



## missing a rib, XY instead of XX <sup>TM</sup> GenesIs 2:20-23

United States Sixteenth President Abraham Lincoln (birth: February 12, 1809 Ford's Theater: April 14, 1865) Exodus 12:29

### facsimile message information:

Box Responses --- No Fee.

eSubject: Re: TRADEMARK APPLICATION NO. 78093634 - MISSING A RIB, XY INSTEAD OF XX - N/A

1. Filing earthCalendarDate: Thursday, 2001-11-15

Serial enumeration: 78/093634

mark: MISSING A RIB, XY INSTEAD OF XX

applicant's name: david j gungner

2. earthCalendarDate of this Office Action: Friday, March 26 2004  
and interleaving Friday, July 16 2004

3. Examining Attorney's name: Cynthia M. Sloan  
Law Office enumeration: Law Office 116

4. telephone enumeration: +1 (818) 994-3980 (telephone messages)  
e-postal: e9pxbkwmp1u5o3@pacbell.net

Attorney Cynthia M. Sloan <RECEPIENT>

david gungner <SENDER>

United States Patent and Trademark Office  
<RECEPIENT CORPORATION>

homo sapien <SENDER CORPORATION>

+1 (703) 746-8116 <RECEPIENT FACSIMILE>

+1 (818) 994-3980,,,#1 <SENDER FACSIMILE>

facsimile tally including cover enpreent: 10

earthCalendarDate: 7/28/2004

timeInterval : 3:00:08 AM

Box Responses --- No Fee. 78/093634 MISSING A RIB, XY INSTEAD OF XX™ GenesIs 2:20-23

eSubject: TRADEMARK APPLICATION NO. 78093634 - MISSING A RIB, XY INSTEAD OF XX - N/A  
Date: Fri, 26 Mar 2004 09:39:24 -0500  
Thread-Topic: TRADEMARK APPLICATION NO. 78093634 - MISSING A RIB, XY INSTEAD OF XX - N/A  
Thread-Index: AcQTQCJHqw0t1VL4QkS5GRZY4sT00Q==  
From: "ECom116" <Ecom116@USPTO.GOV>  
To: <e9pxbkwmrplu5o3@pacbell.net>  
X-OriginalArrivalTime: 26 Mar 2004 14:39:24.0850 (UTC) FILETIME=[225BE920:01C41340]

xmlns:o="urn:schemas-microsoft-com:office:office"  
xmlns:w="urn:schemas-microsoft-com:office:word"  
xmlns:dt="uuid:C2F41010-65B3-11d1-A29F-00AA00C14882" xmlns="http://www.w3.org/TR/REC-html40">

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/093634

**APPLICANT:** gungner, david j.

david gungner  
Post Office Area 3302  
Los Angeles County CA 90408-3302

**RETURN ADDRESS:**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

**MARK:** MISSING A RIB, XY INSTEAD OF XX

**CORRESPONDENT S REFERENCE/DOCKET NO:** N/A

**CORRESPONDENT EMAIL ADDRESS:**

Please provide in all correspondence:

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.

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## 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 78/093634

The assigned examining attorney has reviewed the statement of use filed on and has determined the following.

### Specimen Does Not Show use of Mark with Specified Goods

Applicant must submit (1) a substitute specimen showing the mark as it is used in commerce on the goods or on packaging for the goods, and (2) a statement that the substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use, verified with a notarized affidavit or a signed declaration under 37 C.F.R. §2.20. 37 C.F.R. §§2.56, 2.59(b)(2) and 2.88(b)(2); TMEP §§904.09 and 1109.09(b).

The current specimen of record comprises a photocopy which shows the proposed mark appearing below a copy of a five dollar bill with the wording facsimile message information and is unacceptable as evidence of actual trademark use because it does not show use with the identified goods. Examples of acceptable specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale. TMEP §§904.04 *et seq.*

If an amendment of the dates of use clause is necessary in order to state the correct dates of first use, then applicant must verify the amendment with a notarized affidavit or a signed declaration in accordance with 37 C.F.R. §2.20. 37 C.F.R. §2.71(c).

The following is a properly worded declaration under 37 C.F.R. §2.20. At the end of the response, the applicant should insert the declaration signed by a person authorized to sign under 37 C.F.R. §2.33(a).

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; 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)

Wednesday 2004-July-28

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## Improper Use of Registration Notice

The specimen shows use of the federal trademark registration symbol ® with the mark; however, Office records do not show that the mark is registered. Applicant may not use the federal registration symbol until a mark is registered in this Office. After registration of the mark, applicant may then use the symbol but only with the specific goods or services listed in the registration. TMEP §§906 and 906.02.

The above information is advisory.

/Cynthia Sloan/

Examining Attorney

Law Office 116

Ph 703.306.7921

Fx 703.746.8116

ecom116@uspto.gov

<http://www.uspto.gov>

### How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

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

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

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Box Responses --- No Fee. 78/093634 MISSING A RIB, XY INSTEAD OF XX ™ GenesIs 2:20-23

eSubject: TRADEMARK APPLICATION NO. 78093634 - MISSING A RIB, XY INSTEAD OF XX - N/A  
Date: Fri, 16 Jul 2004 11:43:15 -0400  
Thread-Topic: TRADEMARK APPLICATION NO. 78093634 - MISSING A RIB, XY INSTEAD OF XX - N/A  
Thread-Index: AcRrS5vHfv7Mu3NZQ7OhmeJqXqHpYQ==  
From: "ECom116" <Ecom116@USPTO.GOV>  
To: <e9pxbkwmrplu5o3@pacbell.net>  
X-OriginalArrivalTime: 16 Jul 2004 15:43:15.0540 (UTC) FILETIME=[9BE4D140:01C46B4B]

xmlns:o="urn:schemas-microsoft-com:office:office"  
xmlns:w="urn:schemas-microsoft-com:office:word"  
xmlns:dt="uuid:C2F41010-65B3-11d1-A29F-00AA00C14882" xmlns="http://www.w3.org/TR/REC-html40">

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/093634

**APPLICANT:** gungner, david j.

\*78093634\*

david gungner  
Post Office Area 3302  
Los Angeles County CA 90408-3302

**RETURN ADDRESS:**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

**MARK:** MISSING A RIB, XY INSTEAD OF XX

**CORRESPONDENT S REFERENCE/DOCKET NO:** N/A

**CORRESPONDENT EMAIL ADDRESS:**

Please provide in all correspondence:

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.

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## FINAL 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 78/093634

This letter responds to applicant s communications filed on April 28, 2004, May 28, 2004 and June 28, 2004.

## Substitute Specimens Do Not Show use of Mark with Specified Goods

Applicant must submit (1) a substitute specimen showing the mark as it is used in commerce on the goods or on packaging for the goods, and (2) a statement that the substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use, verified with a notarized affidavit or a signed declaration under 37 C.F.R. §2.20. 37 C.F.R. §§2.56, 2.59(b)(2) and 2.88(b)(2); TMEP §§904.09 and 1109.09(b). These requirements are made FINAL.

Applicant s substitute specimens comprise photocopies that show the proposed mark appearing below various photos with the wording facsimile message information:  
eSubject: Re: TRADEMARK APPLICATION NO. 78093634. These substitute specimens are unacceptable as evidence of actual trademark use because it does not show use with the identified goods in commerce. Examples of acceptable specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale. TMEP §§904.04 *et seq.*

If an amendment of the dates of use clause is necessary in order to state the correct dates of first use, then applicant must verify the amendment with a notarized affidavit or a signed declaration in accordance with 37 C.F.R. §2.20. 37 C.F.R. §2.71(c).

The following is a properly worded declaration under 37 C.F.R. §2.20. At the end of the response, the applicant should insert the declaration signed by a person authorized to sign under 37 C.F.R. §2.33(a).

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; 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)

Wednesday 2004-July-28

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Box Responses --- No Fee. 78/093634 MISSING A RIB, XY INSTEAD OF XX ™ GenesIs 2:20-23

**Proper Response to Final Action**

If applicant fails to respond to this final action within six months of the mailing date, the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond to this final action by:

- (1) submitting a response that fully satisfies all outstanding requirements, if feasible (37 C.F.R. §2.64(a)); 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) and 2.64(a); TMEP §§715.01 and 1501 et seq.; TBMP Chapter 1200).

In certain circumstances, a petition to the Director may be filed to review a final action that is limited to procedural issues, pursuant to 37 C.F.R. §2.63(b)(2). 37 C.F.R. §2.64(a). See 37 C.F.R. §2.146(b), TMEP §1704, and TBMP Chapter 1201.05 for an explanation of petitionable matter. The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

/Cynthia Sloan/

Examining Attorney

Law Office 116

Ph 703.306.7921

Fx 703.746.8116

<http://www.uspto.gov>

**How to respond to this Office Action:**

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**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

Wednesday 2004-July-28

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Box Responses --- No Fee. 78/093634 MISSING A RIB, XY INSTEAD OF XX™ GenesIs 2:20-23

Box Responses --- No Fee. eSubject: Re: TRADEMARK APPLICATION NO. 78093634 - MISSING A RIB, XY INSTEAD OF XX - N/A

1. Filing earthCalendarDate: Thursday, 2001-11-15  
Serial enumeration: 78/093634  
mark: MISSING A RIB, XY INSTEAD OF XX  
applicant's name: david j gungner
2. earthCalendarDate of this Office Action: Friday, March 26 2004  
and interleaving Friday, July 16 2004 ("FINAL OFFICE ACTION")
3. Examining Attorney's name: Cynthia M. Sloan  
Law Office enumeration: Law Office 116
4. telephone enumeration: +1 (818) 994-3980 (telephone messages)  
e-postal: e9pxbkwmrplu5o3@pacbell.net

regarding: esubmit a "substitute specimen showing the mark as it is used in commerce on the goods or on packaging for the goods ..." "Examples of acceptable specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale." as designated via virtue of the International United States Patent and Trademark Office.

follow-up and continued interleaving:

Monday, June 28th 2004 earthCalendarDate facsimile.  
Friday, May 28th 2004 earthCalendarDate facsimile.  
Wednesday, April 28th 2004 earthCalendarDate facsimile.  
Saturday, March 27th 2004 / March 28th 2004 earthCalendarDate facsimile.

Wednesday, July 28th 2004

salutation: Cynthia M. Sloan, Attorney,  
United States Patent and Trademark Office,

Included is continuing follow-up regarding information on the topic 78/093634 MISSING A RIB, XY INSTEAD OF XX "Statement of Use" of Thursday, January 15th 2004 and esubmit additional specifics:

>At 11:43 AM 7/16/2004 -0400

> .  
> .  
> .

>Applicant must submit (1) a substitute specimen showing the mark as it is used in  
>commerce on the goods or on packaging for the goods, and (2) a statement that the  
>substitute specimen was in use in commerce prior to the expiration of the time  
>allowed applicant for filing a statement of use, verified with a notarized  
>affidavit or a signed declaration under 37 C.F.R. §2.20. 37 C.F.R. §§2.56,  
>2.59(b)(2) and 2.88(b)(2); TMEP §§904.09 and 1109.09(b). These requirements are  
>made FINAL.

>

>Applicant s substitute specimens comprise photocopies that show the proposed mark  
>appearing below various photos with the wording facsimile message information:  
>eSubject: Re: TRADEMARK APPLICATION NO. 78093634. These substitute specimens are  
>unacceptable as evidence of actual trademark use because it does not show use with  
>the identified goods in commerce. Examples of acceptable specimens for goods are

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Box Responses --- No Fee. 78/093634 MISSING A RIB, XY INSTEAD OF XX ™ GenesIs 2:20-23

>tags, labels, instruction manuals, containers, photographs that show the mark on  
>the goods or packaging, or displays associated with the goods at their point of  
>sale. TMEP §§904.04 et seq.

The "current specimen of record" "Statement of Use" of Thursday, January 15th 2004  
timeInterval is \*.jpg rendering [i] regarding facsimile transmission paper utilizing  
"missing a rib, XY instead of XX" (GenesIs 2:20-23; GenesIs 22:10; Exodus 12:29;  
Matthew 26:39; Mark 14:36; Luke 22:42) ("Serial Number: 78093634") and illustrates  
specific, functioning facsimile "container" with succinct, introduction content  
regarding scientific creationism and/or biblical inerrancy as interpreted via  
virtue of methodologies from the topic of computer science. Included is continuing  
utilization of 78/093634 MISSING A RIB, XY INSTEAD OF XX regarding International  
Schedule of Classes of Goods and Services IC 016 facsimile transmission paper as  
indexed with "Statement of Use" of Thursday, January 15th 2004 timeInterval.

"When do I file the specimen" information on the topic of International United  
States Patent and Trademark Office specified action regarding a United States  
application is "submit one specimen for each class of goods/services."  
(excerpt: www.uspto.gov/web/offices/tac/doc/basic/appcontent.htm#spec ).

Thanks\_and\_Appreciation, in advance, with respect regarding ongoing 78/093634  
"Statement of Use" "FINAL OFFICE ACTION" and will follow-up during the specified  
numeric quantity of six month timeInterval (indexing of Friday, July 16th 2004)  
regarding "specimen" and "tags, labels, instruction manuals, containers, photographs  
that show the mark on the goods or packaging, or displays associated with the goods  
at their point of sale." as designated via virtue of the International United  
States Patent and Trademark Office.

I inatwith certify that this correspondence is transmitted via virtue of electronic  
facsimile regarding the United States Patent and Trademark Office on the  
earthCalendarDate Wednesday, July 28th 2004.

wholeheartedly, david gungner (Wednesday, July 28th 2004) .

\_\_\_\_\_/0a9h5a3wh9topev5i8sw/\_\_\_\_ (Signature)

\_\_\_david gungner\_\_\_,\_\_\_homo sapien\_\_\_ (Print or Type Name and Position)

\_\_\_\_\_07/28/2004\_\_\_\_\_ (earthCalendarDate MM/DD/YYYY)

missing a rib, XY instead of XX ™ GenesIs 2:20-23 (GenesIs 22:10)

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missing a rib, XY instead of XX® GenesIs 2:20-23

facsimile message information:

- |   |  |
|---|--|
| <input type="checkbox"/> @R <RECEPIENT>             | <input type="checkbox"/> @S <SENDER>             |
| <input type="checkbox"/> @C <RECEPIENT CORPORATION> | <input type="checkbox"/> @Y <SENDER CORPORATION> |
| <input type="checkbox"/> @X <RECEPIENT FACSIMILE>   | <input type="checkbox"/> @A <SENDER FACSIMILE>   |

facsimile tally including cover enprent: @N

earthCalendarDate: @D

timeInterval: @T

"GOODS/SERVICES BY (VIA VIRTUE OF) INTERNATIONAL CLASS"

016-Books, brochures, facsimile transmission paper, newsletters, pamphlets featuring content regarding scientific creationism and/or biblical inerrancy as interpreted via virtue of methodologies from the topic of computer science.

[i] Thursday, January 15<sup>th</sup> 2004 63198239177-15085129179-78093634.jpg  
[http://eteas.uspto.gov/servlet/V2.0/aou211.GetSP?img=63198239177-15085129179-78093634.jpg&spld=/upload2/staging/multiupload\\_area/AOU/20040115/20040115085014195021-63.198.239.177/20040115083012181012\\_C1S](http://eteas.uspto.gov/servlet/V2.0/aou211.GetSP?img=63198239177-15085129179-78093634.jpg&spld=/upload2/staging/multiupload_area/AOU/20040115/20040115085014195021-63.198.239.177/20040115083012181012_C1S)

Wednesday 2004-July-28

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