

**To:** Mihealsick, John Brian([brianmihealsick@gmail.com](mailto:brianmihealsick@gmail.com))  
**Subject:** U.S. Trademark Application Serial No. 97120780 - HELL SICK SKATEBOARDS  
**Sent:** August 23, 2022 08:16:11 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[screenshot-www-merriam-webster-com-dictionary-skateboards-16612999181521](#)

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

**U.S. Application Serial No.** 97120780

**Mark:** HELL SICK SKATEBOARDS

**Correspondence Address:**

MIHEALSICK, JOHN BRIAN  
1916 AUTUMN FIRE DR.  
CEDAR PARK TX 78613 UNITED STATES

**Applicant:** Mihealsick, John Brian

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

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

- Mark On Drawing Differs From Mark On Specimen - Class 28
- Requirement: Disclaimer

### MARK ON DRAWING DIFFERS FROM MARK ON SPECIMEN - CLASS 28

*The stated refusal refers to International Class 28 only and does not bar registration in the other class.*

**Mark shown on drawing does not match mark on specimen.** Registration is refused because the specimen does not show the mark in the drawing in use in commerce in International Class 28, which is required in the application or amendment to allege use. 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), 1301.04(g)(i). The mark appearing on the specimen and in the drawing must match; that is, the mark in the drawing “must be a substantially exact representation of the mark” on the specimen. *See* 37 C.F.R. §2.51(a)-(b); TMEP §807.12(a).

In this case, the Class 28 specimen showing the skateboard deck displays the mark as merely HELL SICK. However, the drawing displays the mark as HELL SICK SKATEBOARDS. The mark on the specimen does not match the mark in the drawing because the specimen lacks the word SKATEBOARDS. Applicant has thus failed to provide the required evidence of use of the mark in commerce. *See* TMEP §807.12(a).

**Response options.** Applicant may respond to this refusal by satisfying one of the following:

(1) **Submit a different specimen** (a verified “[substitute](#)” specimen) for each applicable international class that (a) shows the mark in the drawing in actual use in commerce for the goods in the application or amendment to allege use, and (b) 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.

**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).

(2) **Submit a request to 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 such as providing a specimen.

The USPTO will not accept an amended drawing submitted in response to this refusal because the changes would materially alter the drawing of the mark in the original application or as previously acceptably amended. *See* 37 C.F.R. §2.72(a)-(b); TMEP §807.14. Specifically, although the goods in Class 28 are skateboard decks, the goods in Class 25 are not (they are clothing), and therefore this wording SKATEBOARDS has an effect on the commercial impression of the overall mark, and shortening the mark to HELL SICK would remove a wording that has significance in the mark. Applicant cannot therefore amend the mark to HELL SICK - it would be considered a material amendment.

For more information about drawings and instructions on how to satisfy these response options using the online Trademark Electronic Application System (TEAS) form, see the [Drawing webpage](#).

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 requirement set forth below.

#### DISCLAIMER REQUIRED

Applicant must disclaim the wording “SKATEBOARDS” because it is merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant’s goods. *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).

The attached evidence from the Merriam-Webster dictionary shows this wording SKATEBOARDS means “a short board mounted on small wheels that is used for coasting and for performing athletic stunts”. Thus, the wording merely describes applicant’s goods because they are skateboard decks or clothing used when skateboarding or for skateboarders.

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

**No claim is made to the exclusive right to use “SKATEBOARDS” 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](#).

**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.

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.

**Assistance available.** 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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skateboards

Dictionary

Thesaurus



Choose Bradford White.



# skateboard noun

Save Word

skate-board | \ skāt- bōrd \

## Definition of *skateboard* (Entry 1 of 2)

: a short board mounted on small wheels that is used for coasting and for performing athletic stunts

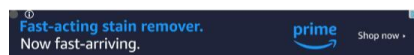
## skateboard verb

skateboarded; skateboarding; skateboards

## Definition of *skateboard* (Entry 2 of 2)

*intransitive verb*

: to ride or perform stunts on a skateboard

 Other Words from *skateboard*

Example Sentences

 Learn More About *skateboard*

## Other Words from *skateboard*

Verb

skateboarder \ skāt- bōr-dar \ noun

WORD OF THE DAY

abrogate

[See Definitions and Examples »](#)

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[stationary](#)[stationery](#)

Can you spell these 10 commonly misspelled words?

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Examples of *skateboard* in a Sentence

Verb

// He *skateboards* to school every day.

Recent Examples on the Web: Noun

// Someone with a *skateboard* broke the front glass window of the bar at around 1:15 a.m., according to owner Fritz Quattlebaum.  
— Emma Talley, *San Francisco Chronicle*, 26 July 2022

// Those parts — also called the *skateboard*, chassis, frame or platform, and including the suspension and related hardware — are not Ultium.  
— Mark Phelan, *Detroit Free Press*, 28 June 2022

// The Capitol rioters from the Lone Star State are accused of wielding a *skateboard*, a hatchet, a crutch, zip tie restraints, a desk drawer, a Trump flag and a lit firecracker.  
— Gabrielle Banks, *San Antonio Express-News*, 6 Jan. 2022

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These example sentences are selected automatically from various online news sources to reflect current usage of the word 'skateboard.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. [Send us feedback](#).

First Known Use of *skateboard*

Noun

1953, in the meaning defined above

Verb

1964, in the meaning defined above

Buying Guide

Our Reviews team has selected the best electric scooters for adults.



Learn More About *skateboard*

Share *skateboard*



Time Traveler for *skateboard*

The first known use of *skateboard* was in 1953  
[See more words from the same year](#)

Dictionary Entries Near

*skateboard*

[skate barrow](#)

[skateboard](#)

Statistics for *skateboard*

Last Updated

10 Aug 2022

Look-up Popularity

See More Nearby Entries

**Cite this Entry**  
"Skateboard." Merriam-Webster.com Dictionary. Merriam-Webster, https://www.merriam-webster.com/dictionary/skateboard. Accessed 23 Aug. 2022.

Style: MLA

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**BillyTallas** · 9 February, 2013  
skateboard who looks to do it hahaha.

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More Definitions for *skateboard*

**skateboard** *noun*

skate-board | \ ˈskāt-ˌbɔrd \

**Kids Definition of *skateboard* (Entry 1 of 2)**

: a short board mounted on small wheels that is used for coasting and often for performing athletic stunts

at hair raising speed.



Shop now

skateboard verb

skateboarded; skateboarding

Kids Definition of skateboard (Entry 2 of 2)

: to ride or perform stunts on a skateboard

Other Words from skateboard

skateboarder \ˈskāt-ˌbɔɪ-dər\ noun

English: Translation of skateboard for Spanish Speakers

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WORDS AT PLAY



'Dunderhead' and Other 'Nicer' Ways to Say Stupid

As illustrated by some very smart pups



10 Words from Place Names

Bikini, bourbon, and badminton were places first



'Pride': The Word That Went From Vice to Strength

Do you take pride in Pride?



When Were Words First Used?

Look up any year to find out

ASK THE EDITORS



Literally

How to use a word that (literally) drives some pe...



'All Intensive Purposes' or 'All Intents and Purposes'?

We're intent on clearing it up



Lay vs. Lie

Editor Emily Brewster clarifies the difference.



Hot Mess

"The public is a hot mess"

WORD GAMES



WORD GAMES



**What Are You Wearing?**  
Roll up your sleeves and  
identify these garments  
[TAKE THE QUIZ >](#)



**Name That Animal:  
Volume 2**  
Can you tell a meerkat from  
a wombat?  
[TAKE THE QUIZ >](#)



**Spell It**  
Can you spell these 10  
commonly misspelled words?  
[TAKE THE QUIZ >](#)



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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. 97120780**

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: Benjamin Rosen

Statistics for Case 97120780						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	hell[bi,ti] and live[ld]	619	0	0	0	0:01
2	hell*[bi,ti] and live[ld]	2866	0	0	0	0:01
3	*hell*[bi,ti] and live[ld]	4888	0	0	0	0:01
4	sick[bi,ti] and live[ld]	247	0	247	247	0:01
5	s{"iy"}{"ckqx"1:2}[bi,ti] and live[ld]	9776	0	0	0	0:01
6	*s{"iy"}{"ckqx"1:2}*[bi,ti] and live[ld]	31974	0	0	0	0:02
7	*{"sc"}{"iy"}{"ckqx"1:2}*[bi,ti] and live[ld]	38713	0	0	0	0:14
8	(*s{"kcq"}a{"iye"}t* and *bo{"a"0:1}{ "r"1:2}{ "e"0:1}d*)[bi,ti] and live[ld]	0	0	0	0	0:01
9	(*s{"kcq"}a{"iye"0:1}t* and *bo{"a"0:1}{ "r"1:2}{ "e"0:1}d*)[bi,ti] and live[ld]	330	0	330	330	0:02
10	*hel*[bi,ti] and live[ld]	14382	0	0	0	0:01
11	10 and 9	1	0	1	1	0:01
12	7 and 9	4	0	4	4	0:14
13	10 and 7	120	0	120	120	0:13
14	3 and 7	48	0	48	48	0:13
15	1 and ("025" "028")[cc]	384	0	384	384	0:01
16	5 and ("025" "028")[cc]	5802	0	0	0	0:01
17	2 and ("025" "028" "035" "042" A B "200")[ic]	986	0	0	0	0:01
18	2 and ("025" "028" "035" A B "200")[ic]	855	0	0	0	0:01
19	2 and ("025" "028" A B "200")[ic]	521	0	0	0	0:01
20	5 and ("025" "028" A B "200")[ic]	1591	0	0	0	0:01
21	*sick*[bi,ti] and live[ld]	443	0	0	0	0:01
22	21 and ("025" "028")[cc]	293	0	293	293	0:00
23	3 and 21	1	0	1	1	0:00
24	4 9 11 12 13 14 15 22 23	1187	0	1187	1187	0:15

Session started 08/23/2022 7:42 pm

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Session duration 18 minutes

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