

To: IRA COHEN(icohen@ictrademarksandcopyrights.com)
Subject: U.S. Trademark Application Serial No. 97515390 - BABALÚ LINGERIE - REGTM-02-22
Sent: January 23, 2024 09:42:43 AM EST
Sent As: tmng.notices@uspto.gov

Attachments

**United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application**

U.S. Application Serial No. 97515390

Mark: BABALÚ LINGERIE

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Applicant: GOMEZ GIRALDO, RAMON ENRIQUE

Reference/Docket No. REGTM-02-22

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REQUEST FOR RECONSIDERATION AFTER FINAL ACTION DENIED

Issue date: January 23, 2024

Applicant's request for reconsideration is denied. *See* 37 C.F.R. §2.63(b)(3). The trademark examining attorney has carefully reviewed applicant's request and determined the request did not: (1) raise a new issue, (2) resolve all the outstanding issue(s), (3) provide any new or compelling evidence with regard to the outstanding issue(s), or (4) present analysis and arguments that were persuasive or shed new light on the outstanding issue(s). TMEP §§715.03(a)(ii)(B), 715.04(a).

Accordingly, the following requirement made final in the Office action dated September 28, 2023 is **maintained and continued**:

- Identification of Goods

See TMEP §§715.03(a)(ii)(B), 715.04(a).

In addition, the following requirements made final in that Office action are **obviated**:

- Classification
- Multiple-Class Application Requirements

See TMEP §§715.03(a)(ii)(B), 715.04(a).

IDENTIFICATION OF GOODS

This partial requirement applies only to the goods specified therein.

Applicant must clarify the wording "boxers," "babydolls," "hipsters," and "thongs" in the identification of goods because it is indefinite. See 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not make clear the exact nature of the goods.

Applicant should note that any wording in **bold**, in *italics*, underlined and/or in ALL CAPS below offers guidance and/or shows the changes being proposed for the identification of goods and/or services. If there is wording in the applicant's version of the identification of goods and/or services which should be removed, it will be shown with a line through it such as this: ~~strikethrough~~. When making its amendments, applicant should enter them in standard font, not in bold, in italics, underlined and/or in ALL CAPS.

Applicant may adopt the following identification, if accurate:

International Class 025: Underwear, namely, lingerie, **BOXER BRIEFS, BOXER SHORTS** ~~boxers~~, bikini underwear, bras, bralettes, bustiers, camisoles, chemises, **BABY DOLL** ~~PYJAMAS~~ ~~babydolls~~, corsets, garters, **HIPSTER PANTIES** ~~hipsters~~, robes, rompers, and **THONG UNDERWEAR** ~~thongs~~

Applicant's goods and/or services may be clarified or limited, but may not be expanded beyond those originally itemized in the U.S. application or as acceptably amended. See 37 C.F.R. §2.71(a); TMEP §1402.06. Applicant may clarify or limit the identification by inserting qualifying language or deleting items to result in a more specific identification; however, applicant may not substitute different goods and/or services or add goods and/or services not found in or encompassed by those in the original U.S. application or as acceptably amended. See TMEP §1402.06(a)-(b). The scope of the goods and/or services sets the outer limit for any changes to the identification and is generally determined by the ordinary meaning of the wording in the identification. TMEP §§1402.06(b), 1402.07(a)-(b). Any acceptable changes to the goods and/or services will further limit scope, and once goods and/or services are deleted, they are not permitted to be reinserted. TMEP §1402.07(e). Additionally, for U.S. applications filed under Trademark Act Section 44(e), the scope of the identification for purposes of permissible amendments may not exceed the scope of the goods and/or services identified in the foreign registration. 37 C.F.R. §2.32(a)(6); *Marmark, Ltd. v. Nutrexa, S.A.*, 12 USPQ2d 1843, 1845 (TTAB 1989) (citing *In re Löwenbräu München*, 175 USPQ 178, 181 (TTAB 1972)); TMEP §§1012, 1402.01(b).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). See TMEP §1402.04.

ADVISORY – PARTIAL ABANDONMENT

If applicant does not respond to this Office action within the period for response, the following goods will be deleted from the application by Examiner's Amendment: "boxers," "babydolls," "hipsters," and "thongs". The application will then proceed with the remaining goods only. *See* 37 C.F.R. §2.65(a)-(a)(1); TMEP §718.02(a).

If applicant has already filed an appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If applicant has not filed an appeal and time remains in the response period for the final Office action, applicant has the remainder of that time to (1) [file another request for reconsideration](#) that complies with and/or overcomes any outstanding final requirement(s) and/or refusal(s), and/or (2) [file a notice of appeal](#) to the Board. TMEP §715.03(a)(ii)(B).

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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on January 23, 2024 for
U.S. Trademark Application Serial No. 97515390

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS) or the Electronic System for Trademark Trials and Appeals (ESTTA), as appropriate. Your response and/or appeal must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be **[abandoned](#)**. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status of your application periodically](#)** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.