

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/498199

APPLICANT: Itoya of America, Ltd.

CORRESPONDENT ADDRESS: MARK HARRISON VENABLE PO BOX 34385 WASHINGTON DC 20043-4385

RETURN ADDRESS: Commissioner for Trademarks P.O. Box 1451 Alexandria, VA 22313-1451

Mailed 4/8/05

MARK: XENON

CORRESPONDENT'S REFERENCE/DOCKET NO: 31730-187996

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- 1. Filing date, serial number, mark and applicant's name. 2. Date of this Office Action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 76/498199

The trademark examining attorney has carefully reviewed the request for reconsideration and is not persuaded by applicant's arguments. No new issue has been raised and no new compelling evidence has been presented with regard to the point(s) at issue in the final action. TMEP §715.03(a). Accordingly, applicant's request for reconsideration is denied and the refusal is continued. 37 C.F.R. §2.64(b); TMEP §715.04.

It is noted that the applicant, in its request for reconsideration, again argues that the goods are not sufficiently related that confusion is likely. The applicant challenges that the record evidence fails to support the refusal. As such, please find that attached additional third-party registrations that further show the relatedness of the goods in this case. As shown by the attached and previously attached third-party registrations, the wording "paper and cardboard" refers to a type of printing paper supply and can be found in common office supply retailers with other paper products. Moreover, this type of supply is often produced and sold under the same mark as writing supplies similar to the applicant's writing pens. Hence, the evidence shows that packaged "paper and cardboard" as with writing paper, small paper office accessories, travel in the same channels of trade. Please see the attached evidence.

The application file will be returned to the Trademark Trial and Appeal Board for resumption of the appeal.

NOTICE: FEE CHANGE

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are

the fees that will be charged for filing a trademark application:

- (1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS);
or
- (2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

**Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451**

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

IngridCEulin/
Ingrid C. Eulin
Law Office 111
(571) 272-9380
(571) 273-9380 fax

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://www.uspto.gov/teas/index.html> and follow the instructions, but if the Office Action issued via email you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website <http://www.uspto.gov/main/trademarks.htm>

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Feeders & Trays	<u>1 match</u>	(All products in this category)
X-Acto & Utility Knives	<u>3 matches</u>	(All products in this category)
1" Presentation Binders	<u>1 match</u>	(All products in this category)
Desktop Copyholders	<u>1 match</u>	(All products in this category)
Rulers	<u>4 matches</u>	(All products in this category)
Laser Address Labels	<u>11 matches</u>	(All products in this category)
Inkjet Address Labels	<u>4 matches</u>	(All products in this category)
Letter Openers	<u>1 match</u>	(All products in this category)
Pin-Fed & Copier Address Labels	<u>8 matches</u>	(All products in this category)
- Office Shredders	<u>1 match</u>	(All products in this category)
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Pen Refills	Visit this category for an exact match
Rollerball Pens	Visit this category for an exact match
Waterman	5 matches (All products in this category)
Gel Ink Pens	Visit this category for an exact match
A.T. Cross	25 matches (All products in this category)
Porous Point Pens	28 matches (All products in this category)
Desktop Pen, Pencil and Paper Clip Organizers	4 matches (All products in this category)
Ballpoint Retractable Pens	Visit this category for an exact match
Permanent Markers	24 matches (All products in this category)
Mechanical Pencils	5 matches (All products in this category)
Pentel	1 match (All products in this category)
Art Pens	27 matches (All products in this category)
Highlighters	14 matches (All products in this category)
Specialty Markers	7 matches (All products in this category)
Crayons	2 matches (All products in this category)
Correction Tape	4 matches (All products in this category)
Staedtler	4 matches (All products in this category)
Pen	13 matches (All products in this category)

Erasers	<u>2 matches</u>	<u>(All products in this category)</u>
Correction Pens	<u>9 matches</u>	<u>(All products in this category)</u>
Multifunction Pens	<u>3 matches</u>	<u>(All products in this category)</u>
Parker	<u>3 matches</u>	<u>(All products in this category)</u>
Dry-Erase Markers	<u>3 matches</u>	<u>(All products in this category)</u>
Executive Gifts	<u>2 matches</u>	<u>(All products in this category)</u>
CD/DVD Labels	<u>1 match</u>	<u>(All products in this category)</u>
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PDA Input Devices	<u>1 match</u>	<u>(All products in this category)</u>
Marker	<u>2 matches</u>	<u>(All products in this category)</u>
Top Tab File Folders	<u>6 matches</u>	<u>(All products in this category)</u>
Indexes, Tabs & Dividers	<u>1 match</u>	<u>(All products in this category)</u>
Touchpads & Pens	<u>1 match</u>	<u>(All products in this category)</u>
Post-It	<u>20 matches</u>	<u>(All products in this category)</u>
Form Holders	<u>4 matches</u>	<u>(All products in this category)</u>
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[Art Drawing Paper & Pads \(335\)](#), [Construction Paper \(181\)](#), [Receipt Books, Guest Checks & Check Refills \(134\)](#), [Packaging Papers & Peanuts \(131\)](#), [Craft & Tissue Paper \(104\)](#), [Art Paper & Drawing Pads \(101\)](#), [Paper & Binder Clips, Dispensers & Magnets \(80\)](#), [More...](#)

Brand Name: [Riverside Paper \(238\)](#), [Sanford \(204\)](#), [Pacon \(178\)](#), [B O X Packaging \(162\)](#), [Office Depot \(157\)](#), [More...](#)

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 466461	\$9.99	\$8.99	pack	In Stock	<input type="checkbox"/>
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 106302	\$21.37	\$14.27	each	In Stock	<input type="checkbox"/>
Tops® Tabletop Travel Easel and Pad, 22" x 25", Plain White Paper					

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 432861	\$5.11	\$2.98	box	In Stock	<input type="checkbox"/>
Office Depot® Vinyl-Coated Paper Clips, No. 2 Regular And Jumbo-Size, Assorted Colors, Box Of 600 (100 Jumbo, 500 No. 2)					

Quantity **Add To Cart** **Add To List**

Item #	List Price	Our Price	Units	Availability	Compare
 432921	\$5.11	\$2.98	box	In Stock	<input type="checkbox"/>
Office Depot® Vinyl-Coated Paper Clips, No. 1 Regular, Black And White, Box Of 500 (250 Black, 250 White)					

Quantity **Add To Cart** **Add To List**

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 716501	\$24.99	\$24.88	pack	In Stock	<input type="checkbox"/>

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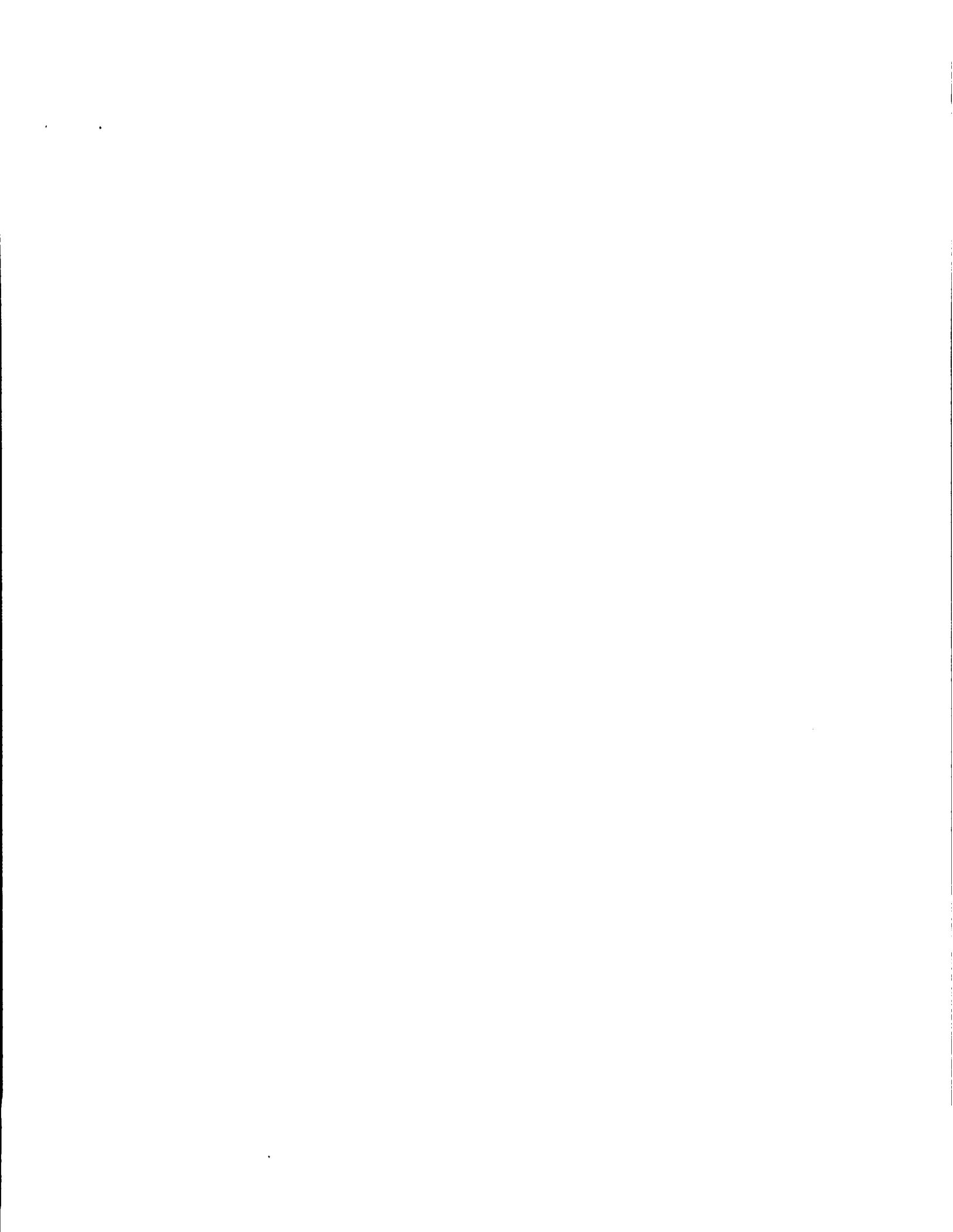

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Price: **\$31.93**


[HP® Professional Brochure and Flyer Paper, Glossy, 8 1/2" x 11", 48 Lb., 103 Brightness, Pack Of 150 Sheets](#)
Price: **\$29.88**


[Office Depot® Vinyl-Coated Paper Clips, No. 2 Regular And Jumbo-Size, Assorted Colors, Box Of 600 \(100 Jumbo, 500 No. 2\)](#)
Price: **\$2.98**


[NCR Gas Pump And Thermal Credit/Debit Rolls, 2 1/4" x 85", Pack Of 2](#)
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459874	\$29.99	\$29.88	pack	In Stock	<input type="checkbox"/>



HP® Professional Brochure and Flyer Paper, Glossy, 8 1/2" x 11", 48 Lb., 103 Brightness, Pack Of 150 Sheets

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Item #	List Price	Our Price	Units	Availability	Compare
597016	\$8.33	\$7.47	each	In Stock	<input type="checkbox"/>



Eldon® Fusion Wood And Punched Metal Paper Clip Dish, Cherry/Black

Quantity [Add To Cart](#) [Add To List](#)

Item #	List Price	Our Price	Units	Availability	Compare
597007	\$8.33	\$7.47	each	In Stock	<input type="checkbox"/>



Eldon® Fusion Wood And Punched Metal Paper Clip Dish, Black/Pewter

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Item #	List Price	Our Price	Units	Availability	Compare
530920	\$8.49	\$5.98	pack	In Stock	<input type="checkbox"/>

Geographics® Butterflies And Roses Design Paper, 8 1/2" x 11", Ivory, Pack Of 100

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Item #	List Price	Our Price	Units	Availability	Compare
615516	\$96.30	\$72.81	box	In Stock	<input type="checkbox"/>



Chartpak Pickett Clear Drafting And Design Applique Film With Paper Backing, Permanent, 8 1/2" x 11", Box Of 100

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905959	\$50.00	\$19.74	each	In Stock	<input type="checkbox"/>
 <p>Cross® Morph II Ballpoint Pen, Medium Point, 0.7 mm, Sage <input type="checkbox"/> Delivery only Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
521424	\$130.00	\$110.50	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Charleston Fountain Pen, Medium Point, Black With Chrome Trim <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
521280	\$130.00	\$110.50	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Charleston Fountain Pen, Fine Point, Black With Gold Trim <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
521624	\$130.00	\$110.50	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Charleston Fountain Pen, Fine Point, Yellow With Chrome Trim <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
207695	\$75.00	\$67.50	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Expert II Ballpoint Pen, Medium Point 1.0 mm, Prussian Green <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
040112	\$55.00	\$46.75	each	In Stock	<input type="checkbox"/>
 <p>Pelikan Tradition 200 Series Ballpoint Pen, Medium Point, 0.7 mm, Translucent Red <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
520656	\$42.50	\$36.13	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Phileas Fountain Pen, Medium Point, Solid Black <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
840556	\$50.00	\$42.50	each	In Stock	<input type="checkbox"/>
 <p>Pelikan Technix Ballpoint Pen, Medium Point, 0.7 mm, Red <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
228205	\$35.00	\$30.29	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Phileas Ballpoint Pen, Medium Point, 1.0 mm, Mineral Green <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> RETURN POLICY <input type="button" value="Image Zoom"/> Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					
477786	\$95.00	\$87.94	each	In Stock	<input type="checkbox"/>
 <p>Waterman® Expert II Rollerball Pen, Medium Point 0.8 mm, Black Lacquer Quantity <input type="text"/> <input type="button" value="Add To Cart"/> <input type="button" value="Add To List"/></p>					

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paper and cardboard

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Sharpie Marker	\$0.51
Paper Clips	\$0.11
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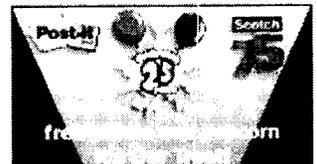


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 Hammermill CopyPlus White, 500 Sheets Copy Paper, 8-1/2" x 11"
 Item # 06016018, Style # 572726 10/RM \$4.29



Xerox Primary Image Copy Paper, 20 lb., 84 Brightness
 Xerox Primary Image White, 5000 Sheets Premium Multuse Paper, 8-1/2" x 11"
 Item # 06018873, Style # 3R5802 10/RM \$30.99



HP Office Paper, 20 lb., 87 Brightness
 HP White, 5000 Sheets Office Paper, 8-1/2" x 11". Buy 6 or more for only \$29.99 each!
 Item # 06116507, Style # HPC8511 10/RM \$31.99



Xerographic Copy Paper, 20 lb., 84 Brightness
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 Item # 06016205, Style # 22105900 10/RM \$22.99



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Avery Heavy Duty EZD 2" - 3" Binders
 Blue 3" Capacity EZD Binder. Holds 670 Sheets of 20-lb. Paper
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Avery Durable Storage Binders
 Black 3" Capacity Binder. Holds 480 Sheets of 20-lb. Paper.
 Item # 20050132, Style # H311-25-BK EA \$5.99



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 Item # 04011269, Style # CO11-10-BK EA \$1.99

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 MaxBrite White Copy Paper, 5000 Sheets
 Item # 06000374, Style # 8X11 CPY PR CASE 10/RM \$25.49

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 Item # 06016811, Style # LEGALREAM RI:1 \$4.99

MaxBrite White Copy Paper, 500 Sheets
 Item # 06012030, Style # REAM RI:1 \$3.69

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 Item # BUND4631, Style # 8X11 CPY PR CASE CCS \$50.97

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 Liquid Paper Correction Pen
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Liquid Paper Bond White
 Liquid Paper White Liquid Correction Fluid - 12pk
 Item # 02000104, Style # 564010 12/PK \$10.99



Liquid Paper All-Purpose Correction Pen
 Liquid Paper White All-Purpose Correction Pen
 Item # 02035746, Style # 5622421 2/PK \$3.79



Paper Mate Apex Mechanical Pencils
 Paper Mate Apex Mechanical Pencil .5mm.
 Item # 20826616, Style # 43216 EA \$4.69

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Grammatur:	150 g/m ²
Further characteristics:	<ul style="list-style-type: none"> • painted
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