

To: Westerfield, A. David (osborn@coollaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 87595921 - AFFORDABLE MRI - N/A
Sent: 12/11/2017 9:10:48 AM
Sent As: ECOM114@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)

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

**U.S. APPLICATION
SERIAL NO.** 87595921

MARK: AFFORDABLE
MRI

87595921

**CORRESPONDENT
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APPLICANT:
Westerfield, A. David

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

N/A

**CORRESPONDENT
E-MAIL ADDRESS:**
osborn@coollaw.com

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. A RESPONSE TRANSMITTED THROUGH THE TRADEMARK ELECTRONIC APPLICATION SYSTEM (TEAS) MUST BE RECEIVED BEFORE MIDNIGHT **EASTERN TIME** OF THE LAST DAY OF THE RESPONSE PERIOD.

ISSUE/MAILING DATE: 12/11/2017

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.

SEARCH OF OFFICE'S DATABASE OF MARKS

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).

SUMMARY OF ISSUES:

1. Section 2(e)(1) Refusal – Merely Description

2. Advisory: Application Not Eligible for Supplemental Register At This Time
3. Advisory: If Amend to Supplemental Register Generic Matter Must Be Disclaimed

SECTION 2(e)(1) REFUSAL – MERELY DESCRIPTIVE

Registration is refused because the applied-for mark merely describes a feature or characteristic of applicant's 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 an applicant's services. TMEP §1209.01(b); *see, e.g., In re TriVita, Inc.*, 783 F.3d 872, 874, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 543 (1920)).

In the present case, applicant's mark is AFFORDABLE MRI for "[m]edical radiology services" in International Class 044. According to *Merriam-Webster's Dictionary*, AFFORDABLE can be defined as "having a cost that is not too high". (*See* attached for definition). Further, an MRI is a feature of medical radiology services. *See* specifically, attached from *Wikipedia* ("Radiology is the science that uses medical imaging to diagnose and sometimes also treat diseases within the body. A variety of imaging techniques such as X-ray radiography, ultrasound, computed tomography (CT), nuclear medicine including positron emission tomography (PET), and magnetic resonance imaging (MRI) are used to diagnose and/or treat diseases."). When the above terms are combined, taken as a whole and considered in connection with the identified services, they form applicant's applied-for mark, which is immediately descriptive. This is because it conveys, without any ambiguity, a feature or characteristic of applicant's services, namely an MRI that is able to be afforded, or, an *affordable MRI*.

Therefore, for the reasons discussed above, applicant's mark is refused registration on the Principal Register under Trademark Act Section 2(e)(1).

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

ADVISORY: APPLICATION NOT ELIGIBLE FOR SUPPLEMENTAL REGISTER AT THIS TIME

A mark in an application under Trademark Act Section 1(b) is not eligible for registration on the Supplemental Register until an acceptable amendment to allege use under 37 C.F.R. §2.76 has been filed. 37 C.F.R. §§2.47(d), 2.75(b); TMEP §§815.02, 1102.03. When a Section 1(b) application is successfully amended to the Supplemental Register, the application effective filing date will be the date applicant met the minimum filing requirements under 37 C.F.R. §2.76(c) for the amendment to allege use. TMEP §§816.02, 1102.03; *see* 37 C.F.R. §2.75(b).

ADVISORY: IF AMEND TO SUPPLEMENTAL REGISTER GENERIC MATTER MUST BE DISCLAIMED

Applicant is advised that, if the application is ultimately amended to seek registration on the Supplemental Register, applicant will be required to disclaim "MRI" because such wording appears to be generic in the context of applicant's services. *See* 15 U.S.C. §1056(a); *In re Wella Corp.*, 565 F.2d 143, 144, 196 USPQ 7, 8 (C.C.P.A. 1977); *In re Creative Goldsmiths of Wash., Inc.*, 229 USPQ 766, 768 (TTAB 1986); TMEP §1213.03(b).

The following is the standardized format for a disclaimer:

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

TMEP §1213.08(a)(i).

RESPONSE GUIDELINES

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL

REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

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TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/mailling date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or 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/trademarks/teas/correspondence.jsp>.



affordable

adjective | af-ford-able | \ə-ˈfɔr-də-bəl\

Popularity: Bottom 10% of words | Updated on: 8 Dec 2017

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Definition of AFFORDABLE

: able to be **afforded**: having a cost that is not too high • products sold at *affordable* prices • an *affordable* purchase • *affordable* housing [=housing that is not too expensive for people of limited means]

—affordability • \ə-ˈfɔr-də-ˈbi-lə-tē\ *noun*

—affordably • \ə-ˈfɔr-də-blə\ *adverb*

• an *affordably* priced car

NEW! Time Traveler

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Article Talk

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Radiology

From Wikipedia, the free encyclopedia

The article focuses on radiology as a medical specialty. See also medical imaging and radiation therapy; Radiology (journal). For industrial application, see radiography or industrial CT scanning.

Radiology is the science that uses medical imaging to diagnose and sometimes also treat diseases within the body.

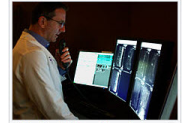
A variety of imaging techniques such as X-ray radiography, ultrasound, computed tomography (CT), nuclear medicine including positron emission tomography (PET), and magnetic resonance imaging (MRI) are used to diagnose and/or treat diseases. Interventional radiology is the performance of (usually minimally invasive) medical procedures with the guidance of imaging technologies.

The acquisition of medical images is usually carried out by the radiographer, often known as a Radiologic Technologist. Depending on location, the Diagnostic Radiologist, or Reporting Radiographer, then interprets or "reads" the images and produces a report of their findings and impression or diagnosis. This report is then transmitted to the Clinician who requested the imaging. The report can initially be made as a "wet-read" which is a rapid preliminary response to a clinical question, which will generally followed later by a final report.^[1] Medical images are stored digitally in the picture archiving and communication system (PACS) where they can be viewed by all members of the healthcare team within the same health system and compared later on with future imaging exams.

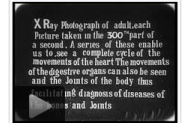
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Diagnostic imaging modalities [edit]

Main article: Medical imaging



A Radiologist interprets medical images on a modern picture archiving and communication system (PACS) workstation. San Diego, CA, 2010.



Dr. MacIntyre's X-Ray Film (1896).

Backup finished

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