

To: I. Edward Marquette(trademarks.marquette@kutakrock.com)
Subject: U.S. Trademark Application Serial No. 97119954 - HIGHWIRE
Sent: August 23, 2022 04:09:24 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. 97119954

Mark: HIGHWIRE

Correspondence Address:

I. EDWARD MARQUETTE
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SUITE 800
KANSAS CITY MO 64108 UNITED STATES

Applicant: ConstructSecure, Inc.

Reference/Docket No. N/A

Correspondence Email Address: trademarks.marquette@kutakrock.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

INTRODUCTION

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 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:

- CLASSIFICATION AND IDENTIFICATION OF GOODS

CLASSIFICATION AND IDENTIFICATION OF GOODS

Applicant has classified “Operating, managing, and maintaining a web-based marketplace for identifying new contractor partners and project leads in connection with facilities construction and operation” in International Class 045; however, the proper classification, properly amended, is International Class 035. Therefore, applicant may respond by (1) adding International Class 035 to the application and reclassifying these goods and/or services in the proper international class, (2) deleting “Operating, managing, and maintaining a web-based marketplace for identifying new contractor partners and project leads in connection with facilities construction and operation” from the application, or (3) deleting the remainder of the items in the identification and reclassifying the specified goods and/or services in the proper international class. *See* 37 C.F.R. §§2.86(a), 6.1; TMEP §§1403.02 *et seq.* If applicant adds one or more international classes to the application, applicant must comply with the multiple-class requirements specified in this Office action.

The identification of services is indefinite and too broad because it references providing online information services without indicating the subject matter of such information and could identify services in more than one international class. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.03, 1402.11(a)(ii). The subject matter of the information being provided determines classification of these services. TMEP §1402.11(a)(ii). For example, “providing information in the field of real estate via the Internet” is classified in International Class 36; “providing consumer product information via the Internet” is classified in International Class 35; and “providing information in the fields of forensic science via the Internet” is classified in International Class 42.

Therefore, applicant must amend the identification to specify the subject matter of the information being provided via the Internet, and the proper classification. *Id.*

Applicant may adopt the following wording, if accurate (suggestions in ***bold italics***, deletions in ***strikethrough***):

“Provision of an online marketplace for buyers and sellers of construction services, namely, identifying new contractor partners and project leads in connection with facilities construction and operation” in International Class 035.

“Providing financial viability risk information in the field of facilities construction and contracting via a website” in International Class 036.

“Providing facilities construction and contracting information related to sustainability, and quality via a website” in International Class 037.

~~“Non Downloadable Software made available on a software as a service basis~~ *Software as a Service (SaaS) services featuring non-downloadable software* for gathering and assessing information pertaining to facilities construction and operation, namely, safety risk information, financial viability risk information, sustainability information, and quality information, both during the construction phase of the facility and during its operations” in International Class 042.

~~“Providing information in the field of construction and contractor safety via a website~~ *Operating, managing, and maintaining a web-based network for furnishing information pertaining to facilities construction and contracting and facilities operation, namely, information related to safety risks, financial viability risks, sustainability, and quality; Operating, managing, and maintaining a web-based marketplace for identifying new contractor partners and project leads in connection with facilities construction and operation”* in International Class 045.

Scope Advisory

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.

Multiple-Class Application Requirements

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

- (1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.
- (2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO’s current fee schedule](#)). The application identifies goods and/or services that are classified in at least five (5) classes; however, applicant submitted a fee(s) sufficient for only two (2) class(es). Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(b) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the [Multiple-class Application webpage](#).

The fee for adding classes to a TEAS Standard application is \$350 per class. *See* 37 C.F.R. §2.6(a)(1)(iii). For more information about adding classes to an application, see the [Multiple-class Application webpage](#).

RESPONSE GUIDELINES

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or 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(s) and/or requirement(s) 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.

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. 97119954

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: David Hutchison

Statistics for Case 97119954						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	*w{"iy"}re*[bi,ti] not dead[ld]	2795	0	0	0	0:01
2	*h{"iy"}{"gh"0:2}w{"iy"}re*[bi,ti] not dead[l d]	13	0	13	13	0:01
3	*h{"iy"}{"gh"0:2}*[bi,ti] not dead[ld]	210883	0	0	0	0:02
4	1 and 3	93	0	93	93	0:01
5	1 and ("035" "036" "037" "042")[cc]	1480	0	0	0	0:01
6	1 and ("035" "036" "037" "042" a b "200")[ic]	972	0	0	0	0:01
7	1 and ("035" a b "200")[ic]	471	0	471	471	0:01
8	1 and ("036" a b "200")[ic]	138	0	138	138	0:01
9	1 and ("037" a b "200")[ic]	161	0	161	161	0:01
10	1 and ("042" a b "200")[ic]	428	0	428	428	0:01

Session started 08/23/2022 2:43 pm

Session ended 08/23/2022 3:39 pm

Total search duration 11.00

Session duration 56 minutes 1 seconds

Adjacency Level 1

Near Level 1