

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85380557

MARK: THE CLIMATE CORPORATION

**\*85380557\***

**CORRESPONDENT ADDRESS:**

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APPLICANT: WeatherBill Inc.

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

T-2918 US

**CORRESPONDENT E-MAIL ADDRESS:**

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE:**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**No Conflicting Marks Noted**

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

**Refusal of Registration: Mark is Merely Descriptive**

Registration is refused because the applied-for mark merely describes a feature of applicant's goods and/or services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods and/or services. TMEP §1209.01(b); *see In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987). Moreover, a mark that identifies a group of users to whom an applicant directs its goods and/or services is also merely descriptive. TMEP §1209.03(i); *see In re Planalytics, Inc.*, 70 USPQ2d 1453, 1454 (TTAB 2004).

In the present case, the relevant services consist of insurance administration in the fields of weather insurance, and property and casualty and specialty insurances covering risks related to weather; insurance agency and brokerage in the fields of weather insurance, and property and casualty and specialty insurances covering risks related to weather; insurance underwriting in the fields of weather insurance, and property and casualty and specialty insurances covering risks related to weather; insurance underwriting consultation in the fields of weather insurance, and property and casualty and specialty insurances covering risks related to weather; electronic processing of insurance payment data over a web based computer network; electronic processing of insurance payments over a web based computer network; assuming financial risk of others by entering into options and swaps; financial risk management; financial services, namely, providing information in the fields of foreign currency, commodities, financial derivatives, interest rate products, and equities via the internet and other computer and communication networks; financial services, namely, providing for the exchange of foreign currency, commodities, financial derivatives, interest rate products, and equities via the internet and other computer and communication networks; financial risk management consultation. For these services, the

The attached Internet evidence regarding the applicant demonstrates the descriptive nature of the mark.

One attachment consists of a news story regarding the applicant's change of name. According to the article from Farm Industry News:

Company officials say the change was made to better reflect its mission, which is helping people and businesses adapt to **climate** change.

See attachment from <http://farmindustrynews.com/business/weatherbill-changes-name-climate-corporation>. *Emphasis added.*

The term "climate" merely describes insurance services related to changes in the weather or climate.

The second term of the applicant's mark consists of an entity designation. Business entity designations such as "Corporation," merely indicate applicant's entity type and generally do not function to indicate the source of goods or services. TMEP §1213.03(d); *see, e.g., Goodyear's India Rubber Glove Mfg. Co. v. Goodyear Rubber Co.*, 128 U.S. 598, 602-03 (1888); *In re Patent & Trademark Servs., Inc.*, 49 USPQ2d 1537, 1539-40 (TTAB 1998); *In re The Paint Prods. Co.*, 8 USPQ2d 1863, 1866 (TTAB 1988).

A mark that merely combines descriptive words is not registrable if the individual components retain their descriptive meaning in relation to the goods and/or services and the combination results in a composite mark that is itself descriptive. TMEP §1209.03(d); *see, e.g., In re King Koil Licensing Co. Inc.*, 79 USPQ2d 1048 (TTAB 2006) (holding THE BREATHABLE MATTRESS merely descriptive of "beds, mattresses, box springs and pillows"); *In re Associated Theatre Clubs Co.*, 9 USPQ2d 1660, 1662 (TTAB 1988) (holding GROUP SALES BOX OFFICE merely descriptive of theater ticket sales services). Such a mark is registrable only if the composite creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods and/or services. *See, e.g., In re Colonial Stores, Inc.*, 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968).

In this case, both the individual components and the composite result are descriptive of applicant's goods and/or services and do not create a unique, incongruous or nondescriptive meaning in relation to the goods and/or services.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

### **Response to Office Action**

There is no required format or form for responding to an Office action. The Office recommends applicants use the Trademark Electronic Application System (TEAS) to respond to Office actions online at <http://www.uspto.gov/teas/index.html>. However, if applicant responds on paper via regular mail, the response should include the title "Response to Office Action" and the following information: (1) the name and law office number of the examining attorney, (2) the serial number and filing date of the application, (3) the mailing date of this Office action, (4) applicant's name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

The response should address each refusal and/or requirement raised in the Office action. If a refusal has issued, applicant can argue against the refusal; i.e., applicant can submit arguments and evidence as to why the refusal should be withdrawn and the mark should register. To respond to requirements, applicant should set forth in writing the required changes or statements and request that the Office enter them into the application record.

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**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an

applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.


**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.


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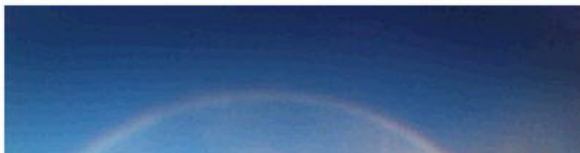
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Topics: **change ♦ insurance ♦ technology**

SAN FRANCISCO – Google on Monday was among investors pumping \$42 million into a **climate** change inspired technology startup that calculates the chances of crops being ruined by weather.

WeatherBill launched Total **Weather Insurance** in 2010 as a way for US farmers protect themselves against being devastated by weather, which the US Department of Agriculture blamed for 90 percent of crop losses last year.

“The flip flop of weather from one year to the next is the biggest challenge farmers face,” said Steve Wolters, a farmer who grows corn, soybean and wheat in the US state of Ohio.

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“It makes sense to me to take advantage of WeatherBill’s automated **weather insurance** programs that pinpoint the weather conditions expected to affect my land and pay me if they happen.”

WeatherBill continuously aggregates weather data and runs large-scale weather simulations on its computers.

The automated system lets farmers or others customize insurance policies to the amount of rain or seasonal temperatures they need for fields to flourish.

Those taking part in the startup’s second round of funding with Google Ventures included Khosla Ventures, First Round Capital, Index Ventures, and Allen & Company. Total investment in the company was just shy of \$60 million.

“WeatherBill is one of those rare companies that has the leadership and vision to apply new technology to an ancient and daunting problem — weather’s impact on agriculture,” said Vinod

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