

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

APPLICATION SERIAL NO. 76704228

MARK: ITM

**\*76704228\***

**CORRESPONDENT ADDRESS:**

DONALD N. MACINTOSH  
LAW OFFICES OF DONALD N. MACINTOSH  
275 BATTERY ST STE 200  
SAN FRANCISCO, CA 94111-3379

**CLICK HERE TO RESPOND TO THIS LETTER:**  
<http://www.uspto.gov/teas/eTEASpageD.htm>

**APPLICANT:** Heat and Control, INC.

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

TA-79712/DNM

**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.

**Search Results – Prior Pending Application Advisory**

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no similar registered mark that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

The filing date of pending Application Serial No. 77485040 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

**Standard Character Claim Required**

Applicant must submit the following standard character claim: "**The mark consists of standard characters without claim to any particular font style, size, or color.**" *See* 37 C.F.R. §2.52(a); TMEP §807.03(a).

**Miscellaneous Information Regarding Responding to this Office Action**

Please note that there is no required format or form for responding to this Office action. However, applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the examining attorney; (2) the serial number of this application; (3) the mailing date of this Office action; and, (4) applicant's telephone number.

When responding to this Office action, applicant must make sure to respond in writing to each refusal and requirement raised. If there is a

refusal to register the proposed mark, then applicant may wish to argue against the refusal, i.e., explain why it should be withdrawn and why the mark should register. If there are other requirements, then applicant should simply set forth in writing the required changes or statements and request that the Office enter them into the application record. Applicant must also sign and date its response.

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

/Debra Lee/  
Trademark Attorney  
Law Office 116  
Voice: 571-272-5897  
Fax: 571-273-9116

**TO RESPOND TO THIS LETTER:** Use the Trademark Electronic Application System (TEAS) response form at <http://teasroa.uspto.gov/roa/>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

**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>.

**DESIGN MARK**

**Serial Number**

77485040

**Status**

REPORT COMPLETED SUSPENSION CHECK - CASE STILL SUSPENDED

**Word Mark**

ITM

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

International Telemetry Machines Corp CORPORATION FLORIDA 243 Marys Ln  
Southampton NEW YORK 11968

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Automated process control system, namely, micro-processor based  
hardware and software used to monitor the status of industrial  
machinery, namely, turbines, generators and compressors; Automated  
process control system, namely, micro-processor based hardware and  
software used to monitor the status of industrial processes, namely,  
power generation, electrical distribution and oil and gas processing;  
Automated systems, namely, software, hardware and communications  
devices for planning, scheduling, controlling, monitoring and  
providing information on transportation assets and parts thereof.  
First Use: 2008/01/12. First Use In Commerce: 2008/01/12.

**Description of Mark**

The mark stands for International Telemetry Machines. The "ITM" is in  
green. It should look like a robot with a yellow background.

**Colors Claimed**

The color(s) yellow and green is/are claimed as a feature of the mark.

**Filing Date**

2008/05/28

**Examining Attorney**

**Print: Dec 14, 2010**

**77485040**

CHISOLM, KEVON

