

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

**APPLICATION SERIAL NO.** 79115261

**MARK:** MISTRAL

**\*79115261\***

**CORRESPONDENT ADDRESS:**

Inaday B.V.  
Hengelosestraat 141  
NL-7521 AA Enschede  
NETHERLANDS

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**APPLICANT:** Mistral International BV

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

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

## OFFICE ACTION

### STRICT DEADLINE TO RESPOND TO THIS LETTER

**INTERNATIONAL REGISTRATION NO. 0633370**

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

The "Mailing Date" appearing on the WIPO cover letter may also be found through the USPTO's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please enter the U.S. Application Serial Number for this application and select "Documents." The "Mailing Date" 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).

**WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:** Applicant may respond directly to this provisional refusal Office action if applicant is not represented by an authorized attorney. See 37 C.F.R. §2.193(e)(2)(ii). Otherwise, applicant's authorized attorney must respond on applicant's behalf. See 37 C.F.R. §2.193(e)(2)(i). However, **the only attorneys who are authorized to sign responses and practice before the USPTO** in trademark matters are as follows:

- (1) **Attorneys in good standing with a bar of the highest court of any U.S. state**, the District of Columbia, Puerto Rico, and other federal territories and possessions of the United States.
- (2) **Canadian agents/attorneys** who represent applicants located in Canada and (a) are registered with the USPTO and in good standing as patent agents or (b) have been granted reciprocal recognition by the USPTO.

See 37 C.F.R. §§2.17(e), 2.62(b), 11.1, 11.5(b)(2), 11.14(a), (c); TMEP §§602, 712.03.

Foreign attorneys, other than authorized Canadian attorneys, are not permitted to represent applicants before the USPTO. See 37 C.F.R. §§2.17(e), 11.14(c), (e); TMEP §602.03-.03(b). That is, foreign attorneys may not file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal, among other things. See 37 C.F.R. §11.5(b)(2); TMEP §§602.03(c), 608.01. If applicant is represented by such a foreign attorney, applicant must respond directly to this provisional refusal Office action. See 37 C.F.R. §2.193(e)(2)(ii).

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

#### THE APPLICATION HAS BEEN PROVISIONALLY REFUSED AS SPECIFIED BELOW.

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.

#### SEARCH

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).

#### CLAIM OF PRIOR REGISTRATIONS

If applicant owns U.S. Registration Nos. 1131832 and 1214787, then applicant must submit for the application record a claim of ownership of these registrations. *See* 37 C.F.R. §2.36; TMEP §812. *See* the attached copies of the registrations. *See* TMEP §812.

Applicant may use the following format to claim ownership of these registrations:

**Applicant is the owner of U.S. Registration Nos. 1131832 and 1214787.**

#### **DESCRIPTION OF MARK REQUIRED**

The applied-for mark is not in standard characters and applicant did not provide a description of the mark with the initial application. Applications for marks not in standard characters must include an accurate and concise description of the entire mark that identifies literal elements as well as any design elements. *See* 37 C.F.R. §2.37; TMEP §§808.01, 808.02, 808.03(b).

Therefore, applicant must provide a description of the applied-for mark. The following is suggested:

**The mark consists of the stylized word “MISTRAL”.**

#### **IDENTIFICATION OF GOODS**

The wording is a listing both acceptable and unacceptable recitations spanning a wide range of goods and must be clarified because it is too broad which could include goods in other international classes. *See* TMEP §§1402.01, 1402.03.

The wording “clothing” and “headgear” in the identification of goods is indefinite and must be clarified because it does not specify the types of clothing for which the mark is used. *See* TMEP §§1402.01, 1402.03. Applicant must amend the identification by inserting the word “namely,” after “headgear” and “clothing” and indicating the specific types of clothing items (e.g., shirts, pants, coats, dresses, hats). *See* TMEP §§1402.01, 1402.03(a).

In an application filed under Trademark Act Section 66(a), an applicant may not change the classification of goods and/or services from that assigned by the International Bureau in the corresponding international registration. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Therefore, although clothing can be classified in international classes other than International Class 25 (e.g., International Classes 9, 10, and 18), any modification to the identification must identify goods in International Class 25 only, the class specified in the application for such goods.

Applicant may adopt the following identification of goods and services if accurate:

#### **NICE CLASSIFICATION 25**

**Clothing, namely, shirts and pants; footwear; headwear; headgear, namely, caps and hats**

*See* TMEP §1402.01.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the USPTO’s online searchable *U.S. Acceptable Identification of Goods and Services Manual* at <http://tess2.uspto.gov/netahtml/tidm.html>. *See* TMEP §1402.04.

An applicant may amend an identification of goods and services only to clarify or limit the goods and services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07 *et seq.*

#### **COMMENTS**

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

There is no required format or form for responding to an Office action. The Office recommends applicants use the Trademark Electronic Application System (TEAS) to respond to Office actions online at <http://www.uspto.gov/teas/index.html>. However, if applicant responds on paper via regular mail, the response should include the title “Response to Office Action” and the following information: (1) the name and law office number of the examining attorney, (2) the serial number and filing date of the application, (3) the mailing date of this Office action, (4) applicant’s name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

The response should address each refusal and/or requirement raised in the Office action. If a refusal has issued, applicant can argue against the refusal; i.e., applicant can submit arguments and evidence as to why the refusal should be withdrawn and the mark should register. To respond to requirements, applicant should set forth in writing the required changes or statements and request that the Office enter them into the application record.

The response must be personally signed or the electronic signature manually entered by applicant or someone with legal authority to bind applicant (i.e., a corporate officer of a corporate applicant, the equivalent of an officer for unincorporated organizations or limited liability company applicants, a general partner of a partnership applicant, each applicant for applications with multiple individual applicants). TMEP §§605.02, 712.

/Hanno Rittner/  
Trademark Examining Attorney  
Law Office 117  
(571) 272-7188  
[hanno.rittner@uspto.gov](mailto:hanno.rittner@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 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 Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, 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/teas/eTEASpageE.htm>.

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**Word of the Day**  
**perfunctory**  
Definition: (adjective) unenthusiastic, routine, or

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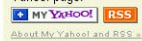
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[Mistral, Frédéric >](#)

**mis·tral** (mī's'trəl, mī-strāl') [KEY](#)  
**NOUN:**  
A dry cold northerly wind that blows in squalls

**BE INSPIRED  
BE THE DIFFERENCE  
BE A NURSE**  
**Arlington Campus**  
Now Enrolling  
Spring • Summer • Fall  


mechanical.  
Petersons.com

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A dry cold northerly wind that blows in squalls  
toward the Mediterranean coast of southern France.

**ETYMOLOGY:**

French, from Provençal *maestral*, from Old Provençal,  
from Late Latin *magistrālis*, *of a master*, from Latin  
*magister*, *master*; see *meg-* in Indo-European roots

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Print: Sep 13, 2012

73112511

**TYPED DRAWING**

**Serial Number**  
73112511

**Status**  
REGISTERED AND RENEWED

**Word Mark**  
MISTRAL

**Standard Character Mark**  
No

**Registration Number**  
1131832

**Date Registered**  
1980/03/11

**Type of Mark**  
TRADEMARK

**Register**  
PRINCIPAL

**Mark Drawing Code**  
(1) TYPED DRAWING

**Owner**  
MISTRAL INTERNATIONAL BV CORPORATION NETHERLANDS PASTOOR  
RIENTJESSTRAAT 1 HELLENDORP NETHERLANDS 7447GE

**Goods/Services**  
Class Status -- ACTIVE. IC 022. US 001 002 007 019 022 042 050. G  
& S: SAILS.

**Goods/Services**  
Class Status -- SECTION 8 - CANCELLED. IC 025. US 022 039. G & S:  
[ ENDERS, BATHING CLOTHES-NAMELY, SWIM TRUNKS, SWIMMING SUITS, BATHING  
TRICOTS, BATHROBES, (BATHING GOWNS) BATHING SLIPPERS AND BATHING CAPS  
FOR SALE IN SPORTING GOODS STORES ].

**Goods/Services**  
Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: WET  
SUITS, EXCLUSIVELY FOR SURFING AND WINDSURFING, CONSISTING OF JACKETS,  
PANTS, CAPS AND FEET; SURFBOARDS AND SAILBOARDS (WINDSURFING-BOARDS) [  
AND SKATEBOARDS ].

**Foreign Country Name**  
FED REP GERMANY

Print: Sep 13, 2012

73112511

**Foreign Priority**  
FOREIGN PRIORITY CLAIMED

**Foreign Application Number**  
B56476/25WZ

**Foreign Filing Date**  
1976/07/16

**Foreign Registration Number**  
958529

**Foreign Registration Date**  
1977/06/02

**Foreign Expiration Date**  
1986/07/16

**Prior Registration(s)**  
0972756

**Filing Date**  
1977/01/17

**Examining Attorney**  
UNKNOWN

**Attorney of Record**  
LAWRENCE E. ABELMAN

Print: Sep 13, 2012

73196223

**DESIGN MARK**

**Serial Number**  
73196223

**Status**  
REGISTERED AND RENEWED

**Word Mark**  
MISTRAL

**Standard Character Mark**  
No

**Registration Number**  
1214787

**Date Registered**  
1982/11/02

**Type of Mark**  
TRADEMARK

**Register**  
PRINCIPAL

**Mark Drawing Code**  
(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**  
MISTRAL INTERNATIONAL BV CORPORATION NETHERLANDS PASTOOR  
RIENTJESSTRAAT 1 HELLEDOORN NETHERLANDS 7447GE

**Goods/Services**  
Class Status -- SECTION 8 - CANCELLED. IC 016. US 002 005 022 023  
029 037 038 050. G & S: [Printed Goods-Namely, Journals, Newspapers,  
and Books About Windsurfing]. First Use: 1977/01/00. First Use In  
Commerce: 1977/03/00.

**Goods/Services**  
Class Status -- ACTIVE. IC 018. US 003. G & S: Back-Packs, and  
Tote Bags. First Use: 1977/01/00. First Use In Commerce: 1977/01/00.

**Goods/Services**  
Class Status -- ACTIVE. IC 022. US 002 019. G & S: Sails, Bags and  
Sacks for Sails, and Bags for Mast and Sail as a Unit. First Use:  
1977/01/00. First Use In Commerce: 1977/01/00.

**Goods/Services**  
Class Status -- SECTION 8 - CANCELLED. IC 024. US 042 050. G & S:  
[Piece Good Textiles-Namely, Towels]. First Use: 1977/01/00. First



Print: Sep 13, 2012

73198223

Use In Commerce: 1977/01/00.

**Goods/Services**

Class Status -- ACTIVE. IC 025. US 039. G & S: Clothing-Namely, Shirts, T-Shirts, Blouses, Shorts, Trousers, Pants, Jackets, Parkas, Pullovers, Shoes, Caps, Hats, Scarves, Neckwarchiefs, Stockings, Socks, Belts, Braces, Bathing Caps, Bathing Trunks, Bathing Suits, Bathing Gowns, Bathing Shoes, Sweatshirts, Polo Shirts, Jogging Shirts and Pants, Robes. First Use: 1977/01/00. First Use In Commerce: 1977/01/00.

**Goods/Services**

Class Status -- ACTIVE. IC 028. US 022. G & S: Vehicles-Namely, Windsurfing Boards, Protective Suits, Caps, Jackets and Pants for Windsurfing, Sailboards, Surfboards, Skateboards and Bags for Sporting Goods, Diving Fins. First Use: 1977/01/00. First Use In Commerce: 1977/01/00.

**Foreign Country Name**

SWITZERLAND

**Foreign Registration Number**

284,755

**Foreign Registration Date**

1976/09/06

**Foreign Expiration Date**

1996/09/06

**Prior Registration(s)**

0972756

**Translation Statement**

The word "Mistral" is French and means a cold N.E. wind (blowing from the Alps down the Rhone valley).

**Filing Date**

1978/12/08

**Examining Attorney**

UNKNOWN

**Attorney of Record**

LAWRENCE E. ABELMAN

**mistral**