

Petition To Revive Abandoned Application - Failure To Respond Timely To Office Action

The table below presents the data as entered.

Input Field	Entered									
SERIAL NUMBER	86781046									
LAW OFFICE ASSIGNED	LAW OFFICE 124									
DATE OF NOTICE OF ABANDONMENT	03/10/2017									
PETITION										
PETITION STATEMENT	Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional, and requests the USPTO to revive the abandoned application.									
RESPONSE TO OFFICE ACTION										
MARK SECTION										
MARK FILE NAME	https://tmng-al.uspto.gov/resting2/api/img/86781046/large									
LITERAL ELEMENT	TP									
STANDARD CHARACTERS	NO									
USPTO-GENERATED IMAGE	NO									
ARGUMENT(S)										
<p>Responsive to the final Office action dated August 10, 2016, applicant has amended the identification of goods, following the recommendations of the Examining Attorney and using a services recitation from the US Acceptable Goods and Services Identification Manual that the Examining attorney cited to in the Final Office action.</p> <p>With respect to the merits, the Examining attorney withdrew his prior likelihood-of-confusion (LOC) refusal based upon U.S. Trademark Reg. No. 2246321 because Applicant's mark is part of a family of marks, including the TP mark of that registration. Under that family of marks, Applicant's first use dates back to 1996, with the first registration of TP marks occurring in 1999.</p> <p>However, the Examining attorney also maintained his prior two-part LOC refusal based upon the following two U.S. trademark registrations:</p>										
<table border="1"> <thead> <tr> <th>Mark / Reg. No.</th> <th>Applicant / Location</th> <th>Goods / Services</th> </tr> </thead> <tbody> <tr> <td>TP and Design Reg. No. 4,208,780</td> <td>Transit Pros, LLC Lee's Summit, MO</td> <td>Trucking services, namely, hauling of heavy equipment, freight relocation, namely, freight transportation by truck; warehouse storage; storage of goods</td> </tr> <tr> <td>TP TRANSIT PROS NATIONAL HEAVY TRUCK & EQUIPMENT SPECIALIST and Design Reg. No. 4,216,270</td> <td>Transit Pros, LLC Lee's Summit, MO</td> <td>Arranging and coordinating the movement of equipment from pick-up to delivery for auctions, insurance companies, trucking companies and leasing companies</td> </tr> </tbody> </table>		Mark / Reg. No.	Applicant / Location	Goods / Services	TP and Design Reg. No. 4,208,780	Transit Pros, LLC Lee's Summit, MO	Trucking services, namely, hauling of heavy equipment, freight relocation, namely, freight transportation by truck; warehouse storage; storage of goods	TP TRANSIT PROS NATIONAL HEAVY TRUCK & EQUIPMENT SPECIALIST and Design Reg. No. 4,216,270	Transit Pros, LLC Lee's Summit, MO	Arranging and coordinating the movement of equipment from pick-up to delivery for auctions, insurance companies, trucking companies and leasing companies
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<p>With respect to the above registrations, with listed 2010 first-use dates, and owned by Transit Pros, LLC, there is no LOC because applicant's TP mark is part of a family of marks with first use dates in 1996 and first registration dates in 1999, both long prior to the first use and registration dates of the two cited Transit Pros registrations. In addition, there are sufficient, cumulative differences between the marks and the services so that there is no LOC.</p> <p>Contemporaneously with this response, applicant is filing a Notice of Appeal with the Trademark Trial and Appeal Board.</p>										

Accordingly, applicant respectfully requests reconsideration and forwarding of the application to publication for the purposes of opposition. If there are any questions regarding this matter, please telephone the undersigned.

GOODS AND/OR SERVICES SECTION (current)

INTERNATIONAL CLASS 039

DESCRIPTION

trucking services, namely, hauling of lumber, wood products and freight

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 03/30/2013

FIRST USE IN COMMERCE DATE At least as early as 03/30/2013

GOODS AND/OR SERVICES SECTION (proposed)

INTERNATIONAL CLASS 039

TRACKED TEXT DESCRIPTION

~~trucking services, namely, hauling of lumber, wood products and freight;~~ [trucking services, namely, hauling of lumber, wood products and freight transport by truck](#)

FINAL DESCRIPTION

trucking services, namely, hauling of lumber, wood products and freight transport by truck

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE At least as early as 03/30/2013

FIRST USE IN COMMERCE DATE At least as early as 03/30/2013

PAYMENT SECTION

TOTAL AMOUNT 100

TOTAL FEES DUE 100

SIGNATURE SECTION

PETITION SIGNATURE /David P. Cooper/

SIGNATORY'S NAME David P. Cooper

SIGNATORY'S POSITION Attorney of Record, Oregon State Bar

SIGNATORY'S PHONE NUMBER (503) 224-6655

DATE SIGNED 05/10/2017

RESPONSE SIGNATURE /David P. Cooper/

SIGNATORY'S NAME David P. Cooper

SIGNATORY'S POSITION Attorney of Record, Oregon State Bar

SIGNATORY'S PHONE NUMBER (503) 224-6655

DATE SIGNED 05/10/2017

AUTHORIZED SIGNATORY YES

FILING INFORMATION SECTION

SUBMIT DATE Wed May 10 20:37:56 EDT 2017

TEAS STAMP
USPTO/POA-XX.XXX.XX.XXX-2
0170510203756271233-86781
046-59026fdbb7d884ad58338
4187a9cf012d5e33e9130f4e4

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PTO Form 2194 (Rev 03/2012)
OMB No. 0651-0054 (Exp 10/31/2017)

**Petition To Revive Abandoned Application - Failure To Respond Timely To Office Action
To the Commissioner for Trademarks:**

Application serial no. **86781046** TP (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/86781046/large>) has been amended as follows:

PETITION

Petition Statement

Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional, and requests the USPTO to revive the abandoned application.

RESPONSE TO OFFICE ACTION

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Responsive to the final Office action dated August 10, 2016, applicant has amended the identification of goods, following the recommendations of the Examining Attorney and using a services recitation from the US Acceptable Goods and Services Identification Manual that the Examining attorney cited to in the Final Office action.

With respect to the merits, the Examining attorney withdrew his prior likelihood-of-confusion (LOC) refusal based upon U.S. Trademark Reg. No. 2246321 because Applicant's mark is part of a family of marks, including the TP mark of that registration. Under that family of marks, Applicant's first use dates back to 1996, with the first registration of TP marks occurring in 1999.

However, the Examining attorney also maintained his prior two-part LOC refusal based upon the following two U.S. trademark registrations:

Mark / Reg. No.	Applicant / Location	Goods / Services
TP and Design Reg. No. 4,208,780	Transit Pros, LLC Lee's Summit, MO	Trucking services, namely, hauling of heavy equipment, freight relocation, namely, freight transportation by truck; warehouse storage; storage of goods
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Contemporaneously with this response, applicant is filing a Notice of Appeal with the Trademark Trial and Appeal Board.

Accordingly, applicant respectfully requests reconsideration and forwarding of the application to publication for the purposes of opposition. If there are any questions regarding this matter, please telephone the undersigned.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 039 for trucking services, namely, hauling of lumber, wood products and freight

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/30/2013 and first used in commerce at least as early as 03/30/2013 , and is now in use in such commerce.

Proposed:

Tracked Text Description: ~~trucking services, namely, hauling of lumber, wood products and freight;~~ [trucking services, namely, hauling of lumber, wood products and freight transport by truck](#)

Class 039 for trucking services, namely, hauling of lumber, wood products and freight transport by truck

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/30/2013 and first used in commerce at least as early as 03/30/2013 , and is now in use in such commerce.

FEE(S)

Fee(s) in the amount of \$100 is being submitted.

SIGNATURE(S)

Signature: /David P. Cooper/ Date: 05/10/2017

Signatory's Name: David P. Cooper

Signatory's Position: Attorney of Record, Oregon State Bar

Signatory's Phone Number: (503) 224-6655

Response Signature

Signature: /David P. Cooper/ Date: 05/10/2017

Signatory's Name: David P. Cooper

Signatory's Position: Attorney of Record, Oregon State Bar

Signatory's Phone Number: (503) 224-6655

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

RAM Sale Number: 86781046

RAM Accounting Date: 05/11/2017

Serial Number: 86781046

Internet Transmission Date: Wed May 10 20:37:56 EDT 2017

TEAS Stamp: USPTO/POA-XX.XXX.XX.XXX-2017051020375627

1233-86781046-59026fdbb7d884ad583384187a

9cf012d5e33e9130f4e4637bccea664f6c852b-C

C-6205-20170510201931447971

RAM SALE NUMBER: 86781046
RAM ACCOUNTING DATE: 20170511

INTERNET TRANSMISSION DATE:
2017/05/10

SERIAL NUMBER:
86/781046

Description	Fee Code	Transaction	Total Fees Paid
POA	7005	2017/05/10	100