

**To:** Henry G. Chow([lawyerchow01@gmail.com](mailto:lawyerchow01@gmail.com))  
**Subject:** U.S. Trademark Application Serial No. 97119044 - MOLARY  
**Sent:** August 27, 2022 12:34:47 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

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

**U.S. Application Serial No.** 97119044

**Mark:** MOLARY

**Correspondence Address:**

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**Applicant:** Dongguan Zhimao Technology Co., Ltd.

**Reference/Docket No.** N/A

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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 27, 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.

**NO CONFLICTING 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:**

- Description of the Mark – Accurate But Incomplete
- Representative Samples of Use Required
- Information Required

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

#### **DESCRIPTION OF THE MARK – ACCURATE BUT INCOMPLETE**

Applicant must submit an amended description of the mark because the current one is incomplete and does not describe all the significant aspects of the mark. 37 C.F.R. §2.37; *see* TMEP §§808.01, 808.02. In addition, Applicant must delete from the description any text that does not reference things appearing in the mark, such as interpretation, assessment, or analysis of the mark elements, or indications of how the mark is or is not used or intended to be used. A description must accurately identify only the literal and design elements shown in the drawing. See 37 C.F.R. §2.37; TMEP §808.02.

The following description is suggested, if accurate:

The mark consists of the stylized wording MOLARY below a design of two horizontally aligned adjacent circular bands having a crescent shape appearing inside along the upper right edge, with a partial display of a smaller circular band appearing between and connecting the two circular bands, the stylized wording MOLARY appears inside along the upper left band of the left circular band, three sets of mirror image arched lines begin above the smaller band design and end above the larger circular bands, and a curved band appears below the design.

#### **REPRESENTATIVE SAMPLES OF USE REQUIRED**

Applicant has applied for many different goods in International Class 9. If an identification is so broad that it encompasses a wide range of products and/or services, then an applicant must submit evidence that it actually uses the mark on the wide range of products and/or services to obtain registration. *See In re Air Products & Chemicals, Inc.*, 192 USPQ 84, *recon. denied* 192 USPQ 157 (TTAB 1976); 37 CFR 2.61(b); TMEP §§904.01(a) and 1402.03.

The specimen of record shows use of the mark in connection with protective covers and cases for tablet computers. However, the identification of goods includes other items. Applicant must submit a sample of use for each of the following goods:

earphones; monoculars; telescopes; meteorological instruments; radio sets; scuba masks; sound bars; spotting scopes

These samples of use need not be supported by a declaration, but must have been in use in commerce for all goods as of the application filing date. Applicant should delete all identifications of goods that are not yet in use in commerce, or if Applicant is unable to provide sample specimens to support use of

the mark on these items, then Applicant may amend the filing basis for those goods that were not in proper use as of the application filing date to an intent to use basis under Section 1(b). This option will later necessitate additional fees and filing requirements such as providing a specimen for these goods at a subsequent date. *See the [ITU basis webpage](#)* for more information about an amendment to allege use or statement of use.

Failure to comply with a requirement to furnish additional samples of specimens is grounds for refusing registration. *In re Harley*, 119 USPQ2d 1755, 1757-58 (TTAB 2016); TMEP §814. Merely stating that evidence is available on Applicant's or a third party website or providing a hyperlink of such a website is an insufficient response and will not make the additional specimens of record. *See In re Planalytics, Inc.*, 70 USPQ2d 1453, 1457-58 (TTAB 2004).

## **INFORMATION REQUIRED**

To permit proper examination of the application, for each of the goods identified in the application, excluding the protective covers and cases for tablet computers in the specimen of use, Applicant must:

(1) Provide samples of consummated transactions (e.g., receipts, invoices) evidencing a presence in U.S. commerce;

OR

(2) If samples of consummated transactions are not available, then provide the location where/how these goods may be purchased/travel in U.S. commerce. Examples may include the URL address for online presence within the U.S., the names of brick-and-mortar stores in the U.S. where the goods may be seen/purchased, the name and type of intermediary employed to further the transaction in U.S. commerce.

This information is not readily available to the examining attorney, and is pertinent to examination of the application. Conclusory statements from the applicant or its attorney will not be sufficient to meet this requirement for information. *See* 37 C.F.R. §2.61(b); TMEP §814. Failure to comply with a request for information is grounds for refusing registration. *In re Harley*, 119 USPQ2d 1755, 1757-58 (TTAB 2016); TMEP §814.

## **TRANSLATION NOTED**

Applicant's statement that the mark has no English translation has been noted.

## **GUIDELINES FOR RESPONDING TO THE OFFICE ACTION**

For this application to proceed, the response must explicitly address each refusal and/or requirement in this Office action. For a refusal, the response may include written arguments and evidence against the refusal, and, if relevant, may include other response options if specified above. For a requirement, the response should set forth the changes or statements.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

**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 27, 2022 for  
**U.S. Trademark Application Serial No. 97119044**

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.