

To: Jing Wang(sy13632997163@outlook.com)
Subject: U.S. Trademark Application Serial No. 97120147 - HBLGOTWE - PTO
Sent: August 26, 2022 01:57:06 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[feyatt.com 1.jpg](#)
[feyatt.com 2.jpg](#)

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

U.S. Application Serial No. 97120147

Mark: HBLGOTWE

Correspondence Address:

JING WANG
KINGSWOOD LAW
1800 E. LAMBERT RD,
SUITE 215 CA 92821 UNITED STATES

Applicant: Shaanxi Heqiminglang Trading Co., Ltd.

Reference/Docket No. PTO

Correspondence Email Address: sy13632997163@outlook.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.

SEARCH OF USPTO DATABASE OF MARKS

The trademark examining attorney searched the USPTO database of registered and pending marks and found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

SPECIMEN ISSUE

Specimen does not show use of the mark in commerce. Registration is refused because the specimen does not show the applied-for mark as actually used in commerce in International Class 28. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Specifically, the provided specimen has multiple issues suggesting that the specimen is fraudulent. For example, the mark appears on the side of the toy vehicle without stylization. Despite the unusual placement of the mark, the website from which the screenshot was captured contains identical toy cars with different marks appearing in the same location. *See* attached evidence. In particular, an identical version of the toy car with "TOPDEPOT" appearing in the exact same position as the applied-for mark is offered at half the price on the same website. Because the website contains identical versions of the same product with different marks, there is a strong inference that the mark is not actually being used in commerce and the purpose of the website is merely to establish evidence of use-in-commerce.

Examples of specimens. Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). A webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (c). Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the TEAS form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

Response options. Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified ["substitute" specimen](#)) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the goods identified in the application or amendment to allege use. A "verified substitute specimen" is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use." The substitute specimen cannot be

accepted without this statement.

(2) Amend the filing basis to [intent to use under Section 1\(b\)](#) (which includes withdrawing an amendment to allege use, if one was filed), as no specimen is required before publication. This option will later necessitate additional fee(s) and filing requirements, including a specimen.

For an overview of the response options referenced above and instructions on how to satisfy these options using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

REQUEST FOR ADDITIONAL SPECIMEN SUBMISSIONS – RULE 2.61(B)

Given the issues shown in the specimen, applicant must submit additional specimens to allow for a complete and accurate examination of the application and assessment of the registrability of the subject mark, in accordance with Rule 2.61(b). 37 C.F.R. §2.61(b); *see* TMEP §904.01(a).

Applicant should submit specimens demonstrating use of the mark on all of the following goods:

1. Punching toys
2. Stuffed and plush toys
3. Toy action figures and accessories therefor
4. Toys for pets

If applicant is unable to provide specimens to support use of these items, applicant must delete these entries, or 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.

Failure to comply with a requirement to furnish additional 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).

RESPONSE GUIDELINES

Please call or email the assigned trademark examining attorney with questions about this Office action.

How to respond. [Click to file a response to this nonfinal Office action.](#)

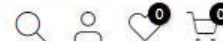
/Cameron Rocha/
Cameron Rocha
(571) 272-7245
cameron.rocha@uspto.gov

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.



FEYATT



Home > TopDepot Toy cars Remote Control Car for Kids - Scale Electric Remote Toy Racing, Hobby Toy Vehicle, Car Gifts for Age 3 4 5 6 7 8 9 Year Old Boys Girls



TopDepot Toy cars Remote Control Car for Kids - Scale Electric Remote Toy Racing, Hobby Toy Vehicle, Car Gifts for Age 3 4 5 6 7 8 9 Year Old Boys Girls

\$19.99

Vendor: TopDepot

Product description: Perfect Size & Performance - car which has long control distance, good anti-jamming capability provide high speed and stable running performance, make you enjoy the toy car for a...

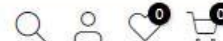


ADD TO CART





FEYATT



Home > VICRAZZE Remote Control Toys, Namely, Car Toy for Kids and Car Fans; New Remote Control Car Scale Electric Sport Racing Toy Car Model Vehicle , for Adults, Girls and Boys Age 8 9 10 11 12 Years Holiday Ideas Gift (Green)

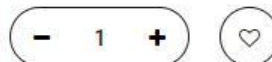


VICRAZZE Remote Control Toys, Namely, Car Toy for Kids and Car Fans; New Remote Control Car Scale Electric Sport Racing Toy Car Model Vehicle , for Adults, Girls and Boys Age 8 9 10 11 12 Years Holiday Ideas Gift (Green)

\$19.99

Vendor: VICRAZZE

Product description: 【NICE GIFT】 great size for inside use. We strongly stands behind each item it designs and sells. Each product we sell has passed a rigorous testing process before landing...



ADD TO CART



Description

Product description:

【NICE GIFT】 great size for inside use. We strongly stands behind each item it designs and sells. Each product we sell has passed a rigorous testing process before landing at your door. These remote control cars are wonderful gifts for kids.



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. 97120147

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.

Note To The File

Serial Number: 97120147
Date: 08/26/2022 1:53 pm
Created by: Cameron Rocha

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Do Not Print

- Negative Translation Statement

Examiner deleted negative translation statement.