

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

U.S. Application Serial No. 79325607

Mark: PORT CITY: SHIP TYCOON

Correspondence Address:

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SLOVAKIA

Applicant: PIXEL FEDERATION, s. r. o.

Reference/Docket No. N/A

Correspondence Email Address:

NONFINAL OFFICE ACTION

International Registration No. 1604338

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 (see <https://www.uspto.gov/trademarks-application-process/abandoned-applications> for information on abandonment). To confirm the mailing date, go to the USPTO's Trademark Status and Document Retrieval (TSDR) database at <https://tsdr.uspto.gov/>, 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. §§1141(f), 1141h(c).

INTRODUCTION

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.

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.

DISCLAIMER REQUIRED

Applicant must disclaim the wording "PORT CITY" because it is primarily geographically descriptive of the origin of applicant's goods and services. See 15 U.S.C. §1052(e)(2); *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 959, 3 USPQ2d 1450, 1451-52 (Fed. Cir. 1987); TMEP §§1210.01(a), 1210.06(a), 1213.03(a).

The attached evidence from Google Maps, Wikipedia, and Colliers shows that Einsteinova 19 in Slovakia is a port city because it is located near a waterway and provides for transport of persons and freight. The evidence from Colliers shows a map of the Digital Park III office park on Einsteinova 19 in Slovakia with a waterway nearby and a main thoroughfare "connected to the city center and the D1 and D2 motorways, which connect the property with the Bratislava airport and at the same time allow passage to the Hungarian and Czech Republic." This evidence confirms that applicant is located in a port city, and as a result, the wording "PORT CITY" in the mark is descriptive of the geographic origin of applicant's goods and services.

Because the goods and/or services originate in this place or location, a public association of the goods and/or services with the place is presumed. See *In re Hollywood Lawyers Online*, 110 USPQ2d 1852, 1858 (TTAB 2014) (citing *In re Spirits of New Merced, LLC*, 85 USPQ2d 1614, 1621 (TTAB 2007)); TMEP §§1210.02(a) 1210.04.

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

No claim is made to the exclusive right to use "PORT CITY" apart from the mark as shown.

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

AMENDMENT TO IDENTIFICATION OF GOODS AND SERVICES REQUIRED

The wording outlined below in the identification of goods and services in International Classes 9 and 41 is indefinite and too broad. This wording must be clarified because it is not clear what the goods and/or services are, and the wording may identify goods and/or services in more than one international class. See 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03, 1904.02(c), (c)(ii).

The following wording is indefinite and too broad:

Class 9:

The wording “computer software applications, downloadable” must be amended to specify the exact function of the software. If accurate, applicant may amend to: **“Downloadable computer game software applications for recreational game playing purposes”**.

Class 41:

The wording “Entertainment; game services provided online from a computer network; providing online videos, not downloadable” must be amended to specify the exact nature and purpose of the “entertainment services” and specify the exact nature of the game services and subject matter of the online videos.

If accurate, applicant may amend to: **“Entertainment services, namely, providing online video games; Game services provided online from a computer network, namely, games equipment rental; Entertainment services, namely, providing a website featuring online, non-downloadable videos in the field of gaming”**.

Alternatively, applicant may delete the unacceptable wording outlined above from the identification. See TMEP §1904.02(c)(iii)-(iv). However, once an application has been expressly amended to delete goods and/or services, those items generally may not later be re-inserted. See TMEP §1402.07(e).

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 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 and/or services or add goods and/or services 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 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). 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).

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

RESPONSE GUIDELINES

Email address required. Applicant must provide applicant’s email address, which is a requirement for a complete application. See 37 C.F.R. §2.32(a)(2); TMEP §803.05(b). This email address cannot be identical to the primary correspondence email address of a U.S.-licensed attorney retained to represent applicant in this application. See TMEP §803.05(b).

Applicant is required to be represented by a U.S.-licensed attorney to respond to or appeal the provisional refusal because applicant’s domicile is located outside of the United States and applicant does not appear to be represented by a qualified U.S. attorney. 37 C.F.R. §2.11(a); TMEP §601.01(a). An applicant whose domicile is located outside of the United States or its territories 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); TMEP §§601, 601.01(a). In this case, applicant’s domicile is identified in the application as Slovakia. For more information, see the U.S. Counsel webpage at <https://www.uspto.gov/trademark/laws-regulations/trademark-rule-requires-foreign-applicants-and-registrants-have-us> and Hiring a U.S.-licensed trademark attorney webpage at <https://www.uspto.gov/trademarks-getting-started/why-hire-private-trademark-attorney>.

To appoint a U.S.-licensed attorney in this application, applicant should submit a completed Trademark Electronic Application System (TEAS) Change Address or Representation form at <https://teas.uspto.gov/www/cor/car>. The newly-appointed attorney must submit a TEAS Response to Examining Attorney Office Action form at <https://teas.uspto.gov/office/roa/> indicating that an appointment of attorney has been made and address all other refusals or requirements in this action. 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); TMEP §604.01.

Additional 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.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. See TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

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

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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 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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TIMES, SUNDAY TIMES

Like any port city, it's a melting pot, but its music hasn't been watered down.
TIMES, SUNDAY TIMES

Some 29 per cent say a family member has played away, rising to 42 per cent in the port city.
THE SUN

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Question: 1 - Score: 0 / 5

divorce battle or leadership battle?

Which version is correct?

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He will need their votes in the coming leadership battle.

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His tales of extraordinary journeys in amazing machines were inspired by his childhood in the port city, watching the ships come and go.
TIMES, SUNDAY TIMES

Nearby attractions in the port city include the country's oldest treadwheel crane.
TIMES, SUNDAY TIMES

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This organic, EVOO is supercharged with polyphenols

 Gundry MD



Ad

Definition of 'city'

city

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(sɪti)

Explore 'city' in the dictionary

COUNTABLE NOUN

A **city** is a large town. [...]

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Definition of 'port'

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COUNTABLE NOUN
A **port** is a town by the sea or on a river, which has a harbour. [...]

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winning goal long-term goal

This needs to be approached in a realistic manner.

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Jan 04, 2022

Word of the day

higher self

a person's spiritual self , as the focus of many meditation techniques, as opposed to the physical body

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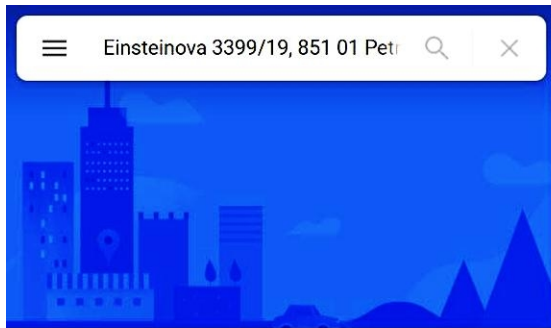
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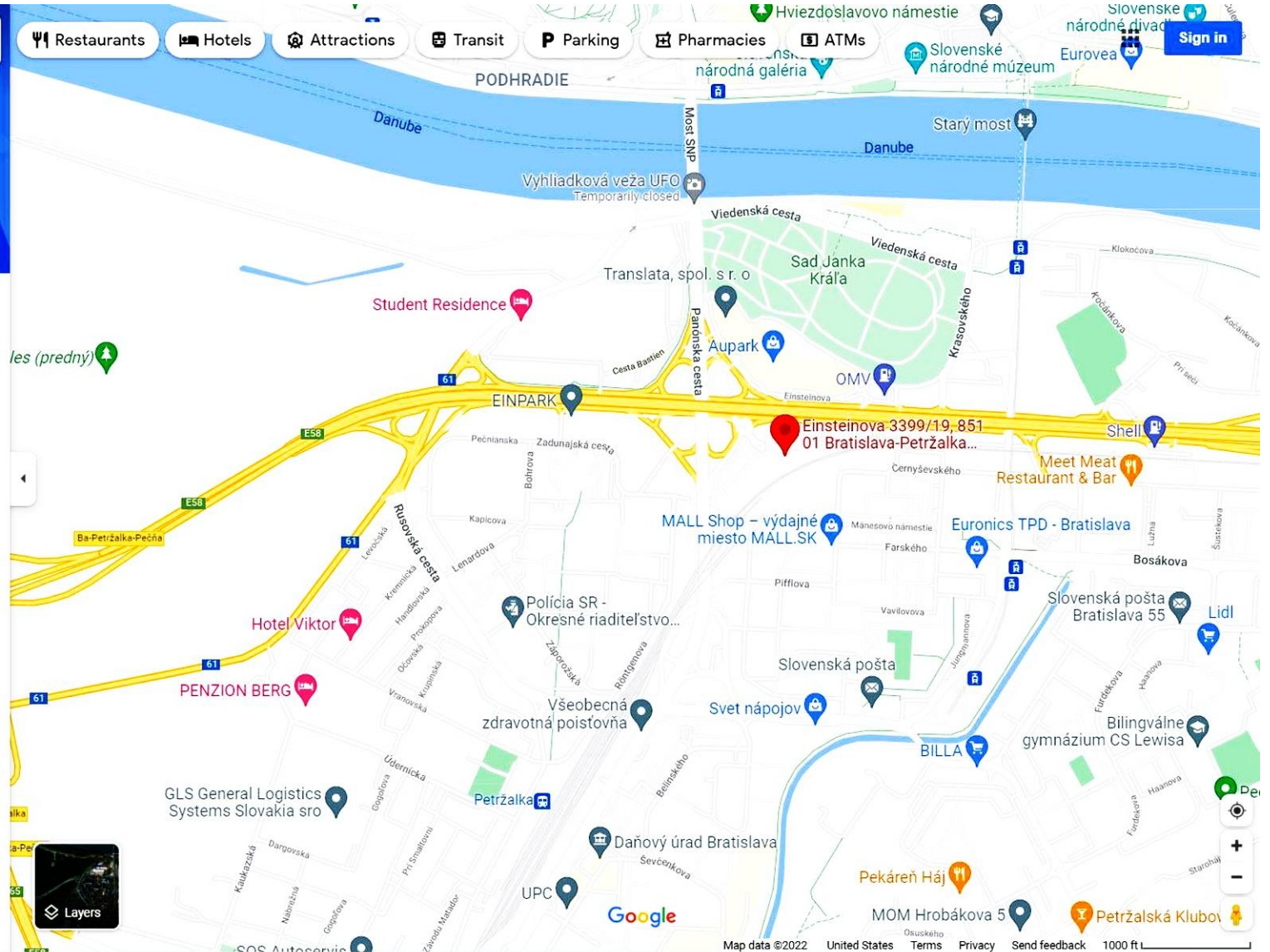
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Port Cities

Views Updated



Port Cities

Ports have long played a vital role in the international transport system, but have become increasingly important since the second half of the twentieth century with the rapid globalization of the world economy and expansion of world trade. The basic functions

of a port are to provide a link between land and sea transport and to furnish the means by which transfers of freight and passengers between the two systems can be made efficiently. But today ports are "not just a transferring point between different modes of transport but also logistics hubs and centers in global transport chains" (Inoue 2002). High port and other transport costs can act as barriers to trade; that is, if the cost of production plus distribution (including transport costs) exceeds the income received from selling the product, trade is unlikely to occur. Until the late eighteenth century high transport costs (on land, at sea, and in port) meant that only high-value commodities such as

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(on land, at sea, and in port) meant that only high-value commodities such as precious metals and spices were traded internationally on a large scale. By the second half of the nineteenth century, however, increased efficiency in both land and ocean transport had led to large falls in freight rates and facilitated a major expansion of world trade and the emergence of an integrated world economy (North 1958 and McInnis 1986). Between 1870 and 1998 exports increased from 4.6 percent to 17.2 percent of world GDP (Maddison 2001, p. 363). In 2002 the world's ports handled a record 5.88 billion tons of cargo (Organization for Economic Cooperative Development 2003). The growth of international trade was, of course, due to many factors, but ports played a key role as value-adding links in the international transport system.

CHARACTERISTICS OF PORT CITIES

There is a wide diversity of port types, including specialized naval ports, entrepôt ports, coastal ports, and overseas ports, so there is a correspondingly wide variation in the relative scale of maritime and industrial activity, urban expansion, and the influence of ports on regional and national development. However, the development of most major ports has been intertwined with that of a city. To

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qualify as a port city "the port must become the central dynamic force and organising principle of the port city, and not remain a 'hidden function,' a mere appendage." (Reeves, Breeze, and McPherson 1989, p. 39). Thus a port city depends on the port for a large part of city employment and incomes.

An early example of a leading European port city is Venice, which from about 1000 to 1500 played a major role in developing trade within Europe and the Mediterranean and also acted as a gateway for technology transfer from Asia and Egypt to the West (Maddison 2001, pp. 52–57). From the late seventeenth century onwards, port cities such as Amsterdam, Genoa, Gothenburg, Hamburg, Liverpool, London, Marseilles, Portsmouth, and Rotterdam were the front-runners in urban development in Europe. By the eighteenth century Western Europe was "an effectively integrated area, with port-cities functioning as key connecting links in terms both of national and international trade and of capital and labour mobility" (Lee and Lawton 2002, p. 2). The development of North and South America depended on sea transport, and led to the emergence of new port cities such as Buenos Aires, New Orleans, New York, San Francisco, Vancouver, and Veracruz. During the nineteenth century Asian ports such as Bombay, Colombo, Singapore, and Shanghai formed the hearts of cities which constituted the meeting places of European and indigenous cultures and facilitated Western economic penetration into Asia. The Australian capital city ports that were established between 1788 and 1837 similarly provided the British Empire with gateways into the vast Australian continent. Port cities accounted for about 40 percent of the world's cities, with populations of more than 100,000 in 1850, and they dominated the "European urban hierarchy" until the 1950s, when they were finally overtaken by industrial cities (Lee and Lawton 2002, p.

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3).

The fluctuating nature of cargo flows meant that the cheapest way to meet the varying demand for port labor was to maintain a large casual labor force. The need for large amounts of unskilled labor meant that port cities acted as magnets for migrants, one outcome of which was residential segregation based on ethnic group and socioeconomic status. Apart from direct employment in trade and shipping, ports were centers for many related industries such as fish processing, flour milling, soap making, sugar refining, and, from the twentieth century, oil refining. The political structure of port cities was usually dominated by mercantile and shipping interests who, through their trading activities, had amassed wealth and prestige. Port cities typically enjoyed a cosmopolitan atmosphere as they were places in which "races, cultures, and ideas as well as goods from a variety of places jostle, mix, and enrich each other and the life of the city" (Murphey 1989, p. 225).

CHANGE AND REFORM SINCE THE NINETEENTH CENTURY



Since the nineteenth century the world's ports and their cities have been forced to adjust to major changes in trade, shipping, and cargo-handling technology. In the nineteenth century they needed to adapt to the development of large iron ships and the replacement of sail by steam as a source of propulsion; in the first half of the twentieth century, the ports were required to provide bulk handling systems for liquid and dry cargoes; and, after World War II, they had to make available deep water for huge bulk carriers and space for technological innovations such as containerization. Following the introduction in 1966 of the world's first fully integrated container service into the North Atlantic trade by Sea-Land Service Inc., the handling of general cargo was rapidly transformed from a manual activity, requiring a large labor force, to a capital intensive one, requiring minimal "muscle power" (Broeze 2002).

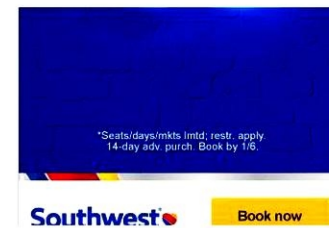
As the cities grew, ports increasingly "competed" for land with industry, housing, and other urban uses. After World War II many ports escaped from their metropolitan straitjackets and developed new ports with access to deep water and adequate land areas. Sometimes the existing inner-city facilities were no longer required for commercial port operations and fell into decay. Container terminals, for example, required specially designed wharves, and made existing wharves, otherwise useable for many years, obsolescent. The port and city authorities were also forced to either demolish or find alternative uses for old cranes, cargo sheds, warehouses, and other port facilities. Some imaginative uses for cargo sheds and warehouses included museums, art galleries, restaurants, and shopping arcades. A well-known example of water-front redevelopment is found in the Port of London, where the London Docklands Development Corporation converted the old docks, stretching from Stepney to



Development Corporation converted the old docks, stretching from Stepney to Woolwich, for commercial industrial, residential, and recreational use.

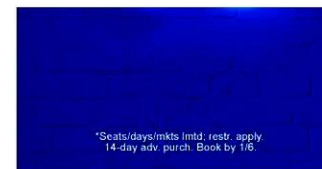
As the scale and complexity of ports grew, so did the need for unified systems of administration and control. The establishment of the Mersey Docks and Harbour Board in 1857 marked the beginning of modern harbor management; the board created a model which was widely copied around the world. However, after world war II many ports suffered from inefficient management practices, overstaffing, and inflexible labor arrangements (Tull 1999). Waterfronts were frequently plagued by major industrial disputes. Numerous attempts to deal with these problems were unsuccessful until the 1980s, when corporatization, privatization, and labor-market reforms succeeded in placing the management and operation of many ports on a more commercial basis. With the notable exception of Britain, where about 70 percent of port capacity is currently in private hands, the state usually retains ownership of the land and control of regulatory functions but allows the private sector to assume responsibility for cargo handling and other port operations (Baird 2000, pp. 402–403).

Due to these reforms and the general progress of mechanization, port



workforces have shrunk to only a small portion of a city's total employment. In the 1990s Rotterdam, for example, was a thriving world-class port, but the city struggled as unemployment reached 15 percent (twice Holland's national average), although this was not due to changes in the port alone (Graafland and Hauptmann 2001, p. 31). Job loss due to technological change is an especially serious issue in developing economies. In 1995 the Port of Colombo in Sri Lanka, for example, had a staff of about 17,000 who handled just over 1 million twenty-foot equivalent units (TEUs) of containers, whereas Singapore with a staff of about 4,000 handled 12 million TEUs. Like many other public enterprises in Sri Lanka, the port was used as a "job bank," and the cost of employing excess labor was passed on to port users and ultimately consumers (Dharmasena 2003, p. 441). In a competitive, globalized economy, governments are coming under increasing pressure to curtail such practices and to facilitate the transfer of underemployed labor into more productive uses, especially in export-oriented industries.

The increasing size of container ships and competitive pressures are leading shipowners to concentrate container trade in hub ports served by a range of smaller feeder ports (Broeze 2002). In order to acquire or maintain hub-port status, ports need to undertake large-scale investment in new technology such as automated container terminals and further improve labor productivity. The huge scale of the investment required has led to large numbers of public/private-sector partnerships, and to the rise of multinational port operators such as Hutchison International Port Holdings, International Container Services Inc., Port of Singapore Corporation, and P&O Ports.



Many cities began as ports, but as they have grown, port activities have gradually been overshadowed by manufacturing, financial, or service activities, and port-related activities, although usually still vital to the economy, have been relegated to a relatively "hidden" role. Frank Broeze's comment on Australian ports can be applied to the world's ports in general: "the port city as a social phenomenon has largely ceased to exist: despite the huge space taken up by harbours and ancillary installations, Australia's port cities have in fact become

general cities that also happen to contain ports" (Broeze 1998, p. 174). The development of new harbor areas away from the inner-city areas means that shipping activity is far less visible to the general public. Ships are more sparsely crewed and spend less time in port, leading to the decline of "sailortowns"—the areas containing taverns and other service industries catering for itinerant sailors. Container crane operators are isolated in their cabs high in the air, and with fewer workers around there is less opportunity for the development of the union solidarity for which the waterfront was well known. It was recently stated that Melbourne, a leading Australian port, "could not continue to thrive and maintain its position as a pre-eminent international city without a vibrant and well-run port. The futures of both are inseparably entwined; if one withers, so will the other" (*Lloyd's List Daily Commercial News*, 27 May 2004). Although the relationship between ports and cities has changed, their fortunes are still

intertwined



SEE ALSO Amsterdam; Antwerp; Bahia; Baltimore; Barcelona; Bordeaux; Boston; Bristol; Cádiz; Calcutta; Cargoes, Freight; Cargoes, Passenger; Cartagena; Chambers of Commerce; Charleston; Containerization; Free Ports; Gdansk; Genoa; Glasgow; Guangzhou; Hamburg; **Hanseatic League** (Hansa or Hanse); Harbors; Havana; Home Charges (India); Hong Kong; Hong Kong and Shanghai Bank; Imperial Maritime Customs, China; Jardine Matheson; Los Angeles—Long Beach; Malacca; Mumbai; Nagasaki; New Orleans; New York; Porto; Salem; San Francisco—Oakland; Rio de Janeiro; Rotterdam; Seville; Shipbuilding; Shipping, Coastal; Shipping, Inland Waterways, Europe; Shipping, Inland Waterways, North America; Shipping, Merchant; Ships and Shipping; Singapore; Veracruz; Yokohama.

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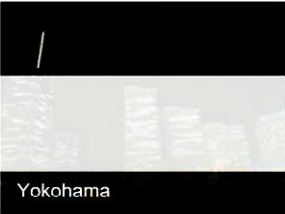
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LOCATION

Digital Park is located on the main thoroughfare of Petržalka, Einsteinova Street. The excellent location of the building is underlined by the proximity of the highway and is easily accessible from the center via the SNP Bridge. Thanks to Einsteinova Street, the building is connected to the city center and to the D1 and D2 motorways, which connect the property with the Bratislava airport and at the same time allow passage to the Hungarian and Czech Republic. The proximity of the Austrian border also provides direct connections to Vienna Airport, 40 km away. With more than 10 bus lines, it provides trouble-free access from other city areas. Digital Park provides gastro services and other basic amenities, while the nearest post office is located in the neighboring Aupark Shopping Center.

DESCRIPTION

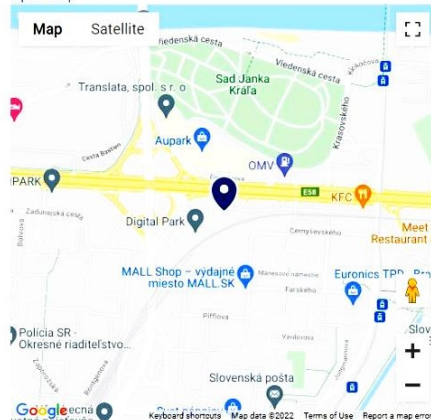
Digital Park III is third phase of the modern administrative complex Digital Park. The building is constructed in the highest standard and offers more than 19,000 sqm of office space and more than 1,300 sqm of retail premises on 8 above-ground floors. The floor projection is highly flexible. Underground floor offers 367 parking stalls. Outside parking has capacity of 170 vehicles.

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Location

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