

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

U.S. APPLICATION SERIAL NO. 76717731

MARK: OCAS

**\*76717731\***

**CORRESPONDENT ADDRESS:**

Leigh Ann Lindquist  
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**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** Vestas Wind Systems A/S

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

N/A

**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.

It is noted that this application is a transformed application stemming from Registration No. 4409104. Applicant has requested a Section 1(a) filing basis. As set forth in TMEP §1904.09(b), A "transformed" application under §1 or §44 of the Trademark Act resulting from the transformation of a cancelled extension of protection must comply with all the requirements of the Trademark Act and Trademark Rules of Practice. 37 C.F.R. §7.31(c).

This application lists the following services in Class 42: Research and development for others of electric and electronic apparatus and instruments for collision avoidance and collision warnings; monitoring and control, namely, remote monitoring and technological control of warning systems for avoidance of collisions; providing advice and technical assistance regarding development, use and choice of optimal warning and collision avoidance systems and regarding environmental engineering; preparing of technical reports regarding use and monitoring of collision avoidance systems and warning systems.

**SUMMARY OF ISSUES** that applicant must address:

- Specimen
- Application Unsigned

**Search Results**

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).

**Specimen**

Registration is refused because the application does not include the required specimen showing the applied-for mark in use in commerce in International Class 42. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a), 1301.04(g)(i). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each international class of goods and/or services identified in the application. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Examples of specimens for services include advertising and marketing materials, brochures, photographs of business signage and billboards, and webpages that show the mark used in the actual sale, rendering, or advertising of the services. *See* TMEP §1301.04(a), (h)(iv)(C).

Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a [verified specimen](#) that (a) was in actual use in commerce at least as early as the filing date of the application and (b) shows the mark in actual use in commerce for the goods and/or services identified in the application.
- (2) Amend the filing basis to [intent to use under Section 1\(b\)](#), for which no specimen is required. This option will later necessitate additional fee(s) and filing requirements such as providing a specimen.

For an overview of *both* response options referenced above and instructions on how to satisfy either option online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/S4.jsp>.

### **Application Unsigned**

The application was not signed and verified, which are application requirements. *See* 15 U.S.C. §1051(a); 37 C.F.R. §§2.33(a)-(b)(1), 2.34(a)(1)(i). Therefore, applicant must verify the statements specified further below in an affidavit or signed declaration under 37 C.F.R. §2.20. *See* 15 U.S.C. §1051(a)(3); 37 C.F.R. §§2.33(a)-(b)(1), (c), 2.193(e)(1); TMEP §§804.02, 806.01(a).

Applicant is advised that the verified statement relates back to the filing date of the transformed application, July 13, 2012.

**To respond to this requirement online using the Trademark Electronic Application System (TEAS) response form**, answer “yes” to the TEAS response form wizard question relating to submitting a “signed declaration,” and follow the instructions within the form for signing.

**To respond to this requirement on paper, via regular mail**, applicant may provide the following statements and declaration at the end of the response, personally signed by a person authorized under 37 C.F.R. §2.193(e)(1) and dated, with the printed or typed name of the signatory appearing immediately below the signature. *See* 37 C.F.R. §§2.20, 2.33(a)-(b)(1), (c), 2.193(a), (d); TMEP §§611.01(b), 804.01(b). The signatory’s particular title or position should also be specified. *See* TMEP §804.04.

STATEMENTS: The signatory believes that: the applicant is the owner of the trademark and/or service mark sought to be registered; the applicant is using the mark in commerce and has been using the mark in commerce as of the application filing date on or in connection with the goods and/or services in the application; the original specimen(s), if applicable, shows the mark in use in commerce as of the application filing date on or in connection with the goods and/or services in the application; and to the best of the signatory’s knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods and/or services of such other person, to cause confusion or mistake, or to deceive.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his or her own knowledge are true and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

### **Response Guidelines**

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C.

§1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to active status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

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.

/Rebecca Povarchuk/  
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**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing 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](mailto: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](mailto: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>.