

**To:** Charles J. Meyer([cjmeyer@uspatent.com](mailto:cjmeyer@uspatent.com))  
**Subject:** U.S. Trademark Application Serial No. 97119462 - JR AGUACATES - 34709-2  
**Sent:** August 26, 2022 05:01:09 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[screenshot-www-google-com-search-16615471583421](#)

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

**U.S. Application Serial No.** 97119462

**Mark:** JR AGUACATES

**Correspondence Address:**

CHARLES J. MEYER

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INDIANAPOLIS IN 46204 UNITED STATES

**Applicant:** AGUACATES JR, S.A. DE C.V.

**Reference/Docket No.** 34709-2

**Correspondence Email Address:** [cjmeyer@uspatent.com](mailto:cjmeyer@uspatent.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

**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.

### Summary of Issues

- Search Results - No Conflicting Marks Found
- Identification of Goods and Services – Amendment Required
- Translation of Foreign Wording in the Mark Required
- Disclaimer of Descriptive Wording Required
- Dual Bases - Option to Delete Section 1(b) Basis

### Search Results - No Conflicting Marks Found

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.

### Identification of Goods and Services – Amendment Required

Applicant must clarify the wording “Commercialization, namely, mediation and procurement of contracts for the purchase and sale of fresh avocado for third parties, purchase, sale, import and export of fresh fruits, namely, fresh avocado for third parties; business management, decoration of sideboards and showcases, namely, shop window dressing, product demonstration and exhibitions, namely, product demonstration services in shop windows by live models and organization of trade show exhibitions for promoting sales of fresh avocado” in the identification of services in Class 035 and the wording “Fresh avocado packer and distributor” in the identification of services in Class 039 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because the nature of the services is not clear. Further, this wording could identify services in more than one international class. For example, “import and export” could encompass “Import and export agencies in the field of fresh avocados for third parties” in Class 035 or “Import and export services, namely, transportation of merchandise of others in the nature of fresh avocados” in Class 039.

Applicant may adopt the wording below, if accurate. Suggested amendments are in bold text. Where bold text appears without any instructions, the applicant should note that the wording is indefinite and/or overly broad and the suggested amendment in bold appears to accurately describe the services. If any of the examining attorney’s suggestions are not accurate, applicant is still required to amend the unacceptable wording to identify definite and properly classified services

- International Class 031: Acceptable as filed
- International Class 035: **Product** commercialization **services**, namely, mediation and procurement of contracts for the purchase and sale of fresh avocados for third parties; **Import and export agencies in the field of fresh avocados for third parties**; Business management **services in the field of sales of fresh avocados**; Decoration of sideboards and showcases, namely, shop window dressing; Product demonstration and exhibitions, namely, product demonstration services in shop windows by live models and organization of trade show exhibitions for promoting sales of fresh avocado
- International Class 039: **Warehousing services, namely, packing and distribution of fresh avocados**; **Import and export services, namely, transportation of merchandise of others in**

## **the nature of fresh avocados**

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e). Additionally, for U.S. applications filed under Trademark Act Section 44(e), the scope of the identification for purposes of permissible amendments may not exceed the scope of the goods and/or services identified in the foreign registration. 37 C.F.R. §2.32(a)(6); *Marmark, Ltd. v. Nutrexpa, S.A.*, 12 USPQ2d 1843, 1845 (TTAB 1989) (citing *In re Löwenbräu München*, 175 USPQ 178, 181 (TTAB 1972)); TMEP §§1012, 1402.01(b).

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.

### **Translation of Foreign Wording in the Mark Required**

To permit proper examination of the application, applicant must submit an English translation of the foreign wording in the mark. 37 C.F.R. §§2.32(a)(9), 2.61(b); *see* TMEP §809. The following is suggested: **The English translation of “AGUACATES” in the mark is “AVOCADOS”**. TMEP §809.03. *See* attached translation evidence. To respond to this requirement for information, open the appropriate Trademark Electronic Application System (TEAS) response form and enter the serial number, answer “yes” to question 3, and provide the information on the “Additional Statement(s)” page in the “Translation” text box(es) in the form.

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).

### **Disclaimer of Descriptive Wording Required**

Applicant must disclaim the wording “AGUACATES” because it is merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods and/or services. *See* 15 U.S.C. §1052(e)(1); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

Non-English wording that is merely descriptive, deceptively misdescriptive, geographically descriptive, generic, or informational in connection with the identified goods and/or services, is an unregistrable component of the mark that is subject to disclaimer. TMEP §§1213.03(a), 1213.08(d); *see Bausch & Lomb Optical Co. v. Overseas Fin. & Trading Co.*, 112 USPQ 6, 8 (Comm'r Pats. 1956). The disclaimer must refer to the actual non-English wording that appears in the mark, not the English translation of that wording. TMEP §1213.08(d).

The attached evidence from *Google Translate* shows this wording means AVOCADOS. The wording AVOCADOS appears in applicant's identification of services.

Applicant may respond to this issue by submitting a disclaimer in the following format:

**No claim is made to the exclusive right to use “AGUACATES” apart from the mark as shown.**

For an overview of disclaimers and instructions on how to provide one using the Trademark Electronic Application System (TEAS), see the [Disclaimer webpage](#).

### **Dual Bases - Option to Delete Section 1(b) Basis**

The application specifies both an intent to use basis under Trademark Act Section 1(b) and reliance on a foreign registration(s) under Section 44(e). *See* 15 U.S.C. §§1051(b), 1126(e); 37 C.F.R. §2.34(a)(2)-(3). However, the foreign registration alone may serve as a basis for obtaining a U.S. registration. *See* 37 C.F.R. §2.34(a)(3); TMEP §806.01(d). If applicant wants to rely solely on the foreign registration under Section 44(e) as the basis, applicant can request deletion of the Section 1(b) basis. *See* 37 C.F.R. §2.35(b)(1); TMEP §806.04.

Unless applicant indicates otherwise, the USPTO will presume that applicant is relying on both Sections 1(b) and 44(e). Thus, although the mark may be approved for publication, it will not register until an acceptable allegation of use has been filed for the goods and/or services based on Section 1(b).

### **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.



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Translations of aguacate

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aguacate

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aguacate

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Text translation: Translate between 108 languages by typing • Tap to Translate: Copy text in any app and tap the Google Translate icon to translate (all ...



Google Translate

Website

translate.google.com

Google Translate is a multilingual neural machine translation service developed by Google to translate text, documents and websites from one language into another. It offers a website interface, a mobile app for Android and iOS, and an API that helps developers build browser extensions and software applications. Wikipedia

Date launched: April 28, 2006

Users: Over 500 million people daily

Owner: Google

People also search for



Gmail



Instagram



DeepL Transla...



Facebook

Feedback

★★★★★ Rating: 4.4 - 8,506,840 votes - Free - Android - Uses less i/o/os

<https://apps.apple.com/app/google-translate>

### Google Translate on the App Store

This app is available only on the App Store for iPhone and iPad. **Google Translate 4+**: Text, Photo & Voice Translator.

★★★★★ Rating: 4.4 - 70,627 reviews - Free - iOS - Reference

<https://www.theatlantic.com/archive/2018/01/the-shallow-ness-of-google-translate/>

### The Shallowness of Google Translate - The Atlantic

Jan 30, 2018 — The Shallowness of **Google Translate**. The program uses state-of-the-art AI techniques, but simple tests show that it's a long way from real ...

<https://chrome.google.com/detail/google-translate>

### Google Translate

Mar 9, 2022 — Highlight or right-click on a section of text and click on **Translate** icon next to it to **translate** it to your language. Or, to **translate** the ...

[https://en.wikipedia.org/wiki/Google\\_Translate](https://en.wikipedia.org/wiki/Google_Translate)

### Google Translate - Wikipedia

**Google Translate** is a multilingual neural machine translation service developed by Google to translate text, documents and websites from one language into ...

Available in: 133 languages; see below	Launched: April 28, 2006; 16 years ago (as ...)
URL: <a href="https://translate.google.com">translate.google.com</a>	Users: Over 600 million people daily

<https://www.youtube.com/watch?v=LaBamba>

### Google Translate vs. "La Bamba" - YouTube



The **Google Translate** team tests their new app in 27 languages — you can download it on the Google Play Store ...

YouTube · Google · Jul 29, 2015

<https://blog.google/products/see-world-in-your-lang-...>

### See the world in your language with Google Translate

The **Google Translate** app already lets you instantly visually translate printed text in seven languages. Just open the app, click on the camera, and point it ...

<https://www.pcmag.com/how-to/mobile-apps>

### Don't Speak the Language? How to Use Google Translate

The **Google Translate** app can translate dozens of languages, either through text or voice. You just type, write, or speak into the app.

### Related searches

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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. 97119462**

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 Brundage

Statistics for Case 97119462						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	*jr*[bi,ti)not dead[ld]	1561	0	0	0	0:01
2	"jr"[bi,ti)not dead[ld]	709	0	0	0	0:01
3	"j r"[bi,ti)not dead[ld]	76	0	76	76	0:01
4	*{"gj"}{v:3}{ "ckqx":2}{v:2}{ "td"}*[bi,ti)not dead[ld]	1152	0	0	0	0:15
5	(1 2 3) and 4	1	0	1	1	0:13
6	*avocado*[bi,ti)not dead[ld]	324	0	324	324	0:01
7	(1 2 3) and 6	0	0	0	0	0:00
8	1 and "031"[cc]	312	0	312	312	0:01
9	1 and "035"[cc] NOT 8	253	0	253	253	0:01
10	1 and "039"[cc] NOT (8 9)	0	0	0	0	0:00
11	2 and "031"[cc]	182	0	182	182	0:00
12	2 and "035"[cc] NOT 11	177	0	177	177	0:00
13	*a{"gj"}{v:3}{ "ckqx":2}{v:2}{ "td"}*[bi,ti)not dead[ld]	102	0	102	102	0:02
14	(050906)[dc]not dead[ld]	1494	0	0	0	0:01
15	(261705 261713)[dc]not dead[ld]	101244	0	0	0	0:00
16	14 and 15	140	0	10	140	0:01
17	14 and "031"[cc]	1037	0	0	0	0:00
18	14 and ("031" a b "200")[ic]	113	0	27	113	0:01
19	14 and ("035" a b "200")[ic] NOT 18	221	0	70	221	0:01
20	14 and ("039" a b "200")[ic] NOT (18 19)	26	0	26	26	0:01

Session started 08/26/2022 3:28 pm

Session ended 08/26/2022 4:45 pm

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Session duration 1 hours 17 minutes 24 seconds

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