

To: Gerald L. DePardo(tmddocket@ip-lawyers.com)
Subject: U.S. Trademark Application Serial No. 97120324 - BEVLY - 8762-0002
Sent: August 26, 2022 03:40:30 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. 97120324

Mark: BEVLY

Correspondence Address:

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Applicant: Cobalt Payments Inc

Reference/Docket No. 8762-0002

Correspondence Email Address: tmddocket@ip-lawyers.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:

- Identification of goods/services--partial
- Partial abandonment advisory

SEARCH RESULT

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.

THE FOLLOWING PARTIAL REQUIREMENT APPLIES TO CLASS(ES) 42 ONLY.

IDENTIFICATION OF GOODS/SERVICES

Some of the identification of goods/services are indefinite and must be clarified. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Applicant must amend the identification to specify the common commercial or generic name of the goods/services. *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.* If the services have no common commercial or generic name, applicant must describe or explain the nature of the services using clear and succinct language. *See id.*

In class 42, "online mobile software applications" is unclear because mobile software is generally downloadable which are classified in class 9, and class 9 shows "downloadable mobile software applications." The class 42 instances may be deleted.

For easier reference, the suggested amendments are shown in bold and italics.

Applicant may adopt the following identification, if accurate:

Downloadable software and downloadable mobile software applications for locating, gathering, collecting, measuring, compiling, analyzing, modeling, graphing, visualizing, animating, transforming, presenting, reporting, storing and sharing data and other information relating to point-of-sale (POS) transactions, inventory control and management, purchase order management, product supply, product pricing, wholesale pricing, marketing and advertising, sales management, supply chain management, supplier management, supplier operation, customer management, stock and stock-take management, product management, product availability and offerings, warehouse management, financial transactions, business management, business administration, procurement and purchasing management, supply lifecycle management, electronic funds transfers and payments, on-line bill payments, marketing, demographics, and statistics; Downloadable software and downloadable mobile software applications for bringing wholesalers and distributors together with retailers selling a wide variety of goods, assisting brand owners, distributors and retailers in the promotion, marketing and sale of a wide variety of goods, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of a wide variety of goods, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on a wide variety of goods and product portfolios; Downloadable software and downloadable mobile software applications for bringing wholesalers and distributors together with retailers selling beverage and alcoholic beverage products, assisting brand owners, distributors and retailers in the promotion, marketing and sale of beverage and

alcoholic beverage products, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of beverages and alcoholic beverages for companies in the retail beverage and alcoholic beverage industries, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on beverage and alcoholic beverage products and product portfolios; Downloadable software and downloadable mobile software applications for providing on-line ordering and inventory monitoring, online advertising and marketing, pricing information about the goods and services of others, providing, designing, and formatting websites and web pages used to place on-line commercial orders and providing online ordering, marketing and advertising; Downloadable software and downloadable mobile software applications for providing sales, purchase order and market reports, general business information, analytics and reports concerning sales, order history and position of businesses, information that identify corporate lines of business and relationships between local and national market trends, sale and marketing information concerning the business community according to the requirement of customers, in international class 9;

On-line services, namely, providing on-line ordering and inventory monitoring for a wide variety of consumer goods; Online advertising and marketing services; Providing pricing information about the goods and services of others; Providing sales, purchase order and market reports; Providing business information, analytics and reports concerning sales, order history and position of businesses; Providing business information that identifies corporate lines of business and relationships between local and national market trends; Providing sales and marketing information; Providing sales and marketing information concerning a business community; On-line services, namely, providing on-line ordering and inventory monitoring of beverages and alcoholic beverages; Online advertising and marketing services in the field of beverages and alcoholic beverages, in international class 35;

Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software, for locating, gathering, collecting, measuring, compiling, analyzing, modeling, graphing, visualizing, animating, transforming, presenting, reporting, storing and sharing data and other information relating to point-of-sale (POS) transactions, inventory control and management, purchase order management, product supply, product pricing, wholesale pricing, marketing and advertising, sales management, supply chain management, supplier management, supplier operation, customer management, stock and stock-take management, product management, product availability and offerings, warehouse management, financial transactions, business management, business administration, procurement and purchasing management, supply lifecycle management, electronic funds transfers and payments, on-line bill payments, marketing, demographics, and ***sales statistics***; ***Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software***, for bringing wholesalers and distributors together with retailers selling a wide variety of goods, assisting brand owners, distributors and retailers in the promotion, marketing and sale of a wide variety of goods, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of a wide variety of goods, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on a wide variety of goods and product portfolios; ***Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software***, for bringing wholesalers and distributors together with retailers selling beverage and alcoholic beverage products, assisting brand owners, distributors and retailers in the promotion, marketing and sale of beverage and alcoholic beverage products, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of beverages and alcoholic beverages for companies in the retail beverage and alcoholic beverage industries, enabling retailers to search for products across a network of wholesale buyers,

distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on beverage and alcoholic beverage products and product portfolios;***Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software***,for providing on-line ordering and inventory monitoring, online advertising and marketing, pricing information about the goods and services of others, providing, designing, and formatting websites and web pages used to place on-line commercial orders and providing online ordering, marketing and advertising;***Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software***,for providing sales, purchase order and market reports, general business information, analytics and reports concerning sales, order history and position of businesses, information that identify corporate lines of business and relationships between local and national market trends, sale and marketing information concerning the business community according to the requirement of customers, in international class 42.

Applicant's goods and/or services may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Applicant may clarify or limit the identification by inserting qualifying language or deleting items to result in a more specific identification; however, applicant may not substitute different goods and/or services or add goods and/or services not found or encompassed by those in the original application or as acceptably amended. *See* TMEP §1402.06(a)-(b). The scope of the goods and/or services sets the outer limit for any changes to the identification and is generally determined by the ordinary meaning of the wording in the identification. TMEP §§1402.06(b), 1402.07(a)-(b). Any acceptable changes to the goods and/or services will further limit scope, and once goods and/or services are deleted, they are not permitted to be reinserted. 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. **To expedite prosecution of this trademark application, when amending the identification as required above, the Office strongly encourages the applicant to select pre-approved wording contained within this manual that accurately describes the goods and/or services therein.** Failure to do so may result in delay.

ABANDONMENT FOR FAILURE TO RESPOND ADVISORY

If applicant does not respond to this Office action within the six-month period for response, the following services will be deleted from the application:

"online mobile software applications" and "statistics" from class 42.

The application will then proceed with the following goods and/or services only:

Downloadable software and downloadable mobile software applications for locating, gathering, collecting, measuring, compiling, analyzing, modeling, graphing, visualizing, animating, transforming, presenting, reporting, storing and sharing data and other information relating to point-of-sale (POS) transactions, inventory control and management, purchase order management, product supply, product pricing, wholesale pricing, marketing and advertising, sales management, supply chain management, supplier management, supplier operation, customer management, stock and stock-take management, product management, product availability and offerings, warehouse management, financial transactions, business management, business administration, procurement and purchasing management, supply lifecycle management, electronic funds transfers and payments, on-line bill payments,

marketing, demographics, and statistics; Downloadable software and downloadable mobile software applications for bringing wholesalers and distributors together with retailers selling a wide variety of goods, assisting brand owners, distributors and retailers in the promotion, marketing and sale of a wide variety of goods, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of a wide variety of goods, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on a wide variety of goods and product portfolios; Downloadable software and downloadable mobile software applications for bringing wholesalers and distributors together with retailers selling beverage and alcoholic beverage products, assisting brand owners, distributors and retailers in the promotion, marketing and sale of beverage and alcoholic beverage products, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of beverages and alcoholic beverages for companies in the retail beverage and alcoholic beverage industries, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on beverage and alcoholic beverage products and product portfolios; Downloadable software and downloadable mobile software applications for providing on-line ordering and inventory monitoring, online advertising and marketing, pricing information about the goods and services of others, providing, designing, and formatting websites and web pages used to place on-line commercial orders and providing online ordering, marketing and advertising; Downloadable software and downloadable mobile software applications for providing sales, purchase order and market reports, general business information, analytics and reports concerning sales, order history and position of businesses, information that identify corporate lines of business and relationships between local and national market trends, sale and marketing information concerning the business community according to the requirement of customers, in international class 9;

On-line services, namely, providing on-line ordering and inventory monitoring for a wide variety of consumer goods; Online advertising and marketing services; Providing pricing information about the goods and services of others; Providing sales, purchase order and market reports; Providing business information, analytics and reports concerning sales, order history and position of businesses; Providing business information that identifies corporate lines of business and relationships between local and national market trends; Providing sales and marketing information; Providing sales and marketing information concerning a business community; On-line services, namely, providing on-line ordering and inventory monitoring of beverages and alcoholic beverages; Online advertising and marketing services in the field of beverages and alcoholic beverages, in international class 35;

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buyers, distributors, suppliers, importers, and producers of a wide variety of goods, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on a wide variety of goods and product portfolios; Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software, for bringing wholesalers and distributors together with retailers selling beverage and alcoholic beverage products, assisting brand owners, distributors and retailers in the promotion, marketing and sale of beverage and alcoholic beverage products, providing directory services featuring product portfolios of wholesale buyers, distributors, suppliers, importers, and producers of beverages and alcoholic beverages for companies in the retail beverage and alcoholic beverage industries, enabling retailers to search for products across a network of wholesale buyers, distributors, suppliers, importers, and producers to research, organize, manage, promote and store information on beverage and alcoholic beverage products and product portfolios; Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software, for providing on-line ordering and inventory monitoring, online advertising and marketing, pricing information about the goods and services of others, providing, designing, and formatting websites and web pages used to place on-line commercial orders and providing online ordering, marketing and advertising; Providing temporary use of online non-downloadable software, and software as a service (SAAS) featuring software, for providing sales, purchase order and market reports, general business information, analytics and reports concerning sales, order history and position of businesses, information that identify corporate lines of business and relationships between local and national market trends, sale and marketing information concerning the business community according to the requirement of customers, in international class 42.

See 37 C.F.R. §2.65(a)-(a)(1); TMEP §718.02(a).

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 26, 2022 for
U.S. Trademark Application Serial No. 97120324

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.