

To: Maren C. Perry(nytrademarks@kslaw.com)
Subject: U.S. Trademark Application Serial No. 97118725 - LOL NETWORK
Sent: August 24, 2022 03:28:56 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[5214218](#)
[screenshot-www-merriam-webster-com-dictionary-network-16612786503791](#)

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

U.S. Application Serial No. 97118725

Mark: LOL NETWORK

Correspondence Address:

Maren C. Perry
King & Spalding LLP
1185 Avenue of the Americas
New York NY 10036 UNITED STATES

Applicant: HARTBEAT, LLC

Reference/Docket No. N/A

Correspondence Email Address: nytrademarks@kslaw.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 24, 2022

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:

- Section 2(d) Refusal
- Disclaimer Required

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 5214218. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

The applicant seeks registration for the standard character LOL NETWORK for Entertainment services in the nature of development, creation, production and post-production services of multimedia entertainment content; Entertainment services in the nature of comedy shows; Entertainment services in the nature of creation, development, and production of television programming; Entertainment services, namely, the provision of continuing video segments featuring humor and topics of social and general interest delivered by the internet.; Multimedia entertainment services in the nature of development, production and post-production services in the fields of video and films in international class 041.

The registrant's mark is the design mark LOL for Entertainment services, namely, development, creation, production and post-production of website entertainment content; providing a website that displays trending news and information content in the field of entertainment based on social media; multimedia entertainment services in the nature of recording, production and post-production services in the fields of music and video; entertainment services, namely, providing a website featuring video presentations featuring news and information in the field of entertainment and current event news reporting in international class 041.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

The marks are confusingly similar

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

Both marks contain the term LOL. Marks may be confusingly similar in appearance where similar terms or phrases or similar parts of terms or phrases appear in the compared marks and create a similar overall commercial impression. See *Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689, 690-91 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1495, 1 USPQ2d 1813, 1817 (Fed. Cir. 1987) (holding COMMCASH and COMMUNICASH confusingly similar); *In re Corning Glass Works*, 229 USPQ 65, 66 (TTAB 1985) (holding CONFIRM and CONFIRMCELLS confusingly similar); *In re Pellerin Milnor Corp.*, 221 USPQ 558, 560 (TTAB 1983) (holding MILTRON and MILLTRONICS confusingly similar); TMEP §1207.01(b)(ii)-(iii).

The dominant element in both mark is the term LOL because the remaining wording in the applicant's mark will be disclaimed. Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. See *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat’l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Disclaimed matter that is descriptive of or generic for a party’s goods and/or services is typically less significant or less dominant when comparing marks. *In re Detroit Athletic Co.*, 903 F.3d 1297, 1305, 128 USPQ2d 1047, 1050 (Fed. Cir. 2018) (citing *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997)); TMEP §1207.01(b)(viii), (c)(ii).

The services are related

The services are compared to determine whether they are similar, commercially related, or travel in the same trade channels. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi). While the wording is slightly different, both the applicant and registrant provide development, creation, production and post-production services and related audio, video, and multimedia services. For example the registrant provides development, creation, production and post-production ... for website entertainment content. The applicant provides the same services for multimedia entertainment content, which presumably encompasses all services of the type described, including registrant's more narrow services. See, e.g., *In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015). Thus, applicant’s and registrant’s are legally identical. See, e.g., *In re i.am.symbolic, llc*, 127 USPQ2d 1627, 1629 (TTAB 2018) (citing *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336, 209 USPQ 986, 988 (C.C.P.A. 1981); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1745 (TTAB 2014); *Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1847 n.9 (TTAB 2004)). Consequently, the applicant provides services that are either highly related or legally identical to the registrant's services.

In conclusion, the marks are confusingly similar and the services are related. Registration is thus refused under Trademark Act Section 2(d), 15 U.S.C. §1052(d).

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

DISCLAIMER REQUIRED

Applicant must disclaim the wording "NETWORK" 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).

The attached evidence from Merriam-Webster Dictionary shows this wording means a radio or television company that produces programs for broadcast over such a network. Thus, the wording merely describes applicant's goods and/or services because it merely describes the purpose of the applicant's 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 "NETWORK" 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

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.

How to respond. [Click to file a response to this nonfinal Office action.](#)

/R.M. Herrera/
Roselle M. Herrera
(571) 272-1909
roselle.herrera@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.

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS



Mark Punctuated

LOL

Translation

Goods/Services

- IC 041. US 100 101 107.G & S: Entertainment services, namely, development, creation, production and post-production of website entertainment content; providing a website that displays trending news and information content in the field of entertainment based on social media; multimedia entertainment services in the nature of recording, production and post-production services in the fields of music and video; entertainment services, namely, providing a website featuring video presentations featuring news and information in the field of entertainment and current event news reporting. FIRST USE: 20101112. FIRST USE IN COMMERCE: 20101112

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

260121

Serial Number

87254835

Filing Date

20161202

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20170314

Registration Number

5214218

Date Registered

20170530

Owner

(REGISTRANT) BuzzFeed, Inc. CORPORATION NEW YORK 111 E. 18th St. New York NEW YORK

10003

Priority Date

Disclaimer Statement

Description of Mark

The color(s) black and yellow is/are claimed as a feature of the mark. The mark consists of the designation "LOL" in black within a yellow shaded circle.

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Michelle Mancino Marsh



SINCE 1828

GAMES & QUIZZES

THESAURUS

WORD OF THE DAY

FEATURES

SHOP

JOIN MWU

LOG IN

REGISTER

network



Dictionary

Thesaurus



network

noun



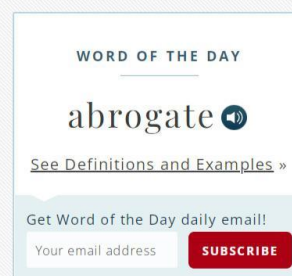
Save

Word

net·work | \ 'net-,wərk \

Definition of *network* (Entry 1 of 2)

- 1 : a fabric or structure of cords or wires that cross at regular intervals and are knotted or secured at the crossings
// ... ribbons, lace and embroidery wrought together in a most curious piece of *network* ...
— Joseph Addison
- 2 : a system of lines or channels resembling a network
// a telephone *network*
// a *network* of blood vessels
- 3
 - a : an interconnected or interrelated chain, group, or system
// a *network* of hotels
 - b : a system of computers and peripherals that are able to communicate with each other
- 4
 - a : a group of radio or television stations linked by wire or radio relay
 - b : a radio or television company that produces programs for broadcast over



such a network
// sold the show to a big *network*

- 5 : a usually informally interconnected group or association of persons (such as friends or professional colleagues)
// a support *network* available to single mothers
// a *network* of bird watchers

network **verb**

networked; **networking**; **networks**

Definition of *network* (Entry 2 of 2)

transitive verb

- 1 : to cover with or as if with a network
// a continent ... so *networked* with navigable rivers and canals
— *Lamp*
- 2 *chiefly British* : to distribute for broadcast on a television network
also : BROADCAST sense 3
- 3 : to join (things, such as computers) in a network

intransitive verb

: to engage in [networking](#)



TEST YOUR VOCABULARY

Words Named After People



Namesake of the *leopard*, Jules Léotard had what profession?

Surgeon

Firefighter

Judge

Acrobat



Can you spell these 10 commonly misspelled words?

TAKE THE QUIZ »

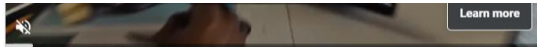


A daily challenge for crossword fanatics.

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↓ Other Words from *network*

↓ Synonyms

↓ More Example Sentences

↓ Phrases Containing *network*

↓ Learn More About *network*

Other Words from *network*

Verb

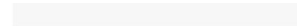
networker \ 'net-,wər-kər \ *noun*

Synonyms for *network*

Synonyms: Noun

mesh, net, netting

[Visit the Thesaurus for More](#)



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Examples of *network* in a Sentence

Noun

// He hooked up his computer to the *network*.

// The show is getting good ratings for the *network*.

Verb

// The computers are *networked* to one main server.

// She spent the day *networking* with other executives.

Recent Examples on the Web: Noun

// In practice, this could allow an attacker on a hospital's *network* to impersonate a health care provider within VistA, and possibly modify patient records, submit diagnoses, or even theoretically prescribe medications.

— *Wired*, 15 Aug. 2022

// At the same time, a May survey by Alignable, a small-business referral *network*, found that 41 percent of U.S. restaurants couldn't pay rent that month.

— Richard Morgan, *Washington Post*, 15 Aug. 2022

// One in five travelers this summer plan to do work on the road, according to a report from Deloitte, an international professional services *network*.

— Nerdwallet, *cleveland*, 14 Aug. 2022

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



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Phrases Containing *network*

- local area network
- neural network
- old boy network
- social network
- old boys' network
- sub-network
- wide area network
- virtual private network

First Known Use of *network*

Noun

1530, in the meaning defined at [sense 1](#)

Verb

1845, in the meaning defined at [transitive sense 1](#)

Buying Guide

Our Reviews team has selected the [best laptops](#).

Learn More About *network*

Share *network*



Time Traveler for *network*

7 The first known use of *network* was in 1530

[See more words from the same year](#)

Dictionary Entries Near *network*

Statistics for *network*



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network
net-winged
network
networking

Last Updated
17 Aug 2022
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Top 1% of words

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Cite this Entry

"Network." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/network>. Accessed 23 Aug. 2022.

Style: MLA ▾

Seen & Heard

People are talking about



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PaulLawrenceWalker · 30 April, 2011

...

It's not rocket science, people.

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👤 1 reply



ClausW.Levinsen · 21 August, 2014

...

Tried to decide the plural form of the noun. No help here.

[Reply](#) · [👍 1](#) · [🗨️](#) · [Share](#)



AmyLewisStandridge · 25 September, 2011

...

I can not stand the term "network" when used as a verb as it is commonly these days. I was hoping to find that it was at the very least "non-standard"--at best, WRONG.

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More Definitions for *network*

network **noun**

network *n* A vast work



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Kids Definition of *network*

- 1** : an arrangement of things forming a pattern with spaces between
// a network of roads
 - 2** : a system of computers connected by communications lines
 - 3** : a group of connected radio or television stations
-

network noun

net-work | \ 'net-,wərk \

Medical Definition of *network*

- 1** : a fabric or structure of cords or wires that cross at regular intervals and are knotted or secured at the crossings
 - 2** : a system of lines or channels resembling a network
// a network of veins
-

More from Merriam-Webster on *network*English: [Translation of *network* for Spanish Speakers](#)Britannica English: [Translation of *network* for Arabic Speakers](#)

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WORDS AT PLAY



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

As illustrated by some very
smart pups



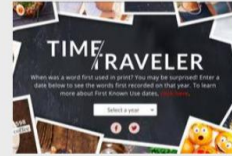
10 Words from Place Names

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



What Are You Wearing?

Roll up your sleeves and
identify these garments

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**Name That Animal:
Volume 2**

Can you tell a meerkat from a
wombat?

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BRITANNICA ENGLISH - ARABIC TRANSLATION

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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 24, 2022 for
U.S. Trademark Application Serial No. 97118725

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.