

To: Microban Products Company (trademarks@microban.com)
Subject: U.S. Trademark Application Serial No. 88283649 - LIVE MORE, STAY FRESH - MPC20190001U
Sent: February 17, 2020 07:41:54 PM
Sent As: ecom113@uspto.gov
Attachments:

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

U.S. Application Serial
No. 88283649

Mark: LIVE MORE,
STAY FRESH

Correspondence
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Applicant: Microban
Products Company

Reference/Docket No.
MPC20190001U

Correspondence Email
Address:

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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: February 17, 2020

This Office Action is in reply to the applicant's Statement of Use filing.

Summary of the Issues

1. Registration Refused – Unattached Tag or Label.

Registration Refused – Unattached Tag or Label

Unattached tag or label does not include information about the goods. Registration is refused because the image of a tag or label submitted as a specimen in International Class 25 does not show the tag or label (1) attached to the goods or (2) including informational matter that typically appears on an actual tag or label for these types of goods as they are sold or transported in commerce and thus fails to show the applied-for mark as actually used in commerce. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (b)(1); [Mandatory Electronic Filing & Specimen Requirements](#), Examination Guide 1-20, at V.A. (Rev. Feb. 2020); TMEP §§904.04(a), 904.07(a). An

application 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 identified in the statement of use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Electronic specimens may be an image, such as a photograph or scanned copy, of the physical specimen. An image of a real tag or label attached to the goods generally meets the requirement for a specimen showing the applied-for mark as actually used in commerce. 37 C.F.R. §2.56(a), (b)(1); TMEP §904.03(a). If not shown physically attached to the goods, an image of a tag or label may be accepted if, in addition to showing the mark, the tag or label bears indicia that it is an actual tag or label that is affixed to the goods as they are sold or transported in commerce. For example, the label “include[s] informational matter that typically appears on a label in use in commerce for those types of goods such as net weight, volume, UPC bar codes, lists of contents or ingredients, or other information that is not part of the mark but provides information about the goods.” Examination Guide 1-20, at V.A.

Examples of specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) labels or tags shown attached to the goods or including informational matter that typically appears on a tag or label in use in commerce for these types of goods; (3) an actual container or packaging for the goods bearing the mark; or (4) 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. 37 C.F.R. §2.56(c).

Response option. Applicant may respond to this refusal by submitting, for each applicable international class, a different specimen (a verified “[substitute](#)” specimen) that (a) was in actual use in commerce prior to the expiration of the deadline for filing the statement of use and (b) shows the mark in actual use in commerce for the goods identified in the statement of use. 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 prior to expiration of the filing deadline for filing a statement of use.” The substitute specimen cannot be accepted without this statement.

Applicant may not withdraw the statement of use. *See* 37 C.F.R. §2.88(f); TMEP §1109.17.

For an overview of this response option and instructions on how to submit a different specimen using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

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

If the applicant has any questions, please contact the undersigned.

/Ty Murray/
Ty Murray
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RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** A response or notice of appeal must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS and ESTTA 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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USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on **February 17, 2020** for
U.S. Trademark Application Serial No. 88283649

Your trademark application has been reviewed by a trademark examining attorney. As part of that review, the assigned attorney has issued an official letter that you must respond to by the specified deadline or your application will be [abandoned](#). Please follow the steps below.

- (1) [Read the official letter](#).
- (2) **Direct questions** about the contents of the Office action to the assigned attorney below.

/Ty Murray/
Ty Murray
Attorney Advisor
United States Patent and Trademark Office
Law Office 113
(571) 272-9438
ty.murray@uspto.gov

Direct questions about navigating USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and/or whether there are outstanding deadlines or documents related to your file to the [Trademark Assistance Center \(TAC\)](#).

(3) **Respond within 6 months** ([or earlier](#), if required in the Office action) from **February 17, 2020**, using the Trademark Electronic Application System (TEAS). The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. See the Office action for more information about how to respond

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](#), if needed, to ensure you receive important USPTO notices about your application.
- [Beware of misleading notices sent by private companies about your application](#). Private companies not associated with the USPTO use public information available in trademark registrations to mail and email trademark-related offers and notices – most of which require fees. All **official USPTO correspondence** will only be **emailed from the domain “@uspto.gov.”**

