

To: GameyGram Inc.(sherry@gameygram.com)
Subject: U.S. Trademark Application Serial No. 97120674 - GAMEYGRAM
Sent: August 26, 2022 10:29:49 AM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[premature.jpg](#)
[address.jpg](#)

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

U.S. Application Serial No. 97120674

Mark: GAMEYGRAM

Correspondence Address:

GAMEYGRAM INC.

1100

2637 E ATLANTIC BLVD

POMPANO BEACH FL 33062 UNITED STATES

Applicant: GameyGram Inc.

Reference/Docket No. N/A

Correspondence Email Address: sherry@gameygram.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 undersigned trademark examining attorney has reviewed the referenced application. Applicant must respond completely to the issues that are discussed below by the above-referenced deadline. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

The office records have been searched, and no similar registered or pending mark has been found that would bar registration pursuant to Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Registration Refused - Premature Use

Registration is refused because the specimen and evidence show that applicant had not used the applied-for mark in commerce in connection with the identified services as of the application filing date. Trademark Act Sections 1(a) and 45, 15 U.S.C. §§1051(a), 1127; 37 C.F.R. §2.34(a)(1)(i); *see* TMEP §§904, 1301.03(a)-(b). The specimen and evidence show that applicant was preparing to offer the services as of the application filing date. The use or display of a mark in the advertising of the services before the services are actually rendered does not show use in commerce. *See Couture v. Playdom, Inc.*, 778 F.3d 1379, 1380-82, 113 USPQ2d 2042, 2043-44 (Fed. Cir. 2015); *In re Suuberg*, 2021 USPQ2d 1209, *7-8 (TTAB 2021); TMEP §§904, 1301.03(a)-(b).

If applicant's services were being rendered in commerce as of the application filing date, applicant must submit the following:

(1) A different specimen (a verified “**substitute**” specimen) showing the applied-for mark in use in commerce for the services that are specified in the application. Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the screenshot capture date 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).

(2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**The substitute specimen was in use in commerce at least as early as the application filing date.**” 37 C.F.R. §2.59(a); TMEP §904.05; *see* 37 C.F.R. §2.193(e)(1). If submitting a substitute specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c); TMEP §904.05.

If applicant did not use the applied-for mark in commerce on or before the filing date, applicant may substitute a different basis for filing if applicant can meet the requirements for the new basis. In this case, applicant may wish to amend the application to assert a Section 1(b) basis. *See* TMEP §806.03(c). However, if applicant amends the basis to Section 1(b), registration will not be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. *See* 15 U.S.C. §1051(c), (d); 37 C.F.R. §§2.76, 2.88; TMEP §1103. If the same specimen is submitted with an allegation of use, the same refusal will issue.

To amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**Applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date.**” 37 C.F.R. §2.34(a)(2); TMEP §806.01(b); *see* 15 U.S.C. §1051(b); 37 C.F.R. §§2.35(b)(1), 2.193(e)(1).

If applicant responds to the refusal, applicant must also respond to the issues that are discussed below.

Applicant Must Amend The Identification

This requirement applies to: providing an on-line computer game in the field of transactional games, greetings and gifts.

Applicant must clarify some of the wording in the identification, as shown below, because it is indefinite. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. The wording is indefinite because it does not make clear the exact nature of the services.

Wording that appears within brackets offers guidance. And wording that should be deleted is shown with a line through it as follows: ~~striketrough~~. Applicant should enter amendments in standard font, not in strikethrough or within brackets.

Please note that wording that appears in strikethrough in the suggested identification would appear in standard font when copied and pasted. Therefore, any deletions must be made manually.

Applicant may adopt the following identification, if accurate:

"Entertainment services, namely, providing on-line computer games; Entertainment services, namely, providing online browser-based video games; Entertainment services, namely, providing online co-op video games; Entertainment services, namely, providing online computer games that help maintain an active brain and thus improve memory, speed of processing, and that provide a variety of cognitive benefits that positively impact quality of life; Entertainment services, namely, providing online electronic games; Entertainment services, namely, providing online first-person shooter (FPS) video games; Entertainment services, namely, providing online multiplayer video games; Entertainment services, namely, providing online player versus player (PvP) video games; Entertainment services, namely, providing online video games; Entertainment services, namely, providing an on-line board game; Entertainment services, namely, providing an on-line computer game; Entertainment services, namely, providing brain training games on-line and in mobile wireless form; Providing on-line card games; Providing on-line poker games; Providing online augmented reality games; Providing online non-downloadable game software; Providing online non-downloadable game software for playing a treasure hunting game using GPS coordinates; Providing a web-based system and on-line portal for customers to participate in on-line gaming, operation and coordination of game tournaments, leagues and tours for recreational computer game playing purposes; Providing an on-line computer game in the field of ~~transactional games, greetings and gifts~~ {this wording is unclear; applicant must clarify}; Providing information on-line relating to computer games and computer enhancements for games; Providing on-line computer games; Virtual reality game services provided on-line from a computer network," in International Class 41.

Applicant may amend the identification to clarify or limit the services, but not to broaden or expand the services beyond those originally identified in the application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted services may not be reinserted into the identification. *See* 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.

Requirement For Information

This requirement applies to: providing an on-line computer game in the field of transactional games, greetings and gifts.

To permit proper examination of the application, applicant must submit additional information about applicant's services because the nature of the services is not clear from the present record. *See* 37 C.F.R. §2.61(b); TMEP §§814, 1402.01(e). The required information should include fact sheets, brochures, and/or advertisements and promotional materials. If these materials are unavailable, applicant should submit similar documentation for services of the same type, explaining how its own services will differ. If the services feature new technology and no information regarding competing services is available, applicant must provide a detailed factual description of the services.

If applicant submits webpage evidence to satisfy this requirement, applicant must provide (1) an image of the webpage, (2) the date the screenshot was captured, and (3) the complete URL. *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.

Applicant must 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).

The Specimen Is Not Acceptable

Specimen does not show use for the services. Registration is refused because the specimen does not show the applied-for mark as actually used in commerce in connection with any of the services that are identified in the application. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); *In re Keep A Breast Found.*, 123 USPQ2d 1869, 1876-79 (TTAB 2017); TMEP §§904, 904.07(a), 1301.04(d), (g)(i). An application that is 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 and/or services that is 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); *see In re Gulf Coast Nutritionals, Inc.*, 106 USPQ2d 1243, 1247 (TTAB 2013).

Specifically, the specimen shows use of the mark in connection with a VIP club. It does not show that applicant offers any of the services that are recited in the identification.

Examples of specimens. Specimens for services must show a direct association between the mark and the services and include (1) advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services. *See* 37 C.F.R. §2.56(b)(2), (c); TMEP §1301.04(a), (h)(iv)(C).

Any screenshot that is submitted as a specimen must include the webpage's URL and the screenshot capture date. This information must be provided on the specimen itself, within the TEAS form to which the specimen is attached, 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 and (b) shows the mark in actual use in commerce for the services that are 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.

(2) Amend the filing basis to [intent to use under Section 1\(b\)](#), as no specimen is required before publication. This option would later necessitate additional fees 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](#).

Applicant Must Clarify Its Domicile Address

Applicant must clarify its domicile street address because the domicile address of record identifies a Parcels Plus store and does not appear to be applicant’s principal place of business. *See* 37 C.F.R. §§2.11(b), 2.189; TMEP §601.01(b)(1). A domicile address must identify the principal place of business, which is the juristic applicant’s headquarters where its senior executives or officers ordinarily direct and control the entity’s activities. *See* 37 C.F.R. §2.2(o)-(p); TMEP §803.05(a).

Applications must include an applicant’s domicile address because such domicile determines whether an applicant is required to have a U.S.-licensed attorney represent it before the USPTO. *See* 37 C.F.R. §§2.11(a), 2.32(a)(2); TMEP §§601, 803.05. An applicant whose domicile is located outside of the United States or its territories must be represented at the USPTO by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state or territory. 37 C.F.R. §2.11(a); TMEP §601.01(a).

In this case, the application record lists applicant as a juristic entity and specifies applicant’s domicile as a Parcels Plus store. See attachment. In most cases, such an address is not acceptable as a domicile address because it does not identify the location of applicant’s headquarters where its senior executives or officers ordinarily direct and control the entity’s activities. *See* 37 C.F.R. §2.2(o)-(p); TMEP §601.01(b)(1).

Response options. Applicant must provide its domicile street address. *See* 37 C.F.R. §§2.32(a)(2), 2.189; TMEP §803.05. Alternatively, applicant may provide documentation showing that the listed U.S. domicile address is, in fact, applicant’s domicile, or (2) a detailed explanation supporting that applicant has no fixed physical address. *See* 37 C.F.R. §2.11(b); TMEP §§601.01(b)-(b)(1), 803.05(a).

If applicant amends the application to list a domicile street address located outside of the United States

or its territories, applicant must appoint a U.S.-licensed attorney under 37 C.F.R. §11.14 as its representative before the application may proceed to registration. *See* 37 C.F.R. §2.11(a); TMEP §601.01(a). *See* [hiring a U.S.-licensed trademark attorney](#) for more information. However, if applicant establishes its domicile street address is located within the United States or its territories, applicant is not required to appoint a qualified U.S.-licensed attorney. *See* TMEP §601.01(b).

To provide applicant's domicile street address. After opening the correct Trademark Electronic Application System (TEAS) response form and entering the serial number, (1) answer “yes” to question 5 and click “Continue;” (2) on the “Owner Information” page, in the “Domicile Address” field, uncheck the box stating the domicile and mailing address are not the same; and (3) below the checkbox provide applicant's domicile street address. Applicant's domicile street address will be hidden from public view if it is entered into the “Domicile Address” field. However, any street address listed in the “Mailing Address” field will be publicly viewable.

To provide documentation to support applicant's domicile address. Applicant should provide the most recent documentation showing that the address is the applicant's business headquarters, for example one of the following: (1) the most recent final annual or quarterly report or other similar report; or (2) a current, valid signed rental, lease, or mortgage agreement for office space. TMEP §601.01(b)-(b)(1); *see* 37 C.F.R. §2.11(b). Submitted documentation must show the name, listed domicile address, and the date of the document but should *redact other personal and financial information*.

To provide this documentation, open the correct TEAS response form and enter the serial number, answer “yes” to question 3, and on the “Additional Statement(s)” page, below the “Miscellaneous Statement” field, click the button below the text box to attach documentation to support the U.S. street address.

To provide a detailed explanation that applicant has no fixed physical address. If applicant has no physical headquarters where its senior executives or officers ordinarily direct and control the business (*e.g.*, because the business is conducted virtually), applicant should state for the record that applicant has no fixed physical address and provide a detailed explanation of the circumstances.

To provide this explanation, open the correct TEAS response form and enter the serial number, answer “yes” to question 3, and on the “Additional Statement(s)” page, in the “Miscellaneous Statement” field, enter the referenced explanation in the text box.

To appoint a U.S.-licensed attorney in the application, applicant should submit a completed TEAS [change address or representation](#) form. The newly-appointed attorney must submit a TEAS [response to examining attorney office action](#) form indicating that an appointment of attorney has been made and address all other refusals or requirements in this action, if any. Alternatively, if applicant retains an attorney before filing the response, the attorney can respond to this Office action by using the appropriate TEAS response form and provide his or her attorney information in the form and sign it as applicant's attorney. *See* 37 C.F.R. §2.17(b)(1)(ii); TMEP §604.01.

Applicant Is Encouraged To Hire An Attorney

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, *i.e.*, explaining the content

of an office action and the application process, but cannot provide legal advice. TMEP §§705.02, 709.06. See [hiring a U.S.-licensed trademark attorney](#) for more information.

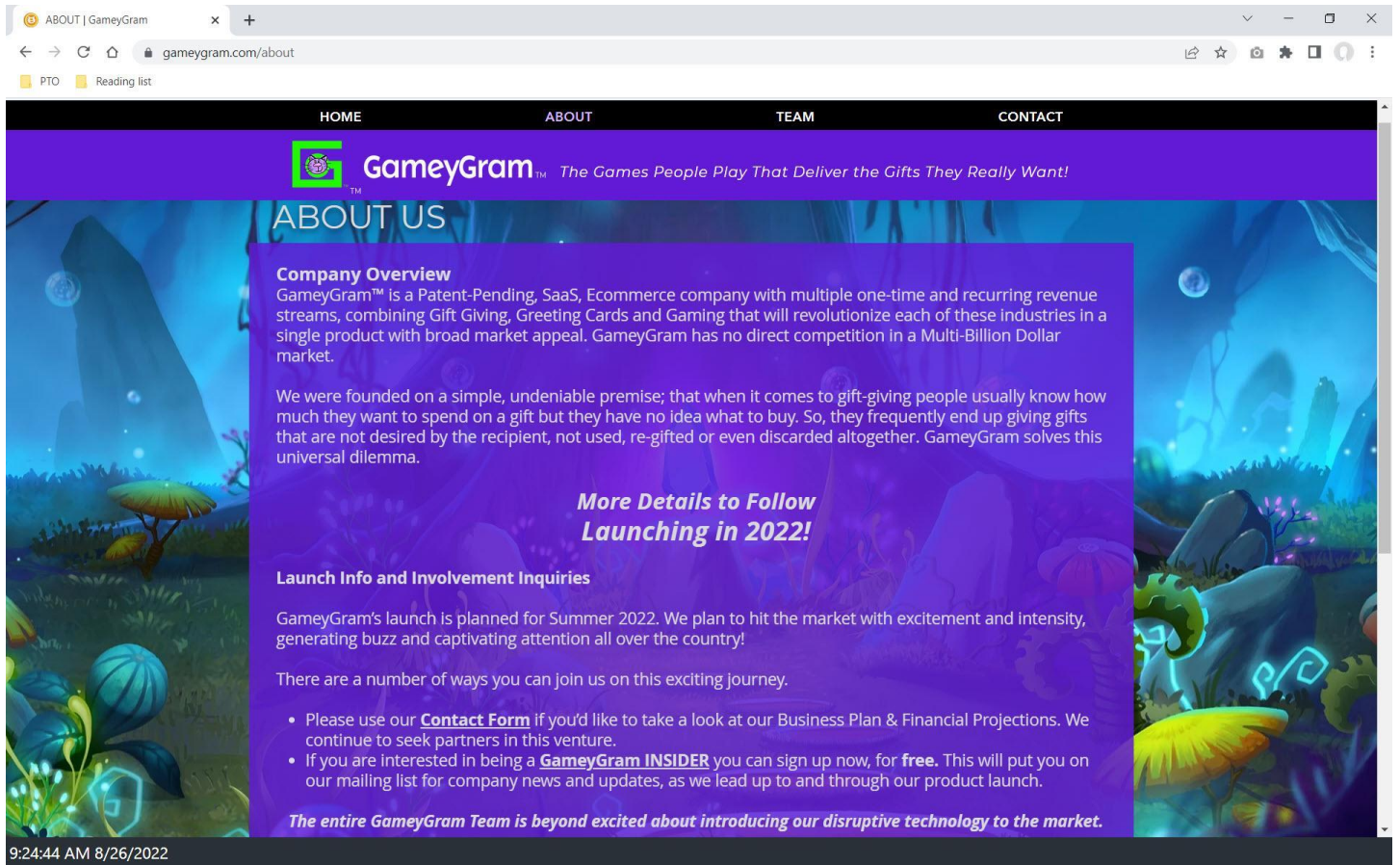
Applicant is invited to contact the assigned examining attorney with any questions regarding this action. Applicant should have this office action available to refer to when placing a call to the examining attorney.

How to respond: click to file a [response](#) to this non-final office action.

/Katherine S. Chang/
(she/her/hers)
Trademark Examining Attorney
Law Office 115
(571) 270-1528
katherine.chang@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.





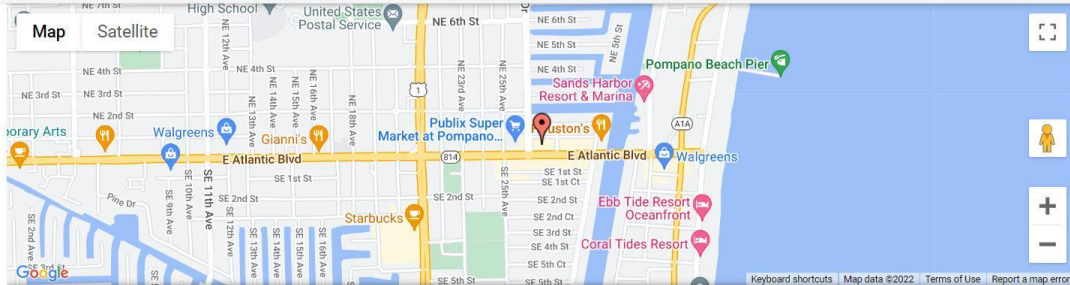
954.782.9527
2637 E Atlantic Blvd
Pompano Beach, FL 33062
Today: 9:00 AM - 5:45 PM



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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. 97120674

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.

User: Katherine Chang

Statistics for Case 97120674						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	97130200[sn]	1	0	1	1	0:00
2	(cat 030104 030118 030121 030124)[dc] and live[ld]	18526	0	0	0	0:00
3	(circle 260121)[dc] and live[ld]	114779	0	0	0	0:01
4	(animal letter 270102)[dc] and live[ld]	1757	0	0	0	0:01
5	g[bi,ti] and live[ld]	10566	0	0	0	0:04
6	5 and (2 3 4)	842	0	0	0	0:01
7	6 and ("041" a b "200")[ic]	103	0	1	103	0:01
8	2 and (3 4)	1851	0	0	0	0:00
9	3 and 4	115	0	3	115	0:01
10	5 and (8 9)	6	0	6	6	0:00
11	8 and ("041" a b "200")[ic]	278	0	1	278	0:01
12	2 and 3 and 4	15	0	3	15	0:00

Session started 08/26/2022 9:51 am

Session ended 08/26/2022 9:57 am

Total search duration 10.00

Session duration 5 minutes 55 seconds

Adjacency Level 1

Near Level 1

User: Katherine Chang

Statistics for Case 97120674						
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3	*gr{v}m*[bi,ti] and live[ld]	5692	0	0	0	0:01
4	2 and 3	13	0	13	13	0:01
5	*gamey*[bi,ti] and live[ld]	5	0	5	5	0:00
6	*gamee*[bi,ti] and live[ld]	5	0	5	5	0:00
7	*gamie*[bi,ti] and live[ld]	5	0	5	5	0:00
8	*g{v}m{v2}gr{v}m*[bi,ti] and live[ld]	1	0	1	1	0:00
9	*g{v}m{v2}g*[bi,ti] and live[ld]	4	0	4	4	0:01
10	(*mey* and *gram*)[bi,ti] and live[ld]	1	0	1	1	0:00
11	(*mey* and *gr{v}m*)[bi,ti] and live[ld]	7	0	7	7	0:00

Session started 08/26/2022 9:47 am

Session ended 08/26/2022 9:51 am

Total search duration 4.00

Session duration 3 minutes 43 seconds

Adjacency Level 1

Near Level 1