To: Jeff Levy(trademark@rlfllp.com)

Subject: U.S. Trademark Application Serial No. 97120237 - SKY SYMPHONY -

5259.0005

Sent: August 24, 2022 02:03:37 PM EDT

Sent As: tmng.notices@uspto.gov

Attachments

screencapture-www-ahdictionary-com-word-search-html-16613637944651

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

U.S. Application Serial No. 97120237

Mark: SKY SYMPHONY

Correspondence Address:

JEFF LEVY RITHOLZ LEVY FIELDS LLP 235 PARK AVENUE SOUTH, THIRD FLOOR NEW YORK NY 10003 UNITED STATES

Applicant: Inner Peace Studio LLC

Reference/Docket No. 5259.0005

Correspondence Email Address: trademark@rlfllp.com

NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within <u>six months</u> of the issue date below or the application will be <u>abandoned</u>. 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.

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:

• Disclaimer Required

DISCLAIMER REQUIRED

Applicant must disclaim the descriptive wording "SYMPHONY" in the mark because it is merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods and/or services, and thus is an unregisterable component of the mark. *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 word "SYMPHONY" appearing in the mark means "an instrumental passage in a vocal or choral composition. See the attached dictionary evidence. Given that applicant's services include musical recordings, the term "SYMPHONY" describes a feature of the recordings.

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.

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

No claim is made to the exclusive right to use "SYMPHONY" 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 <u>Disclaimer webpage</u>.

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 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;

How to respond. Click to file a response to this nonfinal Office action.

/Leah Barrett/
Leah Barrett
Trademark Examining Attorney
Law Office 126
(571) 272-6416
leah.barrett@uspto.gov

RESPONSE GUIDANCE

- Missing the response deadline to this letter will cause the application to <u>abandon</u>. The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance or <u>unforeseen circumstances</u> 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.



AMERICAN HERITAGE dictionary of the English Language



HOW TO USE THE DICTIONARY

To look up an entry in The American Heritage Dictionary of the English Language, use the search window above. For best results, after typing in the word, click on the "Search" button instead of using the "enter" key.

Some compound words (like bus rapid transit, dog whistle, or identity theft) don't appear on the drop-down list when you type them in the search bar. For best results with compound words, place a qualitation mark words, place a quotation mark before the compound word in

GUIDE TO THE DICTIONARY



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.

sym·pho·ny ∜ (sĭm′fə-nē)

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n. pl. sym-pho-nies

1. Music

a. An extended piece in three or more movements for symphony orchestra.

b. An instrumental passage in a vocal or choral composition.

c. An instrumental overture or interlude, as in early opera.

C. An instrumental overall of the state of

 $[Middle\ English\ symphonye, harmony, from\ Old\ French\ symphonie, from\ Latin\ symph\"{o}nia, from\ Armony, from\ Old\ French\ symphonie, from\ Latin\ symph\"{o}nia, from\ Latin\ symph symph\ symph$ Greek $sumphöni\bar{a}$, from sumphönos, harmonious : sun-, syn- + $phôn\bar{e}$, sound; see $bh\bar{a}$ - 2 in the Appendix of Indo-European roots.]

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*This website is best viewed in Chrome, Firefox, Microsoft Edge, or Safari. Some characters in pronunciations and etymologies cannot be displayed properly in Internet Explorer.

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. 97120237

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 <u>abandoned</u>. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO <u>website</u>, the application process, the status of your application, and whether there are outstanding deadlines to the <u>Trademark Assistance Center (TAC)</u>.

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

- <u>Check the status</u> of your application periodically in the <u>Trademark Status & Document Retrieval (TSDR)</u> database to avoid missing critical deadlines.
- <u>Update your correspondence email address</u> 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: Leah Barrett

Statistics for	Case					
97120237						

	97120237						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration	
1	97120220[sn]	1	0	0	0	0:00	
2	*{"sz"}{"ckqx"}{"iey"}*[bi,ti] not dead[ld]	42457	0	0	0	0:14	
3	*{"sz"}{"iey"}mphon{"iey"}*[bi,ti] not dead[l d]	477	0	477	477	0:13	
4	*{"sz"}{"iey"}mfon{"iey"}*[bi,ti] not dead[ld]	7	0	7	7	0:13	
5	2 and 3	6	0	6	6	0:26	
6	2 and ("009" "035" "042" a b "200")[ic]	11764	0	0	0	0:14	
7	2 and ("009" a b "200")[ic]	5176	0	0	0	0:13	
8	2 and ("041")[cc]	17212	0	0	0	0:13	
9	2 and ("041" "035" "042" a b "200")[ic]	12861	0	0	0	0:14	
10	2 and ("041" a b "200")[ic]	6419	0	0	0	0:14	
11	*{"sz"}k{"iey"}*[bi,ti] not dead[ld]	25871	0	0	0	0:13	
12	11 and "009"[cc]	11468	0	0	0	0:13	
13	11 and ("009" "035" "042" a b "200")[ic]	5943	0	0	0	0:13	
14	11 and ("009" a b "200")[ic]	2908	0	0	0	0:13	
15	11 and "041"[cc]	8923	0	0	0	0:13	
16	11 and ("041" "035" "042" a b "200")[ic]	6168	0	0	0	0:14	
17	11 and ("041" a b "200")[ic]	3130	0	0	0	0:13	
18	{"sz"}k{"iey"}*[bi,ti] not dead[ld]	18171	0	0	0	0:14	
19	18 and "009"[cc]	8304	0	0	0	0:13	
20	18 and ("009" "035" "042" a b "200")[ic]	4295	0	0	0	0:14	
21	18 and ("009" a b "200")[ic]	2052	0	0	0	0:13	
22	18 and "041"[cc]	6484	0	0	0	0:13	
23	18 and ("041" "035" "042" a b "200")[ic]	4372	0	0	0	0:13	
24	18 and ("041" a b "200")[ic]	2096	0	0	0	0:13	
25	sky[bi,ti] not dead[ld]	4854	0	0	0	0:01	
26	25 and "009"[cc]	2476	0	0	0	0:00	
27	25 and ("009" "035" "042" a b "200")[ic]	1550	0	0	0	0:01	
28	25 and ("009" a b "200")[ic]	876	0	63	63	0:01	
29	25 and "041"[cc]	1931	0	0	0	0:00	
30	25 and ("041" "035" "042" a b "200")[ic]	1311	0	0	0	0:01	
31	25 and ("041" a b "200")[ic]	575	0	575	575	0:01	
32	"sky symphony"	2	0	2	2	0:00	
33	"skysymphony"	0	0	0	0	0:00	

Session started 08/24/2022 1:09 pm Session ended 08/24/2022 1:32 pm Total search duration 324.00 Session duration 22 minutes 41 seconds Adjacency Level 1 Near Level 1