

To: RICH ECOM (mysuccessfulstore@gmail.com)
Subject: U.S. Trademark Application Serial No. 88678294 - SILITRAY - N/A
Sent: February 16, 2020 08:32:17 PM
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Attachments:

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

U.S. Application Serial No.
88678294

Mark: SILITRAY

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Applicant: RICH ECOM

Reference/Docket No. N/A

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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 16, 2020**

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 searched the USPTO database of registered and pending marks and 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

- Specimen Refusal – No URL and Access Date
- Amendment to the Identification of Goods
- Multiple Class Application Requirement

SPECIMEN REFUSAL— NO URL AND ACCESS DATE

Webpage specimen does not include required URL and/or date printed/accessed. Registration is refused because the specimen is not acceptable as a webpage specimen; it lacks the required URL and/or date printed/accessed. *See* 37 C.F.R. §2.56(c); [Mandatory Electronic Filing & Specimen Requirements](#), Examination Guide 1-20, at V.B. (Rev. Feb. 2020). The specimen thus appears to be in the nature of a digital mockup that fails to show the applied-for mark in actual use in commerce. *See* 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, 904.03(g), 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 and services identified in the application or amendment to allege 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).

A webpage submitted as a specimen must include the URL and access or print date to show actual use in commerce. 37 C.F.R. §2.56(c). Because the webpage specimen lacks the associated URL and/or access or print date on it, within the TEAS form used to submit the specimen, or in a verified statement in a later-filed response, it is unacceptable to show use of the mark in commerce.

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).

Response options. Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a verified statement, in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20 or 28 U.S.C. §1746, specifying the URL of the original webpage specimen and the date it was accessed or printed.
- (2) Submit a different specimen (a verified [“substitute” specimen](#)), including the URL and date accessed/printed on it, that (a) 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 and (b) shows the mark in actual use in commerce for the goods and/or services identified in the application or amendment to allege use. Applicant must also submit 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 at least as early as the filing date of the application or prior to the filing of the amendment to allege use.”
- (3) 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, including a specimen.

For an overview of the response options referenced above and instructions on how to satisfy these options using the online Trademark Electronic Application System (TEAS) form, see the [Specimen 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 requirements set forth below.

AMENDMENT TO THE IDENTIFICATION OF GOODS

The identification of goods contains wording that is indefinite and too broad, thus must be clarified. Specifically, the wording “tray with durable plastic on top of it to preserve the food...it’s a mixture of a food container and food plastic wrap” in the identification of goods for International Class 21 must be clarified because it is too broad and could include goods in other international classes. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. In particular, this wording could encompass plastic trays for foodstuff packaging in International Class 20 and containers for kitchen use not of precious metal in International Class 21.

Moreover, applicant must amend the identification to specify the common commercial or generic name of the goods. *See* TMEP §1402.01. If the goods have no common commercial or generic name, applicant must describe the product, its main purpose, and its intended uses. *See id.*

Applicant may substitute the following wording, with suggested amendments **in bold**, if accurate:

International Class 20: plastic trays for foodstuff packaging

International Class 21: containers for kitchen use not of precious metal

Scope Advisory

Applicant may amend the identification to clarify or limit the goods, but not to broaden or expand the goods 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 may not later be reinserted. *See* TMEP §1402.07(e).

ID Manual Online

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 REQUIREMENT

The application references goods based on use in commerce in more than one international class; therefore, if applicant intends to add additional classes, applicant must satisfy all the requirements below for each international class:

- (1) [List the goods and/or services by their international class number](#) in consecutive numerical order, starting with the lowest numbered class (for example, International Class 3: perfume; International Class 18: cosmetic bags sold empty).
- (2) [Submit a filing fee for each international class](#) not covered by the fee(s) already paid (view the [USPTO's current fee schedule](#)). Specifically, the application identifies goods based on use in commerce that are classified in at least 2 classes; however, applicant submitted a fee sufficient for only 1 class. Applicant must either (a) submit the filing fees for the classes not covered by the submitted fees or (b) restrict the application to the number of classes covered by the fees already paid.
- (3) [Submit verified dates of first use of the mark](#) anywhere and in commerce **for each international class**. [See more information about verified dates of use](#).
- (4) [Submit a specimen for each international class](#). The current specimen is not acceptable for any international class. [See more information about specimens](#).

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).

Specimens for services must show a direct association between the mark and the services and include: (1) copies of advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services. *See* 37 C.F.R. §2.56(b)(2), (c); TMEP §1301.04(a), (h)(iv)(C).

Any webpage printout or screenshot submitted as a specimen, whether for goods or services, must include the webpage's URL and the date it was accessed or printed. 37 C.F.R. §2.56(c).

- (5) [Submit a verified statement](#) that “**The specimen was in use in commerce on or in connection with the goods and/or services listed in the application at least as early as the filing date of the application.**” [See more information about verification](#).

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

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

RESPONSE TO OFFICE ACTION

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and 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 requirements 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](#).** 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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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on **February 16, 2020** for
U.S. Trademark Application Serial No. 88678294

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.

Adebayo, Omolayo
/Omolayo Adebayo/
Examining Attorney
United States Patent and Trademark Office
Law Office 121
Tel: (571) 272-4711
Email:

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 16, 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.”**

