

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

U.S. APPLICATION SERIAL NO. 79247411

MARK: AIRTOUCH

**\*79247411\***

**CORRESPONDENT ADDRESS:**

Law firm "Gorodissky & Partners"  
Ltd. Krasnodar Branch Office  
Krasnoarmeyskaya St., 91  
RU-350000 Krasnodar  
RUSSIAN FED.

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**APPLICANT:** Sarbashev Vladimir Borisovich

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

INTERNATIONAL REGISTRATION NO. 1439011

**STRICT DEADLINE TO RESPOND TO THIS NOTIFICATION:** AVOID ABANDONMENT OF THE REQUEST FOR EXTENSION OF PROTECTION OF THE INTERNATIONAL REGISTRATION, THE USPTO ~~RECEIVE~~ **REQUIRE** A COMPLETE RESPONSE TO THE 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.

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, 2.65(a); TMEP §§711, 718.03.

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).

The applicant must address the following issues:

- **Identification of services requirement**
- **Entity requirement**

**PROCEDURAL ISSUES**

**Identification of Services Requirement**

**International Class 041:** Applicant has identified the goods and/or services as "Modelling for artists; academies [education]; booking of seats for shows; discotheque services; publication of books; education information; recreation information; entertainment information; movie studio services; health club services [health and fitness training]; nightclub services [entertainment]; layout services, other than for advertising purposes; microfilming; videotape editing; production of radio and television programmes; screenplay writing; game services provided on-line from a computer network; providing on-line electronic publications, not downloadable; aikido instruction; gymnastic instruction; correspondence courses; practical training [demonstration]; training services provided via simulators; organization of balls; organization of exhibitions for cultural or educational purposes; providing recreation facilities; arranging and conducting of colloquiums; arranging and conducting of congresses; arranging and conducting of conferences; arranging and conducting of concerts; arranging and conducting of workshops [training]; arranging and conducting of in-person educational forums; arranging and conducting of seminars; arranging and conducting of symposiums; organization of competitions [education or entertainment]; arranging of beauty contests; organization of cosplay entertainment events; organization of fashion shows for entertainment purposes; organization of shows [impresario services]; organization of sports competitions; vocational guidance [education or training advice]; amusement park services; sign language interpretation; television entertainment; vocational retraining; providing on-line videos, not downloadable; providing on-line music, not downloadable; providing television programs, not downloadable, via video-on-demand services; providing films, not downloadable, via video-on-demand services; providing sports facilities; providing amusement arcade services; cinema presentations; presentation of circus performances; presentation of live performances; presentation of variety shows; theatre productions; conducting guided climbing tours; conducting fitness classes; educational examination; film production, other than advertising films; rental of audio equipment; rental of video cameras; rental of video cassette recorders; rental of videotapes; rental of show scenery; rental of sound

recordings; toy rental; rental of cinematographic apparatus; rental of motion pictures; rental of lighting apparatus for theatrical sets or television studios; rental of radio and television sets; rental of skin diving equipment; rental of sports equipment, except vehicles; rental of stage scenery; electronic desktop publishing; on-line publication of electronic books and journals; publication of texts, other than publicity texts; radio entertainment; entertainer services; entertainment services; writing of texts; news reporters services; party planning [entertainment]; music composition services; subtitling; tutoring; holiday camp services [entertainment]; conducting guided tours; disc jockey services; personal trainer services [fitness training]; karaoke services; club services [entertainment or education]; songwriting; cultural, educational or entertainment services provided by art galleries; providing museum facilities [presentation, exhibitions]; teaching; educational services provided by schools; orchestra services; translation; scriptwriting, other than for advertising purposes; ticket agency services [entertainment]; coaching [training]; sport camp services; recording studio services; language interpreter services; nursery schools; photography; photographic reporting; production of shows.”

**International Class 044:** Applicant has identified the goods and/or services as “Turkish bath services; depilatory waxing; health center services; nursing home services; hair implantation; medical advice for individuals with disabilities; dentistry services; pharmacy advice; aromatherapy services; manicuring; massage; palliative care; hairdressing; body piercing; medical assistance; preparation of prescriptions by pharmacists; medical equipment rental; rental of sanitation facilities; beauty salon services; sanatorium services; health care; health counselling; flower arranging; tattooing; health spa services; aquaculture services; visagists’ services; convalescent home services; rest home services; medical clinic services; alternative medicine services; opticians’ services; orthodontic services; services of a psychologist; sauna services; solarium services; telemedicine services; therapy services; nursing, medical; physical therapy; plastic surgery.”

The identification of goods and/or services contains brackets. Generally, parentheses and brackets should *not* be used in identifications. TMEP §1402.12. The USPTO generally uses brackets to indicate goods and/or services that have been deleted from registrations. *See id.* Parenthetical information is permitted in identifications only 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 of the identification, e.g., “obi (Japanese sash).” *Id.*

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

The identification of goods and/or services is indefinite and must be clarified because various elements in the wording are excessively broad and may include goods/services in multiple international classes. The examining attorney notes below in bold where additional specification/clarification is needed. *See* TMEP §§1402.01, 1402.03(a).

Applicant may amend the identification to list only those items that are within the scope of the goods and/or services set forth in the application or within the scope of a previously accepted amendment to the identification. *See* 37 C.F.R. §2.71(a); TMEP §§1402.06 *et seq.*, 1402.07.

The international classification of goods and/or services in applications filed under Trademark Act Section 66(a) cannot be changed from the classification the International Bureau assigned to the goods and/or services in the corresponding international registration. TMEP §§1401.03(d), 1904.02(b).

Therefore, any modification to this wording must identify goods and/or services that are within the scope of the goods and/or services set forth in the present identification.

The following substitute wording is suggested, if appropriate:

- Class 041: Modelling for artists; academy services, **namely, conducting {indicate type, e.g., courses, classes, workshops, etc.} in the field of {indicate subject matter}[]**; booking of seats for shows; discotheque services; publication of books; education information services, **namely, {specify type, e.g., information on education}**; recreation information; entertainment information; movie studio services; health club services, **namely, {specify type, e.g., providing instruction and equipment in the field of physical exercise}**; **night club services**; layout services, other than for advertising purposes; microfilming; videotape editing; production of radio and television programmes; screenplay writing; game services provided on-line from a computer network, **namely, {specify type, e.g., providing an online computer game, providing online video games, etc.}**; providing on-line electronic publications, not downloadable in the nature of **{indicate specific nature of publication} in the field of {indicate subject matter of publication}**; aikido instruction; gymnastic instruction; **Education in the fields of {indicate specific fields, e.g. computers, music, art} rendered through** correspondence courses; practical training in the fields of **{indicate specific fields, e.g. computers, music, art}**; training services provided via simulators in the fields of **{indicate specific fields, e.g. computers, music, art}**; organization of balls; organization of exhibitions for cultural or educational purposes; providing recreation facilities; **Educational services, namely, arranging and conducting of colloquiums in the fields of {indicate specific fields, e.g. computers, music, art}**; **Educational services, namely, arranging and conducting of congresses in the fields of {indicate specific fields, e.g. computers, music, art}**; **Educational services, namely, arranging and conducting of conferences in the fields of {indicate specific fields, e.g. computers, music, art}**; **Entertainment services, namely, arranging and conducting of {specify type, e.g., live music} concerts**; **Educational services, namely, arranging and conducting of workshops in the fields of {indicate specific fields, e.g. computers, music, art}**; **arranging and conducting of in-person educational forums in the fields of {indicate specific fields, e.g. computers, music, art}**; **Educational services, namely, arranging and conducting of seminars in the fields of {indicate specific fields, e.g. computers, music, art}**; **Educational services, namely, arranging and conducting of symposiums in the fields of {indicate specific fields, e.g. computers, music, art}**; **Entertainment services, namely, organization of competitions in the field of {indicate type of entertainment or education competition, e.g., basketball, mathematics, chess, etc.}**; arranging of beauty contests; organization of cosplay entertainment events, **namely, {specify type, e.g., organizing social entertainment events, etc.}**; organization of fashion shows for entertainment purposes; **Entertainment services, namely, organization of {specify type, e.g., cultural, live comedy, etc.} shows**; organization of sports competitions; vocational guidance; amusement park services; sign language interpretation; television entertainment, **namely, {specify type, e.g., television news shows, etc.}**; vocational retraining in the fields of **{indicate specific fields, e.g. mechanics, computers}**; providing on-line videos, **featuring {indicate subject matter e.g., music, mathematics instruction, etc.}**, not downloadable; providing on-line music, not

downloadable; **Entertainment services, namely**, providing ongoing television programs, **in the field of {indicate specific field, e.g., news, comedy, variety}**; not downloadable, via video-on-demand services; providing films, not downloadable, via video-on-demand services; providing sports facilities; providing amusement arcade services; cinema **presentation services, namely, {specify type by common commercial name in Class 041}**; presentation of circus performances; **Entertainment services, namely**, presentation of live performances, **namely, {specify type, e.g., live performances by a musical band, live radio personality performances, etc.}**; presentation of variety shows; theatre productions; conducting guided climbing tours; conducting fitness classes; educational examination **services**; film production, other than advertising films; rental of audio equipment; rental of video cameras; rental of video cassette recorders; rental of videotapes; rental of show scenery; rental of sound recordings; toy rental; rental of cinematographic apparatus; rental of motion pictures; rental of lighting apparatus for theatrical sets or television studios; rental of radio and television sets; rental of skin diving equipment; rental of sports equipment, except vehicles; rental of stage scenery; electronic desktop publishing; on-line publication of electronic books and journals; publication of texts, other than publicity texts; radio entertainment, **namely, {specify type, e.g., radio entertainment production, providing an ongoing radio program in the field of {indicate subject matter}, etc.}**; entertainer services, **namely, {specify type}**; entertainment services, **namely, {specify type, booking of entertainment halls, entertainment in the nature of ballet performances, etc.}**; writing of texts, **namely, {specify type by common commercial name in Class 041}**; news reporters services; party **planning**; music composition services; subtitling; **Education services, namely**, providing tutoring in the fields of **{indicate subject matter or fields}**; holiday camp **services**; conducting guided tours of **{indicate facility, e.g., a museum, an historical site, a winery, etc.}**; disc jockey services; personal trainer **services**; karaoke services, **namely, {specify type, e.g., karaoke lounge services, karaoke disc jockey services, etc.}**; **{specify type, e.g., comedy, dance, night, etc.}** club services; songwriting; cultural, educational or entertainment services provided by art galleries, **namely, {specify type, e.g., art exhibitions, providing information in the field of art, etc.}**; providing museum facilities; teaching in the field of **{indicate specific field, e.g. music, remedial reading}**; educational services provided by schools, **namely, conducting {specify type, e.g., courses, classes, workshops, etc.} in the field of {indicate specific field, e.g. music, remedial reading}**; orchestra services; translation; scriptwriting, other than for advertising purposes; ticket agency **services, namely, {specify type, e.g., theatrical ticket agencies, sports ticket agencies, etc.}**; **Providing coaching services in the field of {indicate field or subject matter}**; sport camp services; recording studio services; language interpreter services; nursery schools; photography; photographic reporting; production of shows, **namely, {specify type by common commercial name in Class 041}**

- Class 044: Turkish bath services; depilatory waxing; health center services; nursing home services; hair implantation; medical advice for individuals with disabilities; dentistry services; pharmacy advice, **namely, {specify type, e.g., pharmaceutical advice}**; aromatherapy services; manicuring; massage; palliative care; hairdressing; body piercing; medical assistance; preparation of prescriptions by pharmacists; medical equipment rental; rental of sanitation facilities; beauty salon services; sanatorium services; health care; health counselling; flower arranging; tattooing; health spa services, **namely, {specify type, e.g., Health spa services for health and wellness of the mind, body and spirit offered in or from a remote, mobile or temporary on-site location, cosmetic body care services, etc.}**; aquaculture services, **namely, {specify type, e.g., the cultivation and breeding of plants or animals in a water environment}**; visagists' services; convalescent home services; rest home services; medical clinic services; alternative medicine services; opticians' services; orthodontic services; services of a psychologist; sauna services; solarium services; telemedicine services; therapy services, **namely, {specify type, e.g., bodywork therapy, duckling therapy services, art therapy services, etc.}**; nursing, medical; physical therapy; plastic surgery.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable Manual of Acceptable Identifications of Goods and Services at <http://tess2.uspto.gov/netahtml/idx.html>. See TMEP §1402.04.

### **Entity Requirement**

Applicant must specify its legal entity and national citizenship or foreign country of organization or incorporation, as this required information is not included in the application. See 37 C.F.R. §§2.32(a)(3)(i)-(ii), 2.61(b); TMEP §§803.03, 803.04. This information is required for all U.S. trademark applications, including those filed under Trademark Act Section 66(a). See 37 C.F.R. §7.25(a)-(b); TMEP §1904.02(a).

Acceptable legal entities include an individual, a partnership, a corporation, a joint venture, or the foreign equivalent. See TMEP §§803.03 *et seq.* If applicant's legal entity is an individual, applicant must so specify and provide his or her national citizenship. TMEP §803.03(a). If applicant is a corporation, association, partnership, joint venture, or the foreign equivalent, applicant must so specify and provide the foreign country under whose laws applicant is organized or incorporated. TMEP §803.03(b)-(c). For an association, applicant must also specify whether the association is incorporated or unincorporated, unless the foreign country and the designation or description "association/associazione" appear in Appendix D of the *Trademark Manual of Examining Procedure* (TMEP). TMEP §803.03(c). If applicant is organized under the laws of a foreign province or geographical region, applicant should specify both the foreign province or geographical region and the foreign country in which the province or region is located. See TMEP §803.04.

To provide this entity information using the Trademark Electronic Application System (TEAS) Response to Office Action form, applicant must open the response form, answer "Yes" to wizard question number 5, find the "Owner Information" page, and do the following: (1) locate the "Entity Type" heading on that page and select "Other;" (2) locate the "Specify Entity Type" heading and select "Other" under the Foreign Entity option, and enter in the free-text field below both applicant's entity type and the foreign province or geographical region of its organization (e.g., partnership of Victoria); and (3) locate the "State or Country Where Legally Organized" heading and select the appropriate foreign country (e.g., Australia) under the Non-U.S. Entity option.

### **RESPONSE GUIDELINES**

For this application to proceed toward registration, 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 for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

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, the trademark will fail to register, and the application fee will not be refunded. See 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to live status. See 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. See 37 C.F.R. §§2.6, 2.66(b)(1).

Please call or email the assigned trademark examining attorney with questions about this Office action. Although the trademark examining attorney cannot provide legal advice or statements about applicant's rights, the trademark examining attorney can provide applicant with additional explanation about the refusal(s) and/or requirement(s) in this Office action. See TMEP §§705.02, 709.06. Although the USPTO does not accept emails as responses to Office actions, emails can be used for informal communications and will be included in the application record. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**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>.

/mvaghani/  
Mayur Vaghani  
Examining Attorney  
Law Office 124  
Phone: (571) 272-1615  
Fax: (571) 273-9102  
[mayur.vaghani@uspto.gov](mailto:mayur.vaghani@uspto.gov)

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For technical assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.

**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](mailto: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>.