

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 79237159

MARK: GT MEDIA

79237159

CORRESPONDENT ADDRESS:
GTAUDIO TECHNOLOGY, S.L.
Calle Puerto del Atazar, 3
E-28919 Leganés Madrid
SPAIN

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http://www.uspto.gov/trademarks/teas/response_form.jsp

APPLICANT: GTAUDIO TECHNOLOGY, S.L.

CORRESPONDENT'S REFERENCE/DOCKET NO:
N/A
CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

INTERNATIONAL REGISTRATION NO. 1396508

STRICT DEADLINE TO RESPOND TO THIS NOTIFICATION: TO AVOID ABANDONMENT OF THE REQUEST FOR EXTENSION OF PROTECTION OF THE INTERNATIONAL REGISTRATION, THE USPTO MUST RECEIVE A COMPLETE RESPONSE TO THIS PROVISIONAL FULL REFUSAL NOTIFICATION **WITHIN 6 MONTHS** OF THE "DATE ON WHICH THE NOTIFICATION WAS SENT TO WIPO (MAILING DATE)" LOCATED ON THE WIPO COVER LETTER ACCOMPANYING THIS NOTIFICATION.

In addition to the Mailing Date appearing on the WIPO cover letter, a holder (hereafter "applicant") may confirm this Mailing Date using the USPTO's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. To do so, enter the U.S. application serial number for this application and then select "Documents." The Mailing Date used to calculate the response deadline for this provisional full refusal is the "Create/Mail Date" of the "IB-1st Refusal Note."

This is a **PROVISIONAL FULL REFUSAL** of the request for extension of protection of the mark in the above-referenced U.S. application. See 15 U.S.C. §1141h(c). See below in this notification (hereafter "Office action") for details regarding the provisional full refusal.

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL: Any response to this provisional refusal must be personally signed by an individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant (e.g., a corporate officer or general partner). 37 C.F.R. §§2.62(b), 2.193(e)(2)(ii); TMEP §712.01. If applicant hires a qualified U.S. attorney to respond on his or her behalf, then the attorney must sign the response. 37 C.F.R. §§2.193(e)(2)(i), 11.18(a); TMEP §§611.03(b), 712.01. Qualified U.S. attorneys include those in good standing with a bar of the highest court of any U.S. state, the District of Columbia, Puerto Rico, and other U.S. commonwealths or U.S. territories. See 37 C.F.R. §§2.17(a), 2.62(b), 11.1, 11.14(a); TMEP §§602, 712.01. Additionally, for all responses, the proper signatory must personally sign the document or personally enter his or her electronic signature on the electronic filing. See 37 C.F.R. §2.193(a); TMEP §§611.01(b), 611.02. The name of the signatory must also be printed or typed immediately below or adjacent to the signature, or identified elsewhere in the filing. 37 C.F.R. §2.193(d); TMEP §611.01(b).

In general, foreign attorneys are not permitted to represent applicants before the USPTO (e.g., file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal). See 37 C.F.R. §11.14(c), (e); TMEP §§602.03-.03(b), 608.01.

DESIGNATION OF DOMESTIC REPRESENTATIVE: The USPTO encourages applicants who do not reside in the United States to designate a domestic representative upon whom any notice or process may be served. TMEP §610; see 15 U.S.C. §§1051(e), 1141h(d); 37 C.F.R. §2.24(a)(1)-(2). Such designations may be filed online at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

NO SIMILAR MARKS

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; see 15 U.S.C. §1052(d).

Applicant, however, must respond to the following requirements.

IDENTIFICATION OF GOODS

The identification of goods is indefinite and must be clarified because the nature of all of the goods is not clear. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01. 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.*

Additionally, the identification of goods contains parentheses. Generally, applicants should *not* use parentheses and brackets in identifications in their applications so as to avoid confusion with the USPTO's practice of using parentheses and brackets in registrations to indicate goods and/or services that have been deleted from registrations or in an affidavit of incontestability to indicate goods and/or services not claimed. *See* TMEP §1402.12. The only exception is that parenthetical information is permitted in identifications in an application if it serves to explain or translate the matter immediately preceding the parenthetical phrase in such a way that it does not affect the clarity or scope of the identification, e.g., "fried tofu pieces (abura-age)." *Id.*

Therefore, applicant must remove the parentheses from the identification and incorporate any parenthetical or bracketed information into the description of the goods and/or services.

Applicant may adopt the following wording, if accurate:

"Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking and supervision, life-saving and teaching apparatus and instruments, **namely, _____{specify the goods contemplated, e.g. prisms for scientific purposes, optical disk drives, cameras};** apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, **namely, _____{specify the goods contemplated, e.g. electrical cables, electrical conductors, electrical controllers};** apparatus for recording, transmission or reproduction of sound or images; magnetic recording media, **namely, sound recorded magnetic cards, sheets and tapes;** sound recording disks, **namely, phonograph records featuring _____{indicate subject matter};** compact disks featuring _____{indicate subject matter}, DVDs featuring _____{indicate subject matter} and other digital recording media, **namely, audio and video recordings featuring _____{specify subject matter};** mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; software for _____{specify the function of the programs, e.g., use in database management, use as a spreadsheet, word processing, etc. and, if software is content- or field-specific, the content or field of use}; fire extinguishers" in International Class 009.

In a Trademark Act Section 66(a) application, classification of goods and/or services may not be changed from that assigned by the International Bureau of the World Intellectual Property Organization. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Additionally, classes may not be added or goods and/or services transferred from one class to another in a multiple-class Section 66(a) application. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

Applicant's goods and/or services may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Applicant may clarify or limit the identification by inserting qualifying language or deleting items to result in a more specific identification; however, applicant may not substitute different goods and/or services or add goods and/or services not found or encompassed by those in the original application or as acceptably amended. *See* TMEP §1402.06(a)-(b). The scope of the goods and/or services sets the outer limit for any changes to the identification and is generally determined by the ordinary meaning of the wording in the identification. TMEP §§1402.06(b), 1402.07(a)-(b). Any acceptable changes to the goods and/or services will further limit scope, and once goods and/or services are deleted, they are not permitted to be reinserted. TMEP §1402.07(e).

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.

DISCLAIMER REQUIRED

Applicant must disclaim the wording "MEDIA" 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 the Oxford English Dictionary Online shows this wording means "plural form of medium;" "A particular form of storage for digitized information, such as magnetic tape or discs." As shown by the identification, applicant's goods include recording media. Therefore, the wording merely describes a feature of the applicant's goods.

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 "MEDIA" 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>.

ADVISORY – CLAIM OF PRIORITY NOT ACCEPTABLE

Applicant's U.S. application includes a claim of priority under Trademark Act Section 67. 15 U.S.C. §1141g; 37 C.F.R. §7.27. The foreign application that forms the basis for the priority claim was filed on August 14, 2017, and the filing date of the U.S. application filed under Section 66(a) is April 17, 2018. A claim of priority is accepted only if a Section 66(a) application is filed within six months of the filing date of the foreign application that forms the basis for the priority claim. 15 U.S.C. §1141g; 37 C.F.R. §7.27; TMEP §§806.01(e), 1904.01(e). Thus, in this case, the priority claim is not accepted because the Section 66(a) application was filed more than six months after the filing date of the foreign application that forms the basis for the priority claim. See TMEP §1904.01(e).

RESPONSE GUIDELINES

For this application to proceed further, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options specified in this Office action for responding to a refusal and should consider those options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements. For more information and general tips on responding to USPTO Office actions, response options, and how to file a response online, see ["Responding to Office Actions"](#) on the USPTO's website.

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end and the trademark will fail to register. See 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a); TMEP §§718.01, 718.02. Additionally, the USPTO will not refund the application filing fee, which is a required processing fee. See 37 C.F.R. §§2.6(a)(1)(i)-(iv), 2.209(a); TMEP §405.04.

When an application has abandoned for failure to respond to an Office action, an applicant may timely file a petition to revive the application, which, if granted, would allow the application to return to active status. See 37 C.F.R. §2.66; TMEP §1714. The petition must be filed within two months of the date of issuance of the notice of abandonment and [may be filed online via the Trademark Electronic Application System \(TEAS\)](#) with a \$100 fee. See 37 C.F.R. §§2.6(a)(15)(ii), 2.66(a)(1), (b)(1).

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. See TMEP §§705.02, 709.06.

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All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

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Main definitions of **media** in US English: [media](#)¹ [media](#)² [Media](#)³

media¹



NOUN

- (usually **the media**) (treated as singular or plural) The main means of mass communication (broadcasting, publishing, and the Internet) regarded collectively.
Their demands were publicized by the media.
(as modifier) The campaign won media attention.
[More example sentences](#)
- plural form of [medium](#)


WORD OF THE DAY
pleasance

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Pronunciation

media /ˈmiːdiə/  /ˈmiːdiə/

Main definitions of **media** in US English: **media** · **media** · **Media**


Media



PROPER NOUN

An ancient region of Asia to the southwest of the Caspian Sea, corresponding approximately to present-day Azerbaijan, northwestern Iran, and northeastern Iraq. Originally inhabited by the Medes, the region was conquered in 550 BC by Cyrus the Great of Persia.

Pronunciation

Media /ˈmiːdiə/  /ˈmiːdiə/



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- ☐ a savory sausage
- ☐ a person who regularly saves money
- ☐ mate

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2. agentula
3. unclouded
4. usiad
5. gamecock

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radio communication entails no physical medium between the two stations'
the medium between the cylinders is a vacuum'

→ More example sentences

2.1 The substance in which an organism lives or is cultured
'grow bacteria in a nutrient non medium'

→ More example sentences → Synonyms

2.2 A liquid (e.g., oil or water) with which pigments are mixed to make paint

→ Example sentences → Synonyms

3 A particular form of storage for digitized information, such as magnetic tape or discs
'storing or copying back-up data through a hierarchy of different mediums'

→ More example sentences

4 The material or form used by an artist, composer, or writer
'oil paint is the most popular medium for glazing'

→ More example sentences

5 A person claiming to be in contact with the spirits of the dead and to communicate between the dead and the living

→ Example sentences → Synonyms

6 The middle quality or state between two extremes, a reasonable instance
'there is a medium between being modest and humble'

→ Synonyms

Wishtrend.



ADJECTIVE

Is almond milk really milk?



The Techdel test and the woman behind it



'The general cask of conversation': a buoyant, bogus, underappreciated word



ADJECTIVE

About halfway between two extremes of size or another quality: average

'John is six feet tall, of medium build'

'medium-height tree'

[More examples >>>>>>>>>>>>](#)

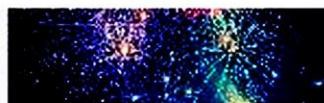
[Synonyms >](#)

Origin

Late 16th century (originally denoting something intermediate in nature or degree): from Latin, literally 'middle'; *medius* 'middle'

Pronunciation

medium /ˈmiːdi.əm/ + [audio](#) [help](#)



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'Appraise' or 'Apprise'?

Which of the following is correct?

☐ He watched me appraising the car

☐ He watched me apprising the car

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2. agenbile
3. unclouded
4. naitat
5. gamecock

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