



# BULKY DOCUMENTS

(Exceeds 100 pages)

Filed: 6/02/2011

Title: OFFICE ACTION.

Part 1 of 1



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

**APPLICATION SERIAL NO.** 77955911

**MARK:** ECO-STAR

**\*77955911\***

**CORRESPONDENT ADDRESS:**

ANDREW N. FREDBECK  
FROSS ZELNICK LEHRMAN & ZISSU, P.C.  
866 UNITED NATIONS PLZ  
NEW YORK, NY 10017-1822

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**APPLICANT:** EUROCOPTER

**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**

EURC 1002408

**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:**

**EXAMINER'S SUBSEQUENT FINAL REFUSAL**

This action is taken on remand from the Trademark Trial and Appeal Board.

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. *See* 37 C.F.R. §2.64(b); TMEP §§715.03(a), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated November 12, 2010 are maintained and continue to be final. *See* TMEP §§715.03(a), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §§715.03, 715.03(a), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. See TMEP §715.04(a).

The amendment to the identification of goods is acceptable. The identification of goods now reads: Vehicles, namely, helicopters and rotorcrafts; structural parts for helicopters and rotorcrafts.

Applicant has deleted “aircraft” from the identification of goods. Applicant contends that without the word “aircraft” the goods are no longer closely related to registrant’s goods.

Nevertheless, the remaining goods in applicant’s identification of goods are still closely related to registrant’s goods for the following reasons.

Attached are U.S. registrations for land vehicles and aircraft, helicopters and/or rotorcrafts. Although applicant has deleted aircraft from its identification of goods, the term aircraft in the registrations is broad enough to encompass helicopters and rotorcraft. In a likelihood of confusion analysis, the comparison of the parties’ goods and/or services is based on the goods and/or services as they are identified in the application and registration, without limitations or restrictions that are not reflected therein. *In re Dakin’s Miniatures, Inc.*, 59 USPQ2d 1593, 1595 (TTAB 1999); see *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267-68, 62 USPQ2d 1001, 1004-05 (Fed. Cir. 2002); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1638-39 (TTAB 2009); TMEP §1207.01(a)(iii).

In this case, the identification set forth in the cited registration uses broad wording to describe registrant’s goods and/or services and does not contain any limitations as to nature, type, channels of trade or classes of purchasers. Therefore, it is presumed that the registration encompasses all goods and/or services of the type described, including those in applicant’s more specific identification, that the goods and/or services move in all normal channels of trade, and that they are available to all potential customers. See *Citigroup Inc. v. Capital City Bank Grp., Inc.*, \_\_\_ F.3d \_\_\_, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011); *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006); *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981); TMEP §1207.01(a)(iii).

Regardless of whether an applicant submits new evidence with a request for reconsideration, the examining attorney may introduce additional evidence directed to the issue(s) for which reconsideration is sought. TBMP §1207.04. See *In re Davey Products Pty Ltd.*, 92 USPQ2d 1198 (TTAB 2009); *In re Giger*, 78 USPQ2d 1405 (TTAB 2006). If the evidence is significantly different from the evidence currently of record, the examining attorney must issue a new final refusal, i.e., an “Examiner’s Subsequent Final Refusal,” with a six-month response clause. TMEP §715.03

The following articles discuss car manufacturers that are also involved in aviation:

<http://www.flightglobal.com/articles/2007/01/12/211386/opening-doors-car-maker-hondas-aircraft-research-and-development-facility-gears-up-for-the.html> - refers to car giant Honda’s venture into aviation

<http://corporate.honda.com/careers/honda-companies.aspx>

<http://www.seriouswheels.com/cars/1940-1949/top-1946-Saab-92001-Ursaab.htm> - refers to Saab which manufactures automobiles and aircraft

[http://en.wikipedia.org/wiki/Mitsubishi\\_Motors](http://en.wikipedia.org/wiki/Mitsubishi_Motors) - automaker

<http://en.wikipedia.org/wiki/Eurocopter>

applicant.

consumers are likely to believe that the goods emanate from a single source.

largest helicopter manufacture in the world. (Note the cited registration refers to structural parts.)

helicopters

<http://www.google.com/#hl=en&sugexp=gsihc&xhr=t&q=gkn+automotive&cp=8&pf=p&sclient=psy&sou>

LG manufactures automobiles components. [http://www.cbrownline.com/companies/lg\\_international\\_corp](http://www.cbrownline.com/companies/lg_international_corp)

The last article discusses United Technologies Corp. automobiles and helicopters.

Accordingly, the close relationship between applicant's goods and registrant's goods remains even after deleting "aircraft".

followed by STAR.

and START downloaded from GOOGLE.

ECOSTAR, is a strong arbitrary mark as applied to the goods. Attached is a listing from Merriam-

Webster dictionary that shows there is no listing for ECOSTAR. Also attached are definitions of ECO and STAR. The compound word ECO-STAR is fanciful and, therefore, strong.

This application will be returned to the Trademark Trial and Appeal Board for resumption of the appeal.

/Robert Clark/  
Robert Clark  
Examining Attorney  
Law Office 101  
571-272-9144  
fax: 571-273-9101  
robert.clark@uspto.gov

LEVEL 1 - 16 OF 105 STORIES

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The Detroit News (Michigan)

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HEADLINE: Personal mobility vehicle is easy rider

BYLINE: By, Christine Tierney and Scott Burgess

BODY:

The Detroit News

Most of the gadgets invented at Honda R&D Co.'s labs in Japan never get past the prototype stage, and that may be the fate of the remarkable UX-3 unicycle that Honda Motor Co. displayed Tuesday at the Society of Automotive Engineers conference in Detroit.

But Honda's futuristic contraptions often feature breakthrough technologies that may reappear in the Japanese manufacturer's planes, cars, motorcycles and other products.

The UX-3 personal mobility prototype features two technologies likely to find real-life applications: a self-balancing mechanism that makes the UX-3 deceptively easy to ride and a motorized wheel that can go in any direction - forward, backward, sideways or diagonally.

In developing the UX-3, Honda's engineers tried to create a form of transportation that would be as versatile as walking and that could be ridden in crowded areas without disturbing others, said Shinichiro Kobashi of Honda R&D's Research Division 2.

The battery-powered UX-3 is narrow, with a folding seat and retractable footrests, and weighs 22 pounds. Powered by a lithium ion battery, it can run for about an hour on a full charge, emitting a gentle whirr like a mixer.

It's easy to ride.

"It takes you about 20 minutes to get it completely down, where you're able to turn, do figure eights, and weave in and out of rows of chairs," said Rene Rayes, who is demonstrating the UX-3 this week at Cobo Center in Detroit.

The Omni Traction Drive System, which lets the rider move in any direction by leaning slightly, could someday be used in wheelchairs or other equipment, said Honda spokesman David Iida.

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