0	0	0:03
5	3 and 4	303	0	303	303	0:03
6	3 and ("009"[cc]	14348	0	0	0	0:02
7	3 and ("009" "035" "042" "a" "b" "200")[ic]	8955	0	0	0	0:02
8	3 and ("009" "015" "a" "b" "200")[ic]	2949	0	0	0	0:02
9	3 and ("009" "a" "b" "200")[ic]	2935	0	0	0	0:02
10	3 and ("015" "a" "b" "200")[ic]	572	0	559	559	0:03
11	*t{"aeu":2}{ "r":2}n*[bi,ti] not dead[ld]	20824	0	0	0	0:01
12	11 and ("009" "a" "b" "200")[ic]	2801	0	0	0	0:02
13	11 and ("015" "a" "b" "200")[ic]	559	0	559	559	0:02
14	*turn*[bi,ti] not dead[ld]	3432	0	0	0	0:01
15	14 and ("009" "035" "042" "a" "b" "200")[ic]	1236	0	0	0	0:01
16	14 and ("009" "a" "b" "200")[ic]	397	0	397	397	0:02
17	4 and ("009" "015" "a" "b" "200")[ic]	1878	0	0	0	0:01
18	4 and ("009" "a" "b" "200")[ic]	1870	0	0	0	0:01
19	4 and ("015" "a" "b" "200")[ic]	216	0	216	216	0:03
20	*ma{ "t":2}{v:2}r*[bi,ti] not dead[ld]	5495	0	0	0	0:00
21	20 and ("009" "035" "042" "a" "b" "200")[ic]	2143	0	0	0	0:01
22	20 and ("009" "a" "b" "200")[ic]	662	0	0	0	0:02
23	*mator*[bi,ti] not dead[ld]	193	0	193	193	0:02
24	*turnimator*[bi,ti]	1	0	1	1	0:00
25	*tur*[bi,ti]	162049	0	0	0	0:01
26	*mator*[bi,ti]	619	0	0	0	0:01
27	25 and 26	8	6	2	2	0:00

Session started 08/23/2022 8:55 am

Session ended 08/23/2022 9:24 am

Total search duration 41.00

Session duration 28 minutes 57 seconds

Adjacency Level 1

Near Level 1