

**To:** Offcut LLC ([alichy@lichylaw.com](mailto:alichy@lichylaw.com))  
**Subject:** U.S. Trademark Application Serial No. 88689027 - OFFCUT WOODWORKING - N/A  
**Sent:** February 15, 2020 08:17:08 PM  
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[Attachment - 5](#)  
[Attachment - 6](#)

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

**U.S. Application**  
**Serial No.**  
88689027

**Mark:** OFFCUT  
WOODWORKING

**Correspondence**  
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**Applicant:** Offcut  
LLC

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

**Correspondence**  
**Email Address:**

[alichy@lichylaw.com](mailto:alichy@lichylaw.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: February 15, 2020**

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.

### **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:**

- Disclaimer statement required
- Substitute specimens of use required

### **DISCLAIMER REQUIRED**

Applicant must disclaim the word “WOODWORKING” because it merely describes an ingredient, quality, characteristic, function, feature, purpose, or use of applicant’s goods and/or services, and thus is an unregistrable component of the mark. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); TMEP §§1213, 1213.03(a).

The attached evidence from an online dictionary shows this word refers to “the act, process, or occupation of working wood into a useful or desired form”. Applicant has identified goods and services encompassing those comprising or resulting from woodworking. Therefore, the wording merely describes a characteristic of the goods/services and is subject to disclaimer.

An applicant may not claim exclusive rights to terms that others may need to use to describe their goods and/or services in the marketplace. *See Dena Corp. v. Belvedere Int’l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. *See In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant should submit a disclaimer in the following standardized format:

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

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

### **SUBSTITUTE SPECIMENS OF USE REQUIRED**

Class 20:

**Specimen is not an acceptable webpage display.** Registration is refused because the specimen in International Class 20 is not acceptable as a display associated with the goods and does not 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. §2.56(a), (b)(1); *see* TMEP §§904, 904.03(g)-(i), 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 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 or catalog display specimen (1) must show use of the mark directly associated with the goods and (2) such use must be of a point-of-sale nature. 37 C.F.R. §2.56(b)(1). This means that this type of display specimen must include the following:

- (1) A **picture or sufficient textual description of the goods**;
- (2) The **mark associated with the goods**; and
- (3) A **means for ordering the goods** such as a “shopping cart” button/link, an order form, or a telephone number for placing orders.

*See In re Sones*, 590 F.3d 1282, 1286-89, 93 USPQ2d 1118, 1122-24 (Fed. Cir. 2009); *In re Azteca Sys., Inc.*, 102 USPQ2d 1955, 1957-58 (TTAB 2012); *In re Dell Inc.*, 71 USPQ2d 1725, 1727 (TTAB 2004); *Lands’ End v. Manbeck*, 797 F. Supp. 511, 514, 24 USPQ2d 1314, 1316 (E.D. Va. 1992); TMEP §904.03(h), (i)-.03(i)(D).

In this case, the specimen does not show sufficient means for ordering the goods. Specifically, the website depicts a table but nothing to indicate that the product is available for immediate ordering through the site. Moreover, since the proposed mark is not visible on the product itself, the webpage does not serve as acceptable photographic evidence of the mark used with the goods.

Accordingly, such material is mere advertising, which is not acceptable as a specimen for goods. *See In re Siny Corp.*, 920 F.3d 1331, 1336, 2019 USPQ2d 127099, at \*2-3 (Fed. Cir. 2019) (citing *Powermatics, Inc. v. Globe Roofing Prods. Co.*, 341 F.2d 127, 130, 144 USPQ 430, 432 (C.C.P.A. 1965)); *see also Avakoff v. S. Pac. Co.*, 765 F.2d 1097, 1098, 226 USPQ 435, 436 (Fed. Cir. 1985); TMEP §904.04(b), (c).

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). As specified above, 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 options.** Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified [“substitute” specimen](#)) 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 identified in the application or amendment to allege 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 at least as early as the filing date of the application or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.
- (2) 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](#).

Class 40:

**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).

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).

**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](#).

If the applicant has any questions or needs assistance in responding to this Office action, please e-mail or telephone the assigned examining attorney.

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

/SMP/  
Steven M. Perez  
Trademark Attorney  
Law Office 101  
(571) 272-5888

## 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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woodworking

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# woodworking adjective

Save Word

wood-work-ing | \ ˈwʊd-, wər-kiŋ \

Definition of *woodworking* (Entry 1 of 2)

: used for woodworking

# woodworking noun

Definition of *woodworking* (Entry 2 of 2)

: the act, process, or occupation of working wood into a useful or desired form

Other Words from *woodworking*

Example Sentences

Learn More about *woodworking*

## Other Words from *woodworking*

Noun

**woodworker** \ ˈwʊd-, wər-ker \ noun

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## Examples of *woodworking* in a Sentence

### Noun

// His favorite hobby was *woodworking*.

### Recent Examples on the Web: Adjective

// These findings include hundreds of small bone points and daggers from the same time period, elk antlers caved with animal faces and even *woodworking* tools that continue to suggest just how advanced these hunter-gathers really were.

— Julissa Treviño, *Smithsonian*, "Wooden Statue Found in Late 1890s Likely Dates Back More Than 11,000 Years," 27 Apr. 2018

### Recent Examples on the Web: Noun

// Back in the Kleines Haus, up in the loft, there's a small replica of the Liangs' family home in Newton, Mass., that Irmhild began building in a *woodworking* class.

— Cassandra Landry, *SF-Chronicle.com*, "My home in Oakland a perfect fit for grandmother," 31 July 2019

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

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## First Known Use of *woodworking*

### Adjective

1839, in the meaning defined above

### Noun

1858, in the meaning defined above

## Learn More about *woodworking*

### Share *woodworking*



### Time Traveler for *woodworking*

The first known use of *woodworking* was in 1839

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The magician \_\_\_\_\_ moved the selected card to the top of the deck.

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Can you spell these 10 commonly misspelled words?  
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Test Your Knowledge - and learn some interesting things along the way.  
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**woodworking** was in 1839  
See more words from the same year

### Dictionary Entries near **woodworking**

woodwind section  
wood-wool  
woodwork  
**woodworking**  
woodworm  
wood wren  
woodwright

[See More Nearby Entries](#)

### Statistics for **woodworking**

**Look-up Popularity**  
Bottom 30% of words

### Cite this Entry

"Woodworking." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/woodworking>. Accessed 15 Feb. 2020.

Style: MLA

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## More Definitions for **woodworking**

**woodworking** *noun*

**English Language Learners Definition of *woodworking***

*US*: the skill or work of making things out of wood

See the full definition for *woodworking* in the English Language Learners Dictionary

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## woodworking **noun**

wood-work-ing | \ ˈwʊd-, -wɜr-kiŋ \

### Kids Definition of *woodworking*

: the art or process of shaping or working with wood

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### More from Merriam-Webster on *woodworking*

Rhyming Dictionary: Words that rhyme with *woodworking*

Spanish Central: Translation of *woodworking*

Nglish: Translation of *woodworking* for Spanish Speakers

Britannica.com: Encyclopedia article about *woodworking*

### Comments on *woodworking*

What made you want to look up *woodworking*? Please tell us where you read or heard it (including the quote, if possible).

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Words from the week of 2/14/2020



**Why 'Love' Means "Nothing"**  
In tennis. This is about tennis.



**When Is 'Cuffing Season?'**  
Something to do during the cold, dark months.



**Is 'Snake Oil' Really from Snakes?**  
A history that's not just bunk

ASK THE EDITORS



**2019 Word of the Year: Behind the Scenes**  
How we chose 'they'



**Is It 'Hanger' or 'Hangar'?**  
How to remember which is which



**Literally**  
How to use a word that (literally) drives some



**Is Singular 'They' a Better Choice?**  
The awkward case of 'his or her'

WORD GAMES





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How many of these commonly confused words  
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It's all fun and games until someone beats your high  
[TAKE THE QUIZ >](#)



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Can you spell these 10 commonly misspelled  
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**Sent:** February 15, 2020 08:17:15 PM  
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**Attachments:**

**United States Patent and Trademark Office (USPTO)**

**USPTO OFFICIAL NOTICE**

Office Action (Official Letter) has issued  
on **February 15, 2020** for  
**U.S. Trademark Application Serial No. 88689027**

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.

/SMP/  
Steven M. Perez  
Trademark Attorney  
Law Office 101  
(571) 272-5888  
[steven.perez@uspto.gov](mailto:steven.perez@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 15, 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.”**