

**To:** Benjamin S. Fernandez, Esquire([whiptrademark@wilmerhale.com](mailto:whiptrademark@wilmerhale.com))  
**Subject:** U.S. Trademark Application Serial No. 97068596 - MEAT DONE RIGHT - 2218755.123  
**Sent:** February 15, 2023 09:17:43 AM EST  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

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

**U.S. Application Serial No.** 97068596

**Mark:** MEAT DONE RIGHT

**Correspondence Address:**

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**Applicant:** Omeat Inc.

**Reference/Docket No.** 2218755.123

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**SUSPENSION NOTICE  
No Response Required**

**Issue date:** February 15, 2023

Pursuant to TMEP §716.01, applicant is advised of the following status of the application.

**In an Office Action issued on July 19, 2022, the following issues were outstanding with this application:**

- Section 2(d) - Likelihood of Confusion Refusal - Partial Refusal
- Potential 2(d) Refusal - One Pending Application
- Disclaimer Required
- Identification of Goods Indefinite - Amendment Required

**On January 17, 2023, applicant responded to the Office Action. In the Response, applicant:**

- Provided arguments against the Section 2(d) Refusal; and
- Amended the identification of goods.

**The trademark examining attorney has thoroughly reviewed applicant's response and has determined the following:**

1. Applicant's arguments are not persuasive. Accordingly, the Section 2(d) Refusal are *maintained and continued*;
2. The Disclaimer Requirement is *maintained and continued*;
3. Applicant's amended identification is accepted and made of record. Accordingly, the Identification Requirement is *satisfied*; and
4. Application Serial No. 90819351 is still pending, and action on the instant application is suspended pending final disposition of the application.

#### **Preliminary Response to Applicant's Arguments**

Applicant argues that because the pending application, CHICKEN DONE RIGHT, has not been refused against the cited registration, FISH DONE RIGHT, that the applied-for mark should also be allowed to coexist.

First, prior decisions and actions of other trademark examining attorneys in applications for other marks have little evidentiary value and are not binding upon the USPTO or the Trademark Trial and Appeal Board. TMEP §1207.01(d)(vi); *see In re USA Warriors Ice Hockey Program, Inc.*, 122 USPQ2d 1790, 1793 n.10 (TTAB 2017). Each case is decided on its own facts, and each mark stands on its own merits. *In re Cordua Rests., Inc.*, 823 F.3d 594, 600, 118 USPQ2d 1632, 1635 (Fed. Cir. 2016) (citing *In re Shinnecock Smoke Shop*, 571 F.3d 1171, 1174, 91 USPQ2d 1218, 1221 (Fed. Cir. 2009); *In re Nett Designs, Inc.*, 236 F.3d 1339, 1342, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001)). Second, applicant's mark contains a broader term, MEAT, that can encompass both chicken and fish. Thus, applicant's mark creates a similar commercial impression as both the prior pending application and registered mark. Lastly, the record evidence establishes that entities offer cultured meat, salmon and chicken under the same mark, and therefore, the goods are related. The fact that applicant and registrant may only provide certain types of meats does not diminish the likelihood of confusion. Accordingly, applicant's arguments are unpersuasive to overcome the refusal and the Section 2(d) Refusal is *maintained and continued*.

#### **APPLICATION IS SUSPENDED**

**The application is suspended** for the reason specified below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The pending application below has an earlier filing date or effective filing date than applicant's application. If the mark in the application below registers, the USPTO may refuse registration of applicant's mark under Section 2(d) because of a likelihood of confusion with the registered mark. 15 U.S.C. §1052(d); *see* 37 C.F.R. §2.83; TMEP §1208.02(c). Action on this application is suspended until the prior-filed application below either registers or abandons. 37 C.F.R. §2.83(c). Information relevant to the application below was sent previously.

- U.S. Application Serial No. 90819351

**Suspension process.** The USPTO will periodically check this application to determine if it should remain suspended. *See* TMEP §716.04. As needed, the trademark examining attorney will issue a letter to applicant to inquire about the status of the reason for the suspension. TMEP §716.05.

**No response required.** Applicant may [file a response](#), but is not required to do so.

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## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on February 15, 2023 for  
**U.S. Trademark Application Serial No. 97068596**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You may be required to respond to this Office action. Follow the steps below.

- (1) **[Read the Office action.](#)** This email is NOT the Office action.
- (2) **Respond to the Office action, if a response is required.** Respond by deadline using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. 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.