

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

U.S. APPLICATION SERIAL NO. 79121104

MARK:

79121104

CORRESPONDENT ADDRESS:

O.V. Shterz
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CLICK HERE TO RESPOND TO THIS LETTER:
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Gorokhovskaya Tatyana Germanovna

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

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

INTERNATIONAL REGISTRATION NO. 1137551

STRICT DEADLINE TO RESPOND TO THIS NOTIFICATION: TO AVOID ABANDONMENT OF THE REQUEST FOR EXTENSION OF PROTECTION OF THE INTERNATIONAL REGISTRATION, THE USPTO MUST RECEIVE A COMPLETE RESPONSE TO THIS 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-1rst 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.

Search Results

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 Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

However, in order to pursue registration, applicant must respond to the following.

Name and National Citizenship of the Sole Proprietor Required

Applicant is identified in the application as a sole proprietorship named "Gorokhovskaya Tatyana Germanovna", organized in Russia. In addition to the applicant name and country of organization provided, however, applicant must also specify the name and national citizenship of the individual person who is the sole proprietor. TMEP §803.03(a).

The following format for identifying a sole proprietorship should be used: “Gorokhovskaya Tatyana Germanovna”, a Russian sole proprietorship, composed of *{specify name of individual and country of citizenship}*” TMEP §803.03(a). The name of the sole proprietorship and the name of the individual can be the same.

TMEP §§803.02(a), 803.04.

Color Mark Clarification Required

In the description of the mark, the applicant references light black and white; however, the applicant has not indicated black and white as features of the mark. If applicant references color in the description of the mark, applicant must claim those colors as a feature of the mark. TMEP §807.07(d); *see* 37 C.F.R. §§2.37, 2.52(b)(1).

If black, white and/or gray are not being claimed as a color feature of the mark, applicant must state that the colors black, white and/or gray represent background, outlining, shading and/or transparent areas and are not part of the mark. TMEP §807.07(d).

In this case, applicant may indicate that the mark is not in color and delete references to color in the mark, or, in the alternative, claim the colors black and white as features of the mark and reference those colors in the description of the mark.

In addition, applicant must submit an accurate and concise description of the literal and design elements in the mark. 37 C.F.R. §2.37; *see* TMEP §§808.01, 808.02. The following is suggested, if accurate:

Color Claim: *the colors black and white are claimed as a feature of the mark.*

Description: *The mark consists of a large fruit-bearing apple tree within a rectangular background with rounded corners. The color white appears in the background and the color black appears in the silhouette of the shape of the tree and apples.*

OR

The mark consists of a large fruit-bearing apple tree within a rectangular background with rounded corners.

Clarification of the Identification of Goods and Services Required

Some of the wording in the identification of goods and/or services must be clarified because it is indefinite. *See* TMEP §§1402.01, 1402.03. For example, the wording “dietetic substances adapted for medical use” requires clarification because it fails to indicate specific goods.

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 in International Classes 003, 005, 016, 021, 025, 029, 030, 035, and 041, the classifications specified in the application for these goods and/or services.

The following suggested identification contains further guidance in bold and/or brackets. Applicant may adopt any or all of the suggestions so long as they are accurate. If applicant does not adopt a suggestion, then applicant must amend the identification so that it is as specific as the suggestions and language found in the *Manual of Acceptable Identifications of Goods and Services*

Applicant may consider the following suggestions:

Class 003

- After-shave lotions; antiperspirants toiletries, ***namely {antiperspirants}***; aromatics essential oils; bath salts, not for medical purposes; beauty masks; breath freshening sprays; cleansing milk for toilet purposes;

cosmetics; cosmetic creams; cosmetic dyes, *namely {SPECIFY, E.G., hair dyes, eyelash tint, etc.}*, cosmetic kits *comprised of {SPECIFY COMPONENTS OF KIT, E.G., cosmetics skin creams, beauty masks, etc.}*; cosmetic pencils; cosmetic preparations for baths; cosmetic preparations for eyelashes, *namely {SPECIFY, E.G., eyelash tint, mascara, etc.}*; cosmetic preparations for skin care, *namely {SPECIFY, E.G., skin creams}*; cosmetic preparations for slimming purposes, *namely {SPECIFY GOODS, E.G., firming lotions and creams}*; cotton sticks for cosmetic purposes; cotton wool for cosmetic purposes; dental bleaching gels; dentifrices; depilatories; deodorants for personal use; eau de cologne; eyebrow cosmetics; hair colorants; hair lotions; hair spray; hair waving preparations; lotions for cosmetic purposes; make-up removing preparations; make-up powder; mascara; mouth washes, not for medical purposes; nail care preparations; nail polish; oils for cosmetic purposes; oils for *toilettry* purposes; perfumes; perfumery; pomades for cosmetic purposes; potpourris fragrances; *hair* shampoos; shaving preparations; soap; tissues impregnated with cosmetic lotions; *non-medicated* toiletries; toilet water

Class 005

- Albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; antiseptics; antiparasitic preparations; bacterial preparations for medical and veterinary use; balms for medical purposes; biocides; biological preparations for medical purposes, *namely {INDICATE SPECIFIC GOODS IN CLASS 005, E.G., biological preparations for the treatment of cancer, heart disease, stomach illness, pneumonia, etc.}*; diabetic bread *adapted for medical use*; dietetic beverages, *namely {SPECIFY, E.G., tea, fruit beverages, etc.}* adapted for medical purposes; dietetic foods *namely, {indicate types of food, e.g., pasta, crackers, etc.}* adapted for medical use; dietetic substances adapted for medical use, *namely {SPECIFY SUBSTANCES, E.G., dietetic sugar substitutes for medical use, etc.}*; digestives for pharmaceutical purposes; elixirs pharmaceutical preparations *for the treatment of {specify disease to be treated, e.g., cancer, heart disease, diabetes, etc.}*; food for babies; germicides; herb teas for medicinal purposes; lacteal flour for babies; liniments; *skin* lotions for pharmaceutical purposes; medicinal herbs; medicinal infusions *for treating {specify diseases or conditions, e.g., cancer, etc.}*; medicinal oils; medicinal roots; mineral food-supplements, *namely, biologically active supplements*; nerviness, *namely {SPECIFY, E.G., pharmaceutical preparations to regulate nerves by acting on the central nervous system}*; nutritional additives for medical purposes, *namely, biologically active additives in the nature of a {SPECIFY, E.G., protein nutritional supplement}*; opotherapy preparations; preparations of trace elements for human use, *namely, biologically active supplements, namely {SPECIFY, E.G., protein nutritional supplements}*; sea water for medicinal bathing; serums; styptic preparations, *namely {SPECIFY, E.G., styptic pencils}*; therapeutic preparations for the bath; tonics medicines, *namely {SPECIFY, E.G., medicinal tonics for treatment of gastrointestinal diseases}*; vitamin preparations

Class 016

Albums, *namely {SPECIFY, E.G., photograph albums, event albums}*; almanacs; bags *being* envelopes, pouches of paper or plastics, for packaging; booklets *and* books *in the field of {SPECIFY SUBJECT MATTER, E.G., art, music, photography, etc.}*; cardboard articles, *namely {SPECIFY GOODS, E.G., cardboard boxes, etc.}*; calendars; catalogues *in the field of {SPECIFY FIELD, E.G., art, automobiles, etc.}*; credit card imprints, non-electric; envelopes *being* stationery; forms, *namely {SPECIFY, E.G., printed business forms, etc.}*; graphic prints; greeting cards; handbook manuals *in the field of {SPECIFY, E.G., travel, art, etc.}*; paper labels, not of textile; newsletters *in the field of {SPECIFY, E.G., art, general human interest, etc.}*; newspapers; note books; pamphlets *in the field of {SPECIFY SUBJECT MATTER, E.G., pets, art, automobiles, etc.}*; paper; posters; printed matter, *namely {SPECIFY, E.G., books, brochures, etc.}* *in the field of {SPECIFY SUBJECT MATTER, E.G., art, music, etc.}*; printed prospectuses *in the field of {SPECIFY SUBJECT MATTER, E.G., finances, etc.}*; stationery; signboards of paper or cardboard; stickers *being* stationery; teaching materials except apparatus, *namely {SPECIFY, E.G., paper teaching materials in the field of {specify area of use, e.g., art, math, science, etc.}}*; writing case sets *comprised of {SPECIFY COMPONENTS OF SETS, E.G., pens, pencils, writing pads, etc.}*; writing instruments

Class 021

- Abrasive sponges for scrubbing the skin; aerosol dispensers, not for medical purposes; appliances for removing make-up, non-electric; combs; comb cases; cosmetic utensils, *namely {SPECIFY, E.G., cosmetic brushes}*; deodorising apparatus for personal use, *namely {SPECIFY, E.G., perfume atomizers, sold empty}*; electric *hair* combs; eyebrow brushes; floss for dental purposes; nail brushes; water apparatus for cleaning teeth and gums *for home use*; shaving brushes; soap boxes; *toilettry cases sold empty*; toilet utensils, *namely {SPECIFY, E.G., comb cases, toothbrush cases, and razor cases}*; toothbrushes;

toothbrushes, electric; toothpicks; toothpick holders

Class 025

- Bandana neckerchiefs; boots; breeches for wear; clothing, *namely {INDICATE SPECIFIC GOODS, E.G., pants, jackets, shirts, skirts, coats, etc.}*; combinations clothing, *namely {SPECIFY, E.G., skirts and tops, pants and jackets, suits, etc.}*; dressing gowns; footwear; dresses; fur clothing, *namely {SPECIFY, E.G., jackets, coats}*; headgear for wear, *namely {SPECIFY, E.G., caps, hats,}*; hosiery; jackets ~~clothing~~; neckties; outerclothing, *namely {SPECIFY, E.G., jackets, coats}*; overalls; overcoats; parkas; pelisses; pullovers; ready-made clothing, *namely {INDICATE SPECIFIC GOODS, E.G., pants, jackets, sweaters, etc.}*; sandals; sashes for wear; shirts; shoes; skirts; socks; stockings; suits; sweaters; tee-shirts; tights; trousers; underwear; vests

Class 029

- Albumen for culinary purposes; bouillon; caviar; cheese; crystallized fruits; edible fats; edible oils; eggs; fat-containing mixtures for bread slices, *namely {SPECIFY, E.G., butter, dairy-based spreads, cheese spreads}*; fish, not live; fish, tinned; foods prepared from fish, *namely {SPECIFY, E.G., prepared meals consisting primarily of fish, fish mousse, fish cakes, etc.}*; fruit-based snack food; fruit chips; fruit jellies; fruit, preserved; fruit preserved in alcohol; fruit pulp; fruit salads; fruit, stewed; fruits, tinned canned; frozen fruits; jams; jellies for food; marmalade; meat; meat extracts; meat, preserved; meat, tinned canned; milk; milk products *excluding ice cream, ice milk and frozen yogurt*; mushrooms, preserved; mussels, not live; nuts, prepared; potato chips; potato flakes; poultry, not live; raisins; sausages; soups; suet for food *being an edible fat*; vegetables, dried; vegetables, cooked; vegetable juices for cooking; vegetables, preserved; vegetable salads; vegetables, tinned canned

Class 030

- Aromatic preparations for food, *namely {SPECIFY, E.G., flavourings for foods, extracts used as flavoring}*; bee glue propolis for human consumption; bread; bread rolls; buns; cakes; cereal-based snack food; cereal preparations, *namely {SPECIFY, E.G., processed cereals}*; cocoa; cocoa-based beverages; cocoa beverages with milk; cocoa products, *namely {SPECIFY, E.G., cocoa powder, cocoa spreads, candy with cocoa}*; coffee; coffee-based beverages; coffee beverages with milk; chewing gum, not for medical purposes; chips cereal products, *namely {SPECIFY, E.G., grain-based chips}*; chocolate; chocolate beverages with milk; chocolate-based beverages; condiments, *namely {SPECIFY, E.G., chutneys, ketchup, mustard, pickled ginger, relish, prepared horseradish}*; confectionery *made of sugar*; cooking salt; crackers; edible ices; farinaceous foods, *namely {SPECIFY, E.G., rice, etc.}*; ferments for pastes, *namely {SPECIFY, E.G., yeast}*; flour for food; flour-milling products, *namely {SPECIFY, E.G., pasta, etc.}*; fruit jellies *candies as a confectionery*; garden herbs, preserved *as seasonings*; gingerbread; groats for human food; gruel, with a milk base, for food; honey; ice cream; infusions, not medicinal, *namely {SPECIFY, E.G., herbal infusions, tea for infusions}*; malt *extracts for food* for human consumption; muesli; oat-based food, *namely {SPECIFY, E.G., oat flakes, processed oats, rolled oats}*; pancakes; pastries; pasties *as pastries*; pizzas; popcorn; *dessert* puddings; ravioli; rice-based snack food; rusks; sandwiches; seasonings; spices; starch for food; sugar; sushi; sweetmeats candy; tarts; tea; tea-based beverages; thickening agents for cooking foodstuffs; vinegar; yeast

Class 035

- Administrative processing of purchase orders; advertising; business information; business management and organization consultancy; business research; commercial administration of the licensing of the goods and services of others; commercial information and advice for consumers *as a consumer advice shop*; data search in computer files for others *in the nature of business data research*; demonstration of goods; distribution of samples; import-export agencies; marketing studies; on-line advertising on a computer network; organization of exhibitions for commercial or advertising purposes; organization of trade fairs for commercial or advertising purposes; presentation of goods on communication media, for retail purposes; procurement services for others purchasing goods and services for other businesses, *namely {SPECIFY GOODS OR SERVICES, E.G., office furniture, etc.}*; professional business consultancy; ~~rental of advertising time on communication media~~ *AGENCIES FOR ADVERTISING TIME AND SPACE*; sales promotion for others, namely, wholesale and retail *{SPECIFY, E.G., STORE}* services *featuring {INDICATE TYPE OF GOODS, E.G., clothing, electronics, etc.}*

- The wording “procurement services for others purchasing goods and services for other businesses” requires clarification. Applicant may either specify the specific goods and services, or, in the alternative, adopt the following wording: “Purchasing and procurement services, namely, procuring of contracts for others for the purchase of goods and labor contracting services”

Class 041

- Arranging and conducting of concerts; arranging and conducting of seminars *in the field of* {SPECIFY FIELD, E.G., *art appreciation, etc.*}; arranging and conducting of workshops training *in the field of* {SPECIFY, E.G., *art appreciation, etc.*}; club services *for* entertainment or education, *namely* {SPECIFY, E.G., *chess clubs, etc.*}; educational examination; education information, *namely* {SPECIFY, E.G., *providing information about education*}; entertainment information; film production; *on-line computer* game services provided on-line from a computer network; health club services, *namely* {SPECIFY, E.G., *providing instruction and equipment in the field of physical exercise*}; night clubs; ~~organization of competitions~~ education or entertainment; *entertainment and educational services in the nature of competitions in the field of entertainment, education, culture, sports, and other non-business and non-commercial fields*; practical training demonstration *in the field of* {SPECIFY FIELD, E.G., *welding, etc.*}; providing amusement arcade services; providing on-line electronic publications, not downloadable, *namely* {SPECIFY, E.G., *magazines, books, etc.*} *in the field of* {SPECIFY SUBJECT MATTER, E.G., *art, entertainment, science, etc.*}; providing recreation facilities; providing sports facilities; publication of books; publication of electronic books and journals on-line; publication of texts, other than publicity texts; recreation information; rental of sports equipment, except vehicles; videotape film production; vocational guidance *relating to* education or training advice

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.*

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.

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 federal territories and possessions of the United States. *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>.

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TO RESPOND TO THIS LETTER: Go to 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. 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 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>.