

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

U.S. APPLICATION SERIAL NO. 79261057

MARK:

**\*79261057\***

**CORRESPONDENT ADDRESS:**

WEIHAI TONGDA; MARKS AGENT OFFICE CO., L  
Rm 601, Building 19,  
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264200 Shandong  
CHINA

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**APPLICANT:** WEIHAI LIYU INDUSTRIAL CO., LTD

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

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

**INTERNATIONAL REGISTRATION NO. 1472446**

**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 issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**SUMMARY OF ISSUES:**

- AMENDMENT TO THE IDENTIFICATION OF GOODS REQUIRED
- DISCLAIMER STATEMENT REQUIRED
- MARK DESCRIPTION REQUIRED

**SEARCH RESULTS**

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).

However, applicant must respond to the issues below.

**AMENDMENT TO THE IDENTIFICATION OF GOODS REQUIRED**

The identification of goods is indefinite and must be clarified for the reasons set forth below. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Generally, applicant must amend this wording 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.*

Specifically, the wording “hand tools,” “agricultural implements,” “abrading instruments,” “garden tools” and “fuling tools” are all indefinite and the applicant must clarify the nature of the goods contemplated. For example, the applicant may amend “hand tools” to specify the particular type of “hand tools” contemplated, such as “cutter bars, hammers and pincers,” as shown below.

Generally, a trademark examining attorney will recommend acceptable substitute wording for unacceptable identifications of goods. In the case of “fuling tools,” however, because the nature of the goods is unclear from the application record, the trademark examining attorney is unable to suggest any alternative wording for these particular goods. *See* TMEP §1402.01(e). Please fill in the blank below or delete the entry entirely.

Additionally, the identification of goods contains brackets. 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 that have been deleted from registrations or in an affidavit of incontestability to indicate goods 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 brackets from the identification and incorporate any bracketed information into the description of the goods, as shown below.

Lastly, any modification to this wording must identify goods in International Class 08, the classification specified in the application for these goods.

Applicant may adopt the following identification, if accurate:

**Class 08:** Hand tools, namely, cutter bars, hammers and pincers; hand drills, hand-operated; hand-operated agricultural implements, namely, broadforks ~~hand-operated~~; hand-operated abrading tools ~~instruments~~ ~~hand instruments~~; hand-operated garden tools, namely, trowels, weeding forks and spades ~~hand-operated~~; tableware, namely, knives, forks and spoons ~~knives, forks and spoons~~; shears; hand-operated graving tools ~~hand tools~~; hand-operated fuling tools, namely, [specify common commercial or generic name for tools contemplated or delete the entry entirely] ~~hand tools~~; hand-operated cutting tools ~~hand tools~~.

Applicant’s goods may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably narrowed. *See* 37 C.F.R. §2.71(a); TMEP §§1402.06, 1904.02(c)(iv). 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 or add goods not found or encompassed by those in the original application or as acceptably narrowed. *See* TMEP §1402.06(a)-(b). The scope of the goods 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 will further limit scope, and once goods are deleted, they are not permitted to be reinserted. TMEP §1402.07(e). Additionally, for applications filed under Trademark Act Section 66(a), the scope of the identification for purposes of permissible amendments is limited by the international class assigned by the International Bureau of the World Intellectual Property Organization (International Bureau); and the classification of goods may not be changed from that assigned by the International Bureau. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Further, in a multiple-class Section 66(a) application, classes may not be added or goods transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

For assistance with identifying and classifying goods in trademark applications, please see the USPTO’s online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). *See* TMEP §1402.04.

## DISCLAIMER STATEMENT REQUIRED

Applicant must provide a disclaimer of the unregistrable part(s) of the applied-for mark even though the mark as a whole appears to be registrable. *See* 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a). A disclaimer of an unregistrable part of a mark will not affect the mark’s appearance. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 979-80, 144 USPQ 433, 433 (C.C.P.A. 1965).

In this case, applicant must disclaim the non-Latin characters that transliterate to “YU” because it is not inherently distinctive. These unregistrable term(s) at best are merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant’s goods. *See* 15 U.S.C. §1052(e) (1); *DuoProSS Meditech Corp. v. Inviro Med.Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

Specifically, in the application, the applicant specified that the non-Latin characters that transliterate to “YU” translate to “hard metal” in English. Additionally, the attached evidence from the TM Technologies, Excelta and KS Tools web sites show that hand tools are made of hard metal and are used to cut through hard metal. Therefore, the non-Latin characters that transliterate to “YU” are at best merely descriptive of a characteristic of the

applicant's goods or the use of applicant's goods.

Please note that non-English wording that is merely descriptive, deceptively misdescriptive, geographically descriptive, generic, or informational in connection with the identified goods, is an unregistrable component of a mark that is subject to disclaimer. TMEP §§1213.03(a), 1213.08(d); see *Bausch & Lomb Optical Co. v. Overseas Fin. & Trading Co.*, 112 USPQ 6, 8 (Comm'r Pats. 1956). The disclaimer must refer to the non-Latin characters and the transliteration (a phonetic spelling of the pronunciation, in Latin characters); e.g., "the non-Latin characters that transliterate to 'YU'". TMEP §1213.08(d).

Applicant may respond to this issue by submitting a disclaimer in the following format:

**"No claim is made to the exclusive right to use the non-Latin characters that transliterate to "YU" apart from the mark as shown."**

For an overview of disclaimers and instructions on how to satisfy this issue using the Trademark Electronic Application System (TEAS), see the [Disclaimer webpage](#).

## MARK DESCRIPTION REQUIRED

Applicant must submit a description of the mark, because one was not included in the application. 37 C.F.R. §2.37; see TMEP §§808.01, 808.02. Applications for marks not in standard characters must include an accurate and concise description of the entire mark that identifies all the literal and design elements. See 37 C.F.R. §2.37; TMEP §§808.01, 808.02, 808.03(b). In this case, the drawing of the mark is not in standard characters.

The following description is suggested, if accurate:

**"The mark consists of the design of two non-Latin characters presented horizontally."**

## RESPONSE GUIDELINES

For this application to proceed, applicant must explicitly address each refusal and/or 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.

If the applicant has specific questions about this Office action, the applicant may call or email the undersigned examining attorney. 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.

Because of the legal technicalities and strict deadlines involved in the USPTO application process, applicant may wish to hire a private attorney specializing in trademark matters to represent applicant in this process and provide legal advice. Although the undersigned trademark examining attorney is permitted to help an applicant understand the contents of an Office action as well as the application process in general, no USPTO attorney or staff is permitted to give an applicant legal advice or statements about an applicant's legal rights. TMEP §§705.02, 709.06.

For attorney referral information, applicant may consult the [American Bar Association's Consumers' Guide to Legal Help](#), an online directory of legal professionals, such as [FindLaw®](#); or a local telephone directory. The USPTO, however, may not assist an applicant in the selection of a private attorney. 37 C.F.R. §2.11.

**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>.

/Deborah Meiners/  
Attorney Advisor  
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Deborah.Meiners@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/>.

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## Midwest Special Hard Snips

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Zoom

Midwest Special Hard Snips  
MADE IN USA

Special Hard - Standard Left Cut  
MTC-6716-SS-L \$21.00

ADD TO CART

Special Hard - Standard Right Cut  
MTC-6716-SS-R \$21.00

ADD TO CART

Description Features Reviews

Built to the same size and shape as "Standard" Midwest Snips, these "Special Hard" models are also specially treated for cutting hardened sheet metals such as stainless steel, Inconel, and titanium. These are great for doing short cuts in sheet metal. If longer cuts are required the "Offset" models allow the material to pass easily around the blades and under the handle similar to how a throatless shear would work. These are only available in left and right cut but both can cut straight.

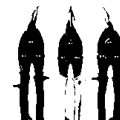
The additional hardness of the blades extends the edge life of the blade when cutting extremely hard metal. The cutting capacity is not increased by the additional hardness of the blades. While these models feature hardened blades, blades of standard models are stronger and more durable. Therefore, special hardness models should only be used for cutting very hard materials. All other features and benefits of these products are identical to the standard series models except handle grip color. All special hardness models can be identified by their orange handle grips. The standard models use red, green & yellow.

Weight	15 oz
Length of Snips	9-3/4"
Length of Cut	1-1/4"
Capacity Steel	16 GA

## Related Products



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Midwest Standard Snips




Midwest Standard Snips - Offset





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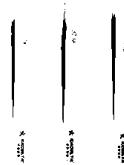
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  - Conventional Style Tweezers
  - Cutting Tweezers
  - Ergonomic Tweezers
  - Miniature Tweezers
  - Reverse Action Tweezers
  - Small Parts Handling Tweezers
  - Ceramic Tweezers
  - Wafer Handling Tweezers
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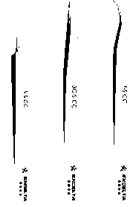
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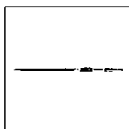


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01-3669-170



## Hard metal scriber, 170mm

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Quantity

1

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DESCRIPTION

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