

---

**To:** WWT Inc (ptomail@volpe-koenig.com)  
**Subject:** TRADEMARK APPLICATION NO. 77086514 - VOIP NETWORKS POWERI - WWT-  
**Sent:** 3/25/2009 7:06:31 PM  
**Sent As:** ECOM115@USPTO.GOV  
**Attachments:**

---

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/086514

**MARK:** VOIP NETWORKS POWERI

**CORRESPONDENT ADDRESS:**

John J. O'Malley  
Volpe and Koenig, P.C.  
30 S. 17th Street, Suite 1600  
Philadelphia PA 19103

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** WWT Inc

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

WWT-

**CORRESPONDENT E-MAIL ADDRESS:**

ptomail@volpe-koenig.com

**OFFICE ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

**ISSUE/MAILING DATE: 3/25/2009**

**THIS IS A FINAL ACTION.**

This Office action is in response to applicant's communication filed on March 3, 2009.

The following requirements have been satisfied: (1) disclaimer of "VOIP" and (2) requirement for a matching drawing and specimen. TMEP §§713.02, 714.04.

For the reasons set forth below, the refusal under Trademark Act Sections 1 and 45 is now made FINAL. 15 U.S.C. §§1051, 1127; TMEP §807.01; 37 C.F.R. §2.64(a). The requirement for a disclaimer of "NETWORKS" is now made FINAL for the reasons set forth below. 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a), 37 C.F.R. §2.64(a). Applicant's arguments have been considered and found unpersuasive for the reasons set forth below.

**Trademark Act Sections 1 and 45 – Multiple Marks Refusal**

The refusal to register because applicant seeks registration of more than one mark is made final. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; TMEP §807.01. An applicant may apply for only one mark in a single application. See 37 C.F.R. §2.52; Registration must be refused if the elements of the drawing appear as separate marks on the specimen. *In re Audi NSU Auto Union AG*, 197 USPQ 649 (TTAB 1977); TMEP §807.01. The determination is made by comparing the specimens to the drawing. *Id.* at 650, *In re Jordan Industries, Inc.*, 210 USPQ 158, 159 (TTAB 1980). The issue in this case is whether the mark, as displayed on the specimens, creates the commercial impression of one mark or two. *In re Audi*, 197 USPQ at 650.

Elements of the mark on the drawing page appear as two separate marks on the specimen. Specifically, the drawing page shows the wording “VOIP NETWORKS” adjacent to the wording “POWERING YOUR COMPANY’S VOICE.” However, the specimen shows these elements separated to such a degree by that they appear as separate marks. The specimen shows the wording “VOIP NETWORKS” in small lettering in the upper left corner and set apart from the wording “POWERING YOUR COMPANY’S VOICE,” by a significant space and a blue rectangular box with a circle design. Given the significant separation, the elements of the mark would not be viewed as a single mark by prospective consumers. See *In re Jordan*, 210 USPQ at 159 (affirming refusal to register because specimen, which showed elements of the mark in different font and displayed with additional wording, created the commercial impression of the more than one mark).

Applicant may respond to this refusal by satisfying one of the following:

- (1) Submitting a new drawing of the mark that shows one mark and is not a material alteration of the original mark. See 37 C.F.R. §2.72(a); TMEP §§807.13(a), 807.14 *et seq.*; or
- (2) Submitting a substitute specimen showing the applied-for mark in use as one mark, and the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §§2.20, 2.33: **“The substitute specimen was in use in commerce at least as early as the filing date of the application.”** 37 C.F.R. §2.59(a); TMEP §904.05. If submitting a substitute specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c); TMEP §904.05.

If applicant cannot satisfy one of the above requirements, applicant may amend the application from a use in commerce basis under Trademark Act Section 1(a) to an intent to use basis under Section 1(b), and the refusal will be withdrawn. See TMEP §806.03(c). However, if applicant amends the basis to Section 1 (b), registration will not be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen showing one mark. See 15 U.S.C. §1051 (c), (d); 37 C.F.R. §§2.76, 2.88; TMEP §1103. If the same specimen is submitted with an allegation of use, the same refusal will issue.

To amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or a signed declaration under 37 C.F.R. §§2.20, 2.33: **“Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application.”** 37 C.F.R. §2.34(a)(2); TMEP §806.01(b); see 15 U.S.C. §1051(b); 37 C.F.R. §2.35(b)(1).

Although applicant’s mark has been refused registration, applicant may respond to the refusal by

submitting evidence and arguments in support of registration. Applicant may also respond to the stated specimen refusal by submitting a verified substitute specimen or amending the application to an intent to use filing basis under Trademark Act Section 1(b) by following the suggested directions below for responding either online or by mail.

**If applicant responds to this Office action online via the Trademark Electronic Application System (TEAS),** applicant should provide a substitute specimen as follows: (1) answer "yes" to the TEAS response form wizard questions to "add/substitute a specimen" and for a "signed declaration," respectively; (2) attach a jpg or pdf file of the substitute specimen; and (3) select the statement that "The substitute specimen(s) was in use in commerce at least as early as the filing date of the application." However, if applicant is responding by amending the application to a Section 1(b) filing basis, applicant should do the following: (1) answer "yes" to the TEAS response form wizard questions to "add/modify dates of use" and for a "signed declaration," respectively; (2) uncheck the box for "Filing Basis Section 1(a);" and (3) check the box for "Filing Basis Section 1(b)." Whether submitting a substitute specimen or amending the filing basis to Section 1(b), applicant must also properly sign the declaration appearing towards the end of the TEAS response form.

To sign the declaration at the end of the TEAS response form, applicant can do one of the following: (1) enter in the signature block any combination of letters, numbers, spaces and/or punctuation marks that the filer has adopted as a signature, placed between two forward slash (/) symbols (e.g., /john doe/); (2) e-mail the completed form from within TEAS to a second party for his/her electronic signature, which will then be automatically returned to the original preparer for submission with the response form; or (3) attach a jpg or pdf image of a declaration under 37 C.F.R. §2.20 together with a pen-and-ink signature. See 37 C.F.R. §§2.33(d), 2.59(a), 2.193(c)(1)(iii); TMEP §804.05. When signing the declaration, applicant must either personally sign or manually enter his/her electronic signature and provide the date of "signing." TMEP §804.05; see TMEP §804.01(b). Applicant should also set forth the signatory's name and position beneath the signature. See TMEP §§712 *et seq.*, 804.05.

If applicant experiences difficulty in submitting the required substitute specimen, supporting statement and/or declaration, or changing the filing basis, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov) for technical assistance regarding the TEAS response form.

**If applicant responds to this Office action on paper, via regular mail,** applicant may provide a verified substitute specimen by checking the first statement below, personally signing and dating the declaration appearing below the statement, and submitting a substitute specimen showing the applied-for mark in use in commerce. See 37 C.F.R. §2.20; TMEP §§804.05, 904.05. If applicant is responding by amending the application to a Section 1(b) filing basis, applicant may check the second statement below, and personally sign and date the declaration appearing below the statement. See 37 C.F.R. §2.20; TMEP §§804.05, 806.03(c).

- The substitute specimen was in use in commerce at least as early as the filing date of the application.**
- Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods and/or services listed in the application as of the filing date of the application.**

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

Applicant must respond to the requirement set forth below.

**Disclaimer of "NETWORKS" Required**

*I. Disclaimer Requirement*

Applicant must disclaim the descriptive wording "NETWORKS" in addition to the disclaimer of "VOIP" apart from the mark as shown because it merely describes that applicant provides voice over internet protocol network services. See 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a). The evidence attached to the September 3, 2008 Office Action demonstrates the descriptive nature of the wording "VOIP NETWORKS":

- Applicant's website describes its services as "We build voice & data networks" and that applicant uses "the latest technologies in voice such as VoIP (Voice-Over-Internet-Protocol) and other networking technologies". See also evidence attached to the February 12, 2008 Office Action.
- The wording "VOIP" is defined as a technology that allows telephone calls to be made over computer *networks* like the internet. See definition from compnetworking.about.com attached to the February 12, 2008 Office Action.
- The wording "NETWORKS" is defined as "a system of computers interconnected by telephone wires or other means in order to share information." See definition from the online American Heritage® Dictionary of the English Language (4th Ed. 2000) (available at www.bartleby.com) attached to the February 12, 2008 Office Action.

The Office can require an applicant to disclaim an unregistrable part of a mark consisting of particular wording, symbols, numbers, design elements or combinations thereof. 15 U.S.C. §1056(a). Under Trademark Act Section 2(e), the Office can refuse registration of an entire mark if the entire mark is merely descriptive, deceptively misdescriptive, or primarily geographically descriptive of the goods. 15 U.S.C. §1052(e). Thus, the Office may require an applicant to disclaim a portion of a mark that, when used in connection with the goods or services, is merely descriptive, deceptively misdescriptive, primarily geographically descriptive, or otherwise unregistrable (e.g., generic). See TMEP §§1213, 1213.03.

The computerized printing format for the Office's *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

**No claim is made to the exclusive right to use "VOIP NETWORKS" apart from the mark as shown.**

TMEP §1213.08(a)(i); see *In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

## II. Claim of Acquired Distinctiveness Denied

As set forth in the September 3, 2008 Office Action, applicant's Section 2(f) claim with regard to the wording "VOIP NETWORKS" is not accepted because (1) applicant's evidence is insufficient; and (2) the wording is generic and thus incapable of acquiring distinctiveness regardless of the evidence submitted. Although applicant has now disclaimed the wording "VOIP", the requirement for a disclaimer of the wording "NETWORKS" is continued and made final.

### A. Applicant's Section 2(f) Evidence Insufficient

The burden of proving that a mark has acquired distinctiveness is on the applicant. *Yamaha Int'l Corp. v. Yoshino Gakki Co.*, 840 F.2d 1572, 6 USPQ2d 1001, 1004 (Fed. Cir. 1988); *In re Meyer & Wenthe, Inc.*, 267 F.2d 945, 122 USPQ 372 (C.C.P.A. 1959); TMEP §1212.01. An applicant must establish that the purchasing public has come to view the proposed mark as an indicator of origin.

The amount and character of evidence needed to establish acquired distinctiveness depends on the facts of each case and particularly on the nature of the mark sought to be registered. *Roux Labs., Inc. v. Clairol Inc.*, 427 F.2d 823, 829, 166 USPQ 34, 39 (C.C.P.A. 1970); see *In re Hehr Mfg. Co.*, 279 F.2d 526, 126 USPQ 381 (C.C.P.A. 1960); TMEP §1212.05(a).

More evidence is required where a mark is so highly descriptive that purchasers seeing the matter in relation to the named goods and/or services would be less likely to believe that it indicates source in any one party. See, e.g., *In re Bongrain Int'l Corp.*, 894 F.2d 1316, 13 USPQ2d 1727 (Fed. Cir. 1990); *In re Seaman & Assocs., Inc.*, 1 USPQ2d 1657 (TTAB 1986).

The ultimate test in determining acquisition of distinctiveness under Trademark Act Section 2(f) is not applicant's efforts, but applicant's success in educating the public to associate the claimed mark with a single source. TMEP §1212.06(b); see *In re Packaging Specialists*, 221 USPQ at 920; *In re Redken Labs., Inc.*, 170 USPQ 526 (TTAB 1971).

The evidence submitted by applicant does not show that any efforts have been made to establish the wording "VOIP NETWORKS" as a source indicator for applicant's services.

First, conclusionary declarations made by applicant are of limited evidentiary value. *In re Chemical Dynamics Inc.*, 839 F.2d 1569, 5 USPQ2d 1828 (Fed. Cir. 1988) (conclusionary declaration from applicant's vice-president held insufficient without the factual basis for the declarant's belief that the design had become distinctive).

Second, the fact that applicant has put forth significant advertising expenditures for the services offered under the applied-for mark alone is not evidence of acquired distinctiveness, and applicant has not set forth any evidence that the advertising was used to create secondary meaning in the term "NETWORK." See *In re E.I. Kane, Inc.*, 221 USPQ 1203, 1206 (TTAB 1984) (refusal to register OFFICE MOVERS, INC., for moving services, affirmed notwithstanding §2(f) claim based on, *inter alia*, evidence of substantial advertising expenditures. "There is no evidence that any of the advertising activity was directed to creating secondary meaning in applicant's highly descriptive trade name."); *In re Kwik Lok Corp.*, 217 USPQ 1245 (TTAB 1983) (evidence held insufficient to establish acquired distinctiveness for configuration of bag closures made of plastic, notwithstanding applicant's statement that advertising of the closures involved several hundred thousands of dollars, where there was no evidence that the advertising had any impact on purchasers in perceiving the configuration as a mark).

Similarly, evidence of actual sales does not establish acquired distinctiveness. *In re Boston Beer Co. L.P.*, 198 F.3d 1370, 53 USPQ2d 1056 (Fed. Cir. 1999) (claim based on annual sales under the mark of approximately eighty-five million dollars, and annual advertising expenditures in excess of ten million dollars – two million of which were spent on promotions and promotional items which included the phrase THE BEST BEER IN AMERICA – found insufficient to establish distinctiveness, in view of the highly descriptive nature of the proposed mark).

Third, the existence of other meanings of the wording “NETWORK” does not overcome the disclaimer requirement. The determination of whether wording is descriptive is considered in relation to the identified services, not in the abstract. *In re Abcor Dev. Corp.*, 588 F.2d 811, 814, 200 USPQ 215, 218 (C.C.P.A. 1978); TMEP §1209.01(b); *see, e.g., In re Polo Int’l Inc.*, 51 USPQ2d 1061 (TTAB 1999) (finding DOC in DOC-CONTROL would be understood to refer to the “documents” managed by applicant’s software, not “doctor” as shown in dictionary definition); *In re Digital Research Inc.*, 4 USPQ2d 1242 (TTAB 1987) (finding CONCURRENT PC-DOS merely descriptive of “computer programs recorded on disk” where relevant trade used the denomination “concurrent” as a descriptor of a particular type of operating system).

*B. “NETWORKS” is generic for the voice over internet protocol (VOIP) services*

Regardless of the evidence submitted, applicant’s claim of acquired distinctiveness is denied because the wording “NETWORKS” is generic for applicant’s services “Voice over internet protocol (VOIP) services.” No amount of purported proof that a generic term has acquired secondary meaning can transform that term into a registrable trademark. Such a designation cannot become a trademark under any circumstances. *See In re Bongrain*, 894 F.2d at 1317 n.4, 13 USPQ2d at 1728 n.4; *H. Marvin Ginn Corp. v. Int’l Ass’n of Fire Chiefs, Inc.*, 782 F.2d 987, 989, 228 USPQ 528, 530 (Fed. Cir. 1986); TMEP §1212.02(i).

Generic terms are terms that the relevant purchasing public understands primarily as the common or class name for the goods and/or services. TMEP §1209.01(c); *see In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1344, 57 USPQ2d 1807, 1810 (Fed. Cir. 2001); *H. Marvin Ginn Corp. v. Int’l Ass’n of Fire Chiefs, Inc.*, 782 F.2d 987, 989, 228 USPQ 528, 530 (Fed. Cir. 1986). Generic terms are by definition incapable of indicating a particular source of the goods and/or services, and cannot be registered as trademarks and/or service marks; doing so “would grant the owner of the mark a monopoly, since a competitor could not describe his goods as what they are.” *In re Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 828 F.2d 1567, 1569, 4 USPQ2d 1141, 1142 (Fed. Cir. 1987); *see* TMEP §1209.01(c).

A two-part test is used to determine whether a designation is generic:

- (1) What is the class or genus of goods and/or services at issue?; and
- (2) Does the relevant public understand the designation primarily to refer to that class or genus of goods and/or services?

*H. Marvin Ginn Corp. v. Int’l Ass’n of Fire Chiefs, Inc.*, 782 F.2d 987, 990, 228 USPQ 528, 530 (Fed. Cir. 1986); TMEP §1209.01(c)(i).

A word or term that is the name of a key ingredient, characteristic or feature of the goods and/or services can be generic for those goods and/or services and thus, incapable of distinguishing source. A term does not need to be the name of the goods and/or services to be found incapable of serving as an indicator of origin. *In re Sun Oil Co.*, 426 F.2d 401, 165 USPQ 718 (C.C.P.A. 1970) (holding CUSTOM BLENDED

generic for gasoline); *In re Helena Rubenstein, Inc.*, 410 F.2d 438, 161 USPQ 606 (C.C.P.A. 1969) (holding PASTEURIZED generic for face cream); *Roselux Chem. Co. v. Parsons Ammonia Co.*, 299 F.2d 855, 132 USPQ 627 (C.C.P.A. 1962) (holding SUDSY generic for ammonia); *In re Eddie Z's Blinds & Drapery, Inc.*, 74 USPQ2d 1037 (TTAB 2005) (holding BLINDSANDDRAPERY.COM generic for online retail store services featuring blinds, draperies and other wall coverings); *In re Candy Bouquet Int'l, Inc.*, 73 USPQ2d 1883 (TTAB 2004) (holding CANDY BOUQUET generic for "retail, mail, and computer order services in the field of gift packages of candy"); *In re Reckitt & Colman, N. Am. Inc.*, 18 USPQ2d 1389 (TTAB 1991) (holding PERMA PRESS generic for soil and stain removers); *In re Ricci-Italian Silversmiths, Inc.*, 16 USPQ2d 1727 (TTAB 1990) (holding ART DECO generic for flatware); *In re Hask Toiletries*, 223 USPQ 1254 (TTAB 1984) (holding HENNA 'N' PLACENTA generic of ingredients for hair conditioner); *A.J. Canfield Co. v. Honickman*, 808 F.2d 291, 1 USPQ2d 1364 (3d Cir. 1986) (holding CHOCOLATE FUDGE generic for diet sodas); see TMEP §§1209.01(c) *et seq.*

In this case, the wording "NETWORKS" is generic as used with the services "Voice over internet protocol (VOIP) services". The wording "NETWORKS" is commonly used to identify that VOIP services are provided over networks. See evidence from applicant's website attached to the February 12, 2008 Office Action, which states "We build voice & data networks" and that applicant uses "the latest technologies in voice such as VoIP (Voice-Over-Internet-Protocol) and other networking technologies" and above the following excerpts of evidence attached to the September 3, 2008 Office Action using the wording "NETWORKS" to describe the provision of voice over internet protocol services and describing a network as a key feature of voice over internet protocol services:

- <http://www.allbusiness.com/media-telecommunications/5789055-1.html>: "IP Deliver, a *provider of managed VoIP (Voice Over Internet Protocol) network services to the world's carriers, announced that it has successfully launched and deployed its next generation VoIP managed network services.* IP Deliver has recently been awarded major contracts to provide some of the world's largest carriers with its TAILWIND managed VoIP network services.
- <http://blog.tmcnet.com/blog/rich-tehrani/voip/starvox-voip-funding.html>: "StarVox provides a *full suite of traditional and enhanced VoIP network services* including VoIP Trunking and IP Centrex. VoIP Trunking allows a business site to reduce its monthly phone bill by up to 40% by replacing traditional PSTN access trunking with managed IP trunking. IP Centrex enables a business site to replace its traditional PBX with a hosted phone system to reduce monthly phone system costs. StarVox's *domestic VoIP network currently provides over 300 Points of Presence allowing local access to over 80% of business sites.* In addition, local phone services are available in most metropolitan areas."
- <http://www.excel.com/news/nov-5-2007.aspx>: "Excel is the *leading provider of Voice-Over-IP (VoIP) network services* for Small Business, Service Providers, Agents and Call Centers. Excel has deployed *the first native VoIP network* covering every tandem office in the United States. The network services nearly 1.4 million residential and business customers each day. Excel's SIP trunking solution delivers a complete suite of next-generation services including Voice and Data over ONE network and ONE bill."
- <http://www.voxcorp.net/about/>: "VoX Communications is a proven provider of wholesale and retail Voice over Internet Protocol (VoIP) services. *Using our own nationwide VoIP network, VoX offers wholesale broadband voice, origination and termination services to cable operators, carriers, ISPs, CLECs, resellers and other wireless and wireline operators, as well as enhanced VoIP telephone service to the small business and residential marketplaces.* VoX provides a feature-rich, low-cost and high-quality alternative to traditional wireline phone service."

- <http://www.vel.net/businessvoip/voip-network.cfm>: *“The Velocity Networks’ VoIP network features world-class engineering and a Super-POP architecture which minimizes use of the public Internet and places your VoIP calls just one hop away from most major internet backbone carriers.”*
- <http://www.primustel.com/docs/entvoipnet.html>: *“The Primus VoIP Network uses SIP protocol to set up, authenticate, and complete calls over our IP network. The network consists of a SIP server which routes calls, collects CDRs and provides a feed to our billing and web based monitoring systems. The calls are routed to ensure the best quality and often times they are taken off our IP network and terminated over the Primus TDM network. The routing intelligence of the network allows Primus to route the call in the most direct and efficient way. The Primus network allows for an IP originated call to terminate to any PSTN phone in the world. Primus has a vast VoIP and TDM network that allows for redundant coverage to most destinations.”*
- <http://www.cbeyond.net/cbeyond/cbeyond-technology.htm>: *“Our VoIP network is more efficient than the old way of delivering voice and Internet services. To provide a bundled offering, traditional telecom service providers had to bring together two different networks to deliver their communication services - one for voice traffic, another for Internet traffic. But with our VoIP network, we’re able to provide both voice and data traffic over the same network which allows us to dramatically reduce what it costs for us to provide these services and create a higher level of customer service.”*

A combination of generic words may result in a unitary designation that is registrable if the meaning is incongruous or the juxtaposition of such words evokes a unique commercial impression. However, if the combination of two or more generic words is such that each word retains its generic significance, then the combined expression is generic and incapable of denoting source. See *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110 (Fed. Cir. 1987) (SCREENWIPE); see also *In re Leatherman Tool Group, Inc.*, 32 USPQ2d 1443 (TTAB 1994) (POCKET SURVIVAL TOOL); *In re Lowrance Elecs.*, 14 USPQ2d 1251 (TTAB 1989) (COMPUTER SONAR); *Turtle Wax, Inc. v. Blue Coral, Inc.*, 2 USPQ2d 1534 (TTAB 1987) (WASH WAX); TMEP §1209.01(c)(i). Here, the combination of “VOIP” and “NETWORKS” does not create a unique commercial impression, rather, as shown by the referenced internet evidence, it is commonly used to describe voice over internet protocol services.

### Response to a Final Action

If applicant does not respond within six months of the mailing date of this final Office action, the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond to this final Office action by:

- (1) Submitting a response that fully satisfies all outstanding requirements, if feasible; and/or
- (2) Filing an appeal to the Trademark Trial and Appeal Board, with an appeal fee of \$100 per class.

37 C.F.R. §§2.6(a)(18), 2.64(a); TBMP ch. 1200; TMEP §714.04.

In certain rare circumstances, a petition to the Director may be filed pursuant to 37 C.F.R. §2.63(b)(2) to review a final Office action that is limited to procedural issues. 37 C.F.R. §2.64(a); TMEP §714.04; see 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

### Comments

**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** TEAS Plus applicants should submit the following documents using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>: (1) written responses to Office actions; (2) preliminary amendments; (3) changes of correspondence address; (4) changes of owner's address; (5) appointments and revocations of attorney; (6) amendments to allege use; (7) statements of use; (8) requests for extension of time to file a statement of use, and (9) requests to delete a §1(b) basis. If any of these documents are filed on paper, they must be accompanied by a \$50 per class fee. 37 C.F.R. §§2.6(a)(1)(iv) and 2.23(a)(i). Telephone responses will not incur an additional fee. NOTE: In addition to the above, applicant must also continue to accept correspondence from the Office via e-mail throughout the examination process in order to avoid the additional fee. 37 C.F.R. §2.23(a)(2).

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

/April K. Roach/  
Trademark Examining Attorney  
Law Office 115  
Phone: (571) 272-1092

**RESPOND TO THIS ACTION:** Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

---

**To:** WWT Inc ([ptomail@volpe-koenig.com](mailto:ptomail@volpe-koenig.com))  
**Subject:** TRADEMARK APPLICATION NO. 77086514 - VOIP NETWORKS  
POWERI - WWT-  
**Sent:** 3/25/2009 7:06:32 PM  
**Sent As:** ECOM115@USPTO.GOV  
**Attachments:**

---

**IMPORTANT NOTICE**  
**USPTO OFFICE ACTION HAS ISSUED ON 3/25/2009 FOR**  
**APPLICATION SERIAL NO. 77086514**

Please follow the instructions below to continue the prosecution of your application:

**VIEW OFFICE ACTION:** Click on this link [http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial\\_number=77086514&doc\\_type=OOA&mail\\_date=20090325](http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77086514&doc_type=OOA&mail_date=20090325) (or copy and paste this URL into the address field of your browser), or visit <http://tportal.uspto.gov/external/portal/tow> and enter the application serial number to **access** the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this notification.

**RESPONSE MAY BE REQUIRED:** You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable **response time period**. Your response deadline will be calculated from **3/25/2009**.

**Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.**

**HELP:** For *technical* assistance in accessing the Office action, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). Please contact the assigned examining attorney with questions about the Office action.

**WARNING**

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**