

**To:** Persons, Julie Y([Capequeencosmetics@gmail.com](mailto:Capequeencosmetics@gmail.com))  
**Subject:** U.S. Trademark Application Serial No. 97118548 - CQ  
**Sent:** August 23, 2022 05:32:10 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[screenshot-www-facebook-com-photo-16612683366751](#)

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

**U.S. Application Serial No.** 97118548

**Mark:** CQ

**Correspondence Address:**

PERSONS, JULIE Y  
1320 WILLOW PASS RD. SUITE 600  
CONCORD CA 94520 UNITED STATES

**Applicant:** Persons, Julie Y

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

**Correspondence Email Address:** [Capequeencosmetics@gmail.com](mailto:Capequeencosmetics@gmail.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 issues 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:

- Specimen Refusal
- Amended Description of Mark Required
- Clarification of Applicant's Entity Type Required

## SPECIMEN REFUSAL

**Digitally created or altered image or mockup is not an acceptable specimen.** Registration is refused because the specimen appears to consist of a digitally created or altered image or a mockup of a depiction of the mark on the goods or their packaging and does not show the applied-for mark as actually used in commerce in International Class 3. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (c); TMEP §§904.04(a)(iii), 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. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). “Use in commerce” means (1) a bona fide use of the applied-for mark in the ordinary course of trade (and not merely to reserve a right in the mark), (2) the mark is placed in any manner on the goods, packaging, tags or labels affixed to the goods, or displays that directly associate the mark with the goods and have a point-of-sale nature, and (3) the goods are actually sold or transported in commerce. *See* 15 U.S.C. §1127.

An image of a product or packaging that has been digitally created or altered to include the mark or a mockup of how the mark may be displayed on the product or packaging is not a proper specimen for goods because it does not show actual use of the mark in commerce. *See* 15 U.S.C. §1127; 37 C.F.R. §2.56(c); TMEP §904.04(a)(i).

In this case, the applied-for mark appears on labels packaging that appear to have been digitally altered because the labels appear pixelated in comparison with the remainder of the image and the labels appear to float over the the packaging. Further, the attached evidence from Facebook shows an image with packaging similar to that of applicant but without the labels depicted in applicant's specimen. Therefore, the specimen does not show actual use of the mark in commerce.

**Response options.** Applicant may respond to the specimen refusal by satisfying **one** of the following options 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 and (b) shows the mark in actual use in commerce for the goods identified in the application. 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. For instructions on how to submit a different specimen using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

Applicants submitting a webpage as a specimen for goods must include the URL and the date the page was accessed or printed either directly on the specimen itself or in a separate statement, supported by an affidavit or declaration under 37 C.F.R. §2.20 verifying such information. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

(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.

If applicant submits an acceptable verified substitute specimen or amends to Section 1(b), the requirement below for additional information/documentation about the original specimen will be withdrawn. The requirement below as to the original specimen will be made final if applicant submits a substitute specimen that is not acceptable or does not amend to Section 1(b), and does not also respond completely to the requirement below.

**Additional information/documentation about original specimen required.** To permit proper examination of the application record for compliance with use in commerce requirements, applicant must respond to the following requirement for information and documentation about the specimen(s). *See* 37 C.F.R. §2.61(b); TMEP §§814, 904.04(a)(iii). A specimen must show the mark as actually used in commerce, which means use in the ordinary course of trade, and not merely to reserve a right in the trademark. 15 U.S.C. §§1051, 1052, 1127. Because the specimen of record appears to be digitally created or altered, or is a mockup, further information is necessary to determine whether the specimen is in actual use in commerce.

**Answer for each specimen/photograph/image previously provided.** For any website source, applicant must provide (1) an image of the webpage, (2) the date it was accessed or printed, and (3) the complete URL address. *In re ADCO Indus.-Techs., L.P.*, 2020 USPQ2d 53786, at \*2 (TTAB 2020) (citing *In re I-Coat Co.*, 126 USPQ2d 1730, 1733 (TTAB 2018)); TMEP §710.01(b). Providing only a website address or hyperlink to the webpage is not sufficient to make the materials of record. *In re ADCO Indus.-Techs., L.P.*, 2020 USPQ2d 53786, at \*2 (citing *In re Olin Corp.*, 124 USPQ2d 1327, 1331 n.15 (TTAB 2017); *In re HSB Solomon Assocs., LLC*, 102 USPQ2d 1269, 1274 (TTAB 2012); TBMP §1208.03); TMEP §814.

(1) Identify the particular good(s) listed in the application for which the specimen(s) was submitted to show use of the mark.

(2) Explain whether the specimen was created for submission with this application. If so, specify the date each specimen was created. If applicant used the image(s) of the goods shown in the specimen(s) from a third-party website, provide the URL of the website and a digital copy of relevant webpage(s) for each image.

(3) Provide information about and examples of how applicant's goods appear in the actual sales environment.

(a) If sold in stores, provide a representative sample of the name(s) of the stores and of photographs showing the goods for sale in the named stores, such as photographs of the sales displays or goods on shelves with the mark.

(b) If sold online, provide a representative sample of the name(s) of the online retailers, the website URL(s) for each named retailer, and a digital copy of the webpages showing the goods for sale on the named website.

(c) If sold in another type of sales environment (e.g., catalogs, trade shows), identify the environment and provide photographs and/or documentation showing the goods for sale in that environment.

(4) If the information in question (3) about how the goods appear in the actual sales environment is not available to applicant, please describe how applicant's goods are sold or transported and provide photographs and other documentation showing how applicant's mark appears on the goods and/or its packaging when the goods are sold or transported to or within the United States.

(5) For each category of sales environment specified in response to questions (3) and (4), specify when the goods bearing the mark were first available for purchase within the United States, the date of the first sale of the goods to or within the United States, and whether the goods are still for sale to or within the United States in that environment.

(6) For the goods identified in response to question (1), provide documentation that shows payment or other consideration made for the goods, redacting personal or private information of buyers as necessary.

Applicant has a duty to respond directly and completely to this requirement for information. *See In re Ocean Tech., Inc.*, 2019 USPQ2d 450686, at \*2 (TTAB 2019) (citing *In re AOP LLC*, 107 USPQ2d 1644, 1651 (TTAB 2013)); TMEP §814. Failure to comply with a requirement for information is an independent ground for refusing registration. *In re SICPA Holding SA*, 2021 USPQ2d 613, at \*6 (TTAB 2021) (citing *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814).

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal, applicant must also respond to the requirements set forth below.

## **AMENDED DESCRIPTION OF MARK REQUIRED**

Applicant must submit an amended description of the mark because the current one uses broad, vague language that does not accurately describe the mark. 37 C.F.R. §2.37; *see* TMEP §§808.01, 808.02. Descriptions must be accurate and identify all the literal and design elements in the mark. *See* 37 C.F.R. §2.37; TMEP §808.02. In this case, the description is vague because it is not clear that "C" and "Q" are adjacent to each other. Further, the statement that the royal crown appears on the top right of the "Q" appears inconsistent with the mark on the drawing because the royal crown appears further to the left than the right of the "Q".

The following description is suggested, if accurate:

**The mark consists of the stylized capital letters “CQ” with the letter “Q” having an extended tail. Positioned inside the letter “Q” is an outline of a side profile of a woman’s face. Positioned on the top of the letter “Q” and above the woman’s head is a design of a royal crown..**

## **CLARIFICATION OF APPLICANT'S ENTITY TYPE REQUIRED**

The name of an individual person appears in the section of the application intended for the trademark owner’s name; however, the legal entity is set forth as a limited liability company. Applicant must clarify this inconsistency. *See* 37 C.F.R. §§2.32(a)(2), (a)(3)(i)-(ii), 2.61(b); TMEP §803.02(a).

If applicant is an individual, applicant should simply request that the legal entity be amended to “individual” and must indicate his/her country of citizenship for the record. 37 C.F.R. §2.32(a)(3)(i); TMEP §803.03(a). Alternatively, if applicant is a limited liability company, applicant must provide the correct name of the limited liability company and the U.S. state or foreign country of incorporation or organization. 37 C.F.R. §2.32(a)(3)(ii); TMEP §803.03(h).

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration may be refused because the application was void as filed. *See* 37 C.F.R. §2.71(d); TMEP §§803.06, 1201.02(b). An application must be filed by the party who owns or is entitled to use the mark as of the application filing date. *See* 37 C.F.R. §2.71(d); TMEP §1201.02(b).

## **TRADEMARK COUNSEL ADVISORY**

Because of the legal technicalities and strict deadlines of the trademark application process, applicant is encouraged to hire a private attorney who specializes in trademark matters to assist in this process. The assigned trademark examining attorney can provide only limited assistance explaining the content of an Office action and the application process. USPTO staff cannot provide legal advice or statements about an applicant’s legal rights. TMEP §§705.02, 709.06. [See Hiring a U.S.-licensed trademark attorney](#) for more information.

## **RESPONSE GUIDELINES**

For this application to proceed, applicant must explicitly address each refusal and 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 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 refusal and requirements 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;


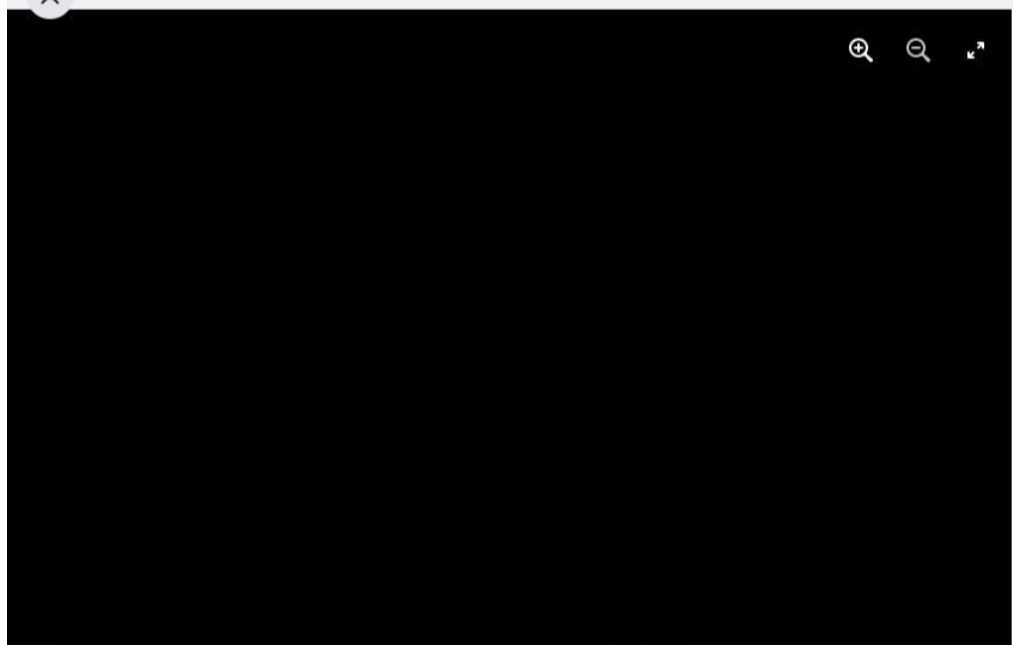

TMEP §§304.01-.02, 709.04-.05.


**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.



 **Rejuvenate Resurface Renew**  
July 9, 2021 · 🌐


I LOVE chemical exfoliants! 🍀 When used correctly...

If you're looking for the right one for your skin type, take these differences into consideration.




BHAs:

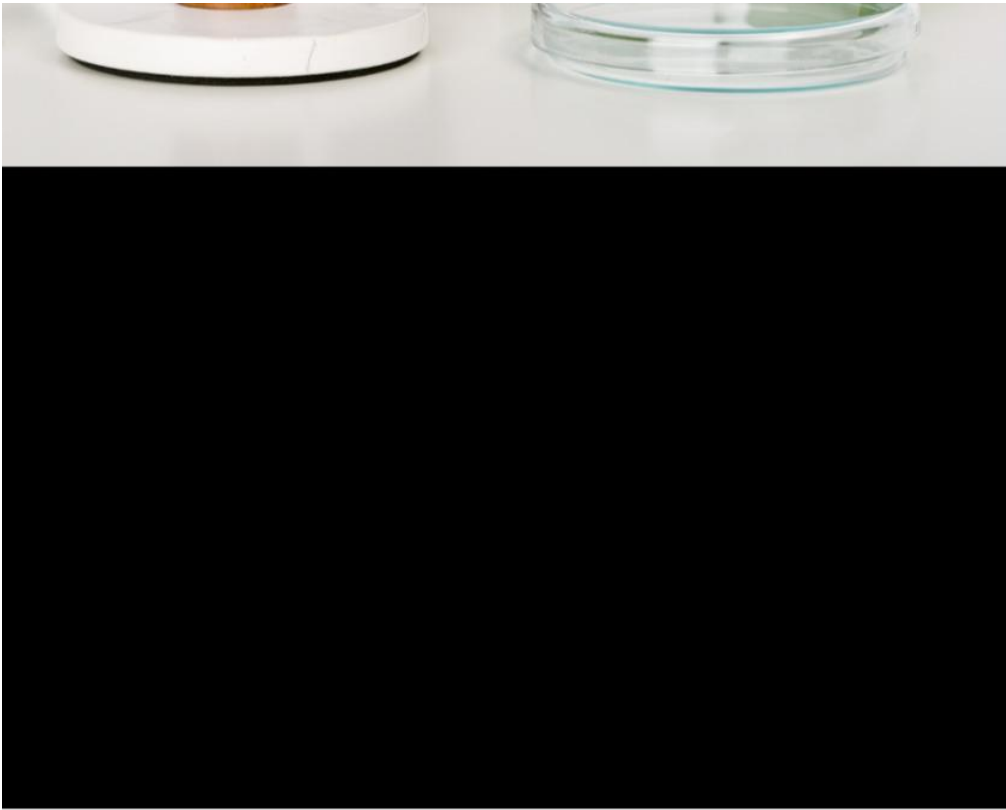
- Break through oils that clog your pores
- Dissolves sebum (oil)
- Works great for blackheads and acne

... See more

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## 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. 97118548**

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.

Statistics for Case 97118548						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97118548[sn]	1	0	1	1	0:00
2	(julie and persons)[on]	2	1	1	1	0:00
3	capequeen[on]	1	0	1	1	0:00
4	*cq*[bi,ti] not dead[ld]	1897	0	0	0	0:01
5	("cq" "c q")[bi,ti] not dead[ld]	107	0	107	107	0:00
6	("cq" "c q")[bi,ti]	321	214	107	107	0:00
7	(*cq*[bi,ti] not dead[ld]) and ("003" "005")[cc]	713	0	0	0	0:00
8	(*cq*[bi,ti] not dead[ld]) and ("003" "005" "03 5" "042" "a" "b" "200")[ic]	571	0	571	571	0:01
9	("020322" busts of women in profile)[dc] not dead[ld]	3076	0	0	0	0:02
10	("020324" stylized women)[dc] not dead[ld]	5173	0	0	0	0:00
11	("241102" crowns open at top)[dc] not dead[ld]	9886	0	0	0	0:00
12	("270302" humans forming letters)[dc] not dead[ld]	5040	0	0	0	0:01
13	((("020322" busts of women in profile)[dc] not dead[ld]) and ((("020324" stylized women)[dc] not dead[ld]) and ((("241102" crowns open at top)[dc] not dead[ld]) and ((("270302" humans forming letters)[dc] not dead[ld]))	4	0	1	4	0:02
14	((("020322" busts of women in profile)[dc] not dead[ld]) and ((("020324" stylized women)[dc] not dead[ld]))	795	0	0	0	0:02
15	((("020322" busts of women in profile)[dc] not dead[ld]) and ((("241102" crowns open at top)[dc] not dead[ld]))	112	0	1	112	0:02
16	((("020322" busts of women in profile)[dc] not dead[ld]) and ((("270302" humans forming letters)[dc] not dead[ld]))	186	0	1	186	0:02
17	((("020324" stylized women)[dc] not dead[ld]) and ((("241102" crowns open at top)[dc] not dead[ld]))	128	0	2	128	0:00
18	((("020324" stylized women)[dc] not dead[ld]) and ((("270302" humans forming letters)[dc] not dead[ld]))	138	0	2	138	0:01
19	((("241102" crowns open at top)[dc] not dead[ld]) and ((("270302" humans forming letters)[dc] not dead[ld]))	61	0	1	61	0:01
20	((("020322" busts of women in profile)[dc] not	353	0	3	353	0:02

Statistics for Case 97118548						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
	dead[ld]) and (("020324" stylized women)[dc] not dead[ld])) and ("003" "005")[cc]					
21	((("020322" busts of women in profile)[dc] not dead[ld]) and ("003" "005")[cc]	1378	0	0	0	0:02
22	((("020322" busts of women in profile)[dc] not dead[ld]) and ("003" "005" "035" "042" "a" "b" "200")[ic]	1000	0	0	0	0:02
23	((("020322" busts of women in profile)[dc] not dead[ld]) and ("003" "005" "a" "b" "200")[ic]	621	0	2	621	0:02
24	((("241102" crowns open at top)[dc] not dead[ld]) and ("003" "005" "a" "b" "200")[ic]	779	0	4	779	0:01
1	97118548[sn]	1	0	1	1	0:00
2	(julie and persons)[on]	2	1	1	1	0:00
3	capequeen[on]	1	0	1	1	0:00
4	*cq*[bi,ti] not dead[ld]	1897	0	0	0	0:01
5	("cq" "c q")[bi,ti] not dead[ld]	107	0	107	107	0:00
6	("cq" "c q")[bi,ti]	321	214	107	107	0:00
7	(*cq*[bi,ti] not dead[ld]) and ("003" "005")[cc]	713	0	0	0	0:00
8	(*cq*[bi,ti] not dead[ld]) and ("003" "005" "035" "042" "a" "b" "200")[ic]	571	0	571	571	0:01
9	("020322" busts of women in profile)[dc] not dead[ld]	3076	0	0	0	0:02
10	("020324" stylized women)[dc] not dead[ld]	5173	0	0	0	0:00
11	("241102" crowns open at top)[dc] not dead[ld]	9886	0	0	0	0:00
12	("270302" humans forming letters)[dc] not dead[ld]	5040	0	0	0	0:01
13	((("020322" busts of women in profile)[dc] not dead[ld]) and (("020324" stylized women)[dc] not dead[ld]) and (("241102" crowns open at top)[dc] not dead[ld]) and (("270302" humans forming letters)[dc] not dead[ld])	4	0	1	4	0:02
14	((("020322" busts of women in profile)[dc] not dead[ld]) and (("020324" stylized women)[dc] not dead[ld])	795	0	0	0	0:02
15	((("020322" busts of women in profile)[dc] not dead[ld]) and (("241102" crowns open at top)[dc] not dead[ld])	112	0	1	112	0:02
16	((("020322" busts of women in profile)[dc] not dead[ld]) and (("270302" humans forming letters)[dc] not dead[ld])	186	0	1	186	0:02

Statistics for Case 97118548						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
17	((("020324" stylized women)[dc] not dead[ld]) and ((("241102" crowns open at top)[dc] not dead[ld]))	128	0	2	128	0:00
18	((("020324" stylized women)[dc] not dead[ld]) and ((("270302" humans forming letters)[dc] not dead[ld]))	138	0	2	138	0:01
19	((("241102" crowns open at top)[dc] not dead[ld]) and ((("270302" humans forming letters)[dc] not dead[ld]))	61	0	1	61	0:01
20	((("020322" busts of women in profile)[dc] not dead[ld]) and ((("020324" stylized women)[dc] not dead[ld])) and ("003" "005")[cc]	353	0	3	353	0:02
21	((("020322" busts of women in profile)[dc] not dead[ld]) and ("003" "005")[cc]	1378	0	0	0	0:02
22	((("020322" busts of women in profile)[dc] not dead[ld]) and ("003" "005" "035" "042" "a" "b" "200")[ic]	1000	0	0	0	0:02
23	((("020322" busts of women in profile)[dc] not dead[ld]) and ("003" "005" "a" "b" "200")[ic]	621	0	2	621	0:02
24	((("241102" crowns open at top)[dc] not dead[ld]) and ("003" "005" "a" "b" "200")[ic]	779	0	4	779	0:01

Session started 08/23/2022 11:53 am

Session ended 08/23/2022 12:50 pm

Total search duration 24.00

Session duration 57 minutes 42 seconds

Adjacency Level 1

Near Level 1