

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

U.S. Application Serial No. 79273776

Mark: YOUNEXT

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Applicant: PODO ACTIVA, S.L.

Reference/Docket No. N/A

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NONFINAL OFFICE ACTION

International Registration No. 1502643

Notice of Provisional Full Refusal

Deadline for responding. The USPTO must receive applicant's response **within six months of the "date on which the notification was sent to WIPO (mailing date)"** located on the WIPO cover letter, or the U.S. application will be abandoned. To confirm the mailing date, go to the USPTO's Trademark Status and Document Retrieval (TSDR) database, select "US Serial, Registration, or Reference No.," enter the U.S. application serial number in the blank text box, and click on "Documents." The mailing date used to calculate the response deadline is the "Create/Mail Date" of the "1st Refusal Note."

Respond to this Office action using the USPTO's Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Discussion of provisional full refusal. This is a provisional full refusal of the request for extension of protection to the United States of the international registration, known in the United States as a U.S. application based on Trademark Act Section 66(a). *See* 15 U.S.C. §§1141f(a), 1141h(c).

The referenced application has been reviewed by the assigned trademark examining attorney.

Summary of Issues

Applicant must respond timely and completely to the following issues:

1. Clarification of Identification of Goods Required
2. Amended Description of the Mark Required
3. Applicant's Country of Origin Required
4. U.S. Licensed Attorney Required

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

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).

1. Clarification of Identification of Goods Required

The identification contains brackets. Identifications may not contain parentheses or brackets to avoid confusion with the USPTO practice of using these marks to indicate goods and services that have been deleted or not claimed in the identification in registration maintenance documents. TMEP §1402.12. Thus, applicant must delete the brackets and incorporate the bracketed information into the amended identification.

A number of items in the identification require clarification. For example, the wording "Signaling, protection, safety and life-saving devices" in the identification of goods in International Class 9 is indefinite. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03, 1904.02(c), (c)(ii). Applicant must amend this wording to specify the type of device by common commercial or generic name.

Additional wording requiring clarification and examples of acceptable amendments are set forth below.

Sample Amended Identification

A sample amended identification is set forth below, which applicant may adopt, if accurate to describe applicant's goods and/or services. Wording in *italic* type represents items in the identification that require clarification. **Bold italic** type indicates changes to applicant's original identification. **Strikethrough** marking indicates wording that must be deleted. Wording in *[brackets]* following a fill in the blank provides guidance and examples of acceptable amendments. For example, if the original identification is "clothing," and the suggestion is "clothing, *namely, _____ [specify items in this class, e.g., shirts, pants and coats]*", applicant may amend the identification to "clothing, namely, shirts, pants and coats" in the response to the office action.

International Class 9: *Signaling, protection, safety and life-saving devices, **namely, _____ [specify types of devices, e.g., signal whistles, vehicle traffic signals, bullet-proof vests, protective sports helmets, bicycle safety lights, safety traffic cones, life jackets]; protective and safety equipment, namely, _____ [specify type of equipment, e.g., harnesses for full protection and restraint, face protection shields, safety goggles]; shin guards for protection against injuries, for _____ [specify type in this class, e.g., for workers], ~~other than sporting articles or parts of sportswear~~***

International Class 28: *Equipment and goods for sports, **namely, _____ [specify type in this class, e.g., golf clubs and balls, baseball gloves, nets for sports]; body protection equipment for sports, namely, _____ [specify type of equipment in this class, e.g., chest protectors for sports, kneepads for athletic use, shoulder pads for football]; shin guards for _____ [specify type in this class, e.g., athletic use]***

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.

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services 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 and/or services may not later be reinserted. See 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 and/or services 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 and/or services transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

2. Amended Description of the Mark Required

Applicant must submit an amended description of the mark. 37 C.F.R. §2.37; see TMEP §§808.01, 808.02. Descriptions must be accurate and identify all the literal and design elements in the mark. See 37 C.F.R. §2.37; TMEP §808.02.

The following description is suggested, if accurate:

*The mark consists ~~in the~~ of a graphic representation of a **profile of a billy goat** ~~goat framed at the front by the profile of a facing a partial shin guard with the wording "YOUNEXT" underneath the design. Underneath the graphic representation is the name "younext" depicted in straight lines~~*

3. Applicant's Country of Origin Required

Applicant must specify its country of incorporation. 37 C.F.R. §2.32(a)(3)(ii); TMEP §§803.03(c), 803.04. This information is required in all U.S. trademark applications. See 37 C.F.R. §2.32(a)(3)(ii); TMEP §§803.03, 803.04.

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 information online via the Trademark Electronic Application System (TEAS) response form, applicant must (1) locate the "Entity Type" heading 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. See *id.*

4. U.S. Licensed Attorney Required

Applicant must be represented by a U.S.-licensed attorney to respond to the provisional refusal. An applicant whose domicile is located outside of the United States or its territories is foreign-domiciled and must be represented by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state or territory. 37 C.F.R. §§2.11(a), 11.14; *Requirement of U.S.-Licensed Attorney for Foreign-Domiciled Trademark Applicants & Registrants*, Examination Guide 4-19, at I.A. (Rev. Sept. 2019). An individual applicant's domicile is the place a person resides and intends to be the person's principal home. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. A juristic entity's domicile is the principal place of business; i.e., headquarters, where a juristic entity applicant's senior executives or officers ordinarily direct and control the entity's activities. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. Because applicant is foreign-domiciled, applicant must appoint such a U.S.-licensed attorney qualified to practice under 37 C.F.R. §11.14 as its representative before the application may proceed to registration. 37 C.F.R. §2.11(a). See [Hiring a U.S.-licensed trademark attorney](#) for more information.

To appoint or designate a U.S.-licensed attorney. To appoint an attorney, applicant should submit a completed Trademark Electronic Application System (TEAS) [Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative](#) form. The newly-appointed attorney must

submit a TEAS Response to Examining Attorney Office Action form indicating that an appointment of attorney has been made and address all other refusals or requirements in this action, if any. Alternatively, if applicant retains an attorney before filing the response, the attorney can respond to this Office action by using the appropriate TEAS response form and provide his or her attorney information in the form and sign it as applicant's attorney. See 37 C.F.R. §2.17(b)(1)(ii).

Response Information

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.

How to respond. Click to file a response to this nonfinal Office action

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

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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 ESTTAmaintenance 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.