

Note To The File

Serial Number: 79346045
Date: 06/20/2023 8:10 pm
Created by: Nabeela Abid

DIESEL

Changed

- Issued Examiner's Amendment and Entered Changes

Discussed file with Attorney/Applicant

- via E-Mail

From: Hannah Rosenson <hrosenson@ipcounselors.com>
Sent: Tuesday, June 20, 2023 6:48 PM
To: Abid, Nabeela <Nabeela.Abid@uspto.gov>
Cc: William C. Wright <bwright@ipcounselors.com>
Subject: RE: DIESEL (Serial No. 79346045)

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Dear Examiner Abid,

Bill asked that I respond.

Kindly see the below wording and proceed to make the changes via Examiner's Amendment.

Please do not hesitate to reach out if you have any questions.

Thank you,

Class 9: Protective face masks for the prevention of accident or injury; spectacles, spectacle cases, spectacle frames; spectacle chains; spectacle lenses; sports helmets; protective helmets; blank CDs; blank recordable DVDs; mp3 and mp4 players; CD and DVD players; clear protective covers, leather protective covers, and vinyl covers specially adapted for personal electronic devices, namely, mp3 players and mp4 players; clear protective covers, leather protective covers, and vinyl covers specially adapted for personal electronic devices, namely, CD and DVD players; digital recording media, namely, prerecorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, downloadable audio recordings ~~featuring music~~ authenticated by non-fungible tokens (NFTs), DVDs, and high definition digital discs, *all* featuring music; telephones, mobile phones; videophones; devices for hands-free use of mobile telephones; computers; computer mice; electronic docking stations; power adapters for computers; electronic personal organizers; digital audio and video players; downloadable ~~ebookse-books~~ in the field of fashion and electronic book reader covers, namely, covers for e-books; smart-watches; smart wristbands, namely, wrist-mounted smartphones; headphones and microphones sold as a unit, namely, headphone-microphone combinations; microphones; acoustic audio speakers; loudspeakers; amplifiers, namely, ~~audiovideo~~ **audio-video** amplifier; headphones and earphones; stereo headphones; ~~audio electronic components, namely, surround sound systems in the nature of stereo amplifier and speaker base stations~~ **stereo amplifiers; speaker base stations, namely, mounts and mounting brackets adapted for audio speakers with swiveling bases therefor**; virtual reality headsets; cameras and covers for cameras, namely, fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for electronic devices, namely, cameras; electronic agendas and covers for electronic agendas, namely, protective display screen covers adapted for use with electronic agendas; carrying cases adapted for holding smartwatches, carrying cases for mobile phones, carrying cases for smartphones, protective carrying cases for tablet computers, and carrying cases for portable computers; USB cables; USB chargers, namely, USB charging ports; blank USB flash drives; batteries; battery cases; battery chargers; power cables; battery packs, ~~namely, battery banks~~; electrical connectors, electrical wires, electrical cables, and electrical ~~adaptors~~ **adapters**; downloadable computer software and portable and handheld digital electronic devices, all for use in recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files *in the field of fashion*; wearable activity trackers; downloadable computer software for use in the reproduction, processing and streaming of audio, video and multimedia content *in the field of fashion*; downloadable mobile applications and downloadable software in the nature of a mobile application for smart watches and mobile devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files *in the field of fashion*; **wireless** electronic tracking devices for locating and tracking lost articles; downloadable computer software for use in recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files *in the field of fashion*; downloadable digital media, namely, downloadable multimedia files containing audio and video relating to fashion; downloadable virtual goods, namely, computer programs featuring fragrances *for personal use, and* home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lightning apparatus, home appliances, jewelry, ~~and~~ watches, vehicles, pouches, bags, ~~and~~ backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, art, toys, alcoholic and non-alcoholic beverages, digital animated and non-animated designs *in the nature of*

image files of artwork, and image files of animated characters, and avatars, digital overlays in the nature of image files of artwork, and skins in the nature of image files of artwork for use in online *virtual environments* and in online virtual worlds; downloadable computer programs for use in tracking and managing digital tokens for use in online virtual worlds and computer games; downloadable computer programs for use in the creation and trade of digital collectibles *in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars* using blockchain-based software technology and smart contracts; downloadable and recorded multimedia files containing digital art, photographs, videos, and audio recordings relating to music and instrumental music; downloadable ~~and recorded~~ multimedia files containing digital art, photographs, videos, and audio recordings relating to music and instrumental music authenticated by non-fungible tokens (NFTs)

Class 35: Products demonstration and product display services, namely, product merchandising for others in the nature of inventory display and shelf arrangement; sales promotions services, namely, promoting the sale of goods and services of others through electronic couponing, promotions and discounts; business management; providing business information; provision of an online marketplace ~~of goods and services~~ for buyers and sellers *of goods and services*; procurement services for others, namely, purchasing fragrances *for personal use, and* home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lightning apparatus, home appliances, jewelry, ~~and~~ watches, vehicles, pochettes, bags, ~~and~~ backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, art, toys, *and* alcoholic and non-alcoholic beverages for other businesses; marketing services; marketing services in the nature of promotion of third-party goods and services by social media; marketing services in the nature of promotion of third-party goods and services by social media influencers; marketing services in the nature of promotion of third-party goods and services by brand ambassadors; marketing services, namely, digital marketing services in the nature of promotion of third-party goods and services by means of social media; negotiation of business contracts for others; retail and wholesale store services and online retail and wholesale store services featuring perfumery products, perfumes, eau de toilet, cosmetic products, soaps, toiletry soaps, lotions, salts, oils and gels not for medical use for the bath, shaving and toiletry purposes, essential oils, make-up powder, makeup, nail polish, lipstick, talcum powder for toiletry use, hair lotions not for medical use, hair spray, shampoos, and toothpastes; retail and wholesale store services and on-line retail and wholesale store services featuring ethereal essences and oils, incense sticks, scented sachet, scented linen water, scented room sprays, fragrances for automobiles, household fragrances, air fragrance reed diffusers, fragrance refills for non-electric room fragrance dispensers, potpourris in the nature of fragrances, room fragrances, room fresheners in the nature of fragrance preparations, and body deodorants; retail and wholesale store services and on-line retail and wholesale store services featuring candles; retail and wholesale store services and on-line retail and wholesale store services featuring protective masks, spectacles, spectacle cases, spectacle frames, spectacle chains, lenses, sports helmets, helmets, CDs, DVDs, mp3 and mp4 players, CD and DVD players, covers for mp3 and mp4 players, covers for CD and DVD players, digital recording media, telephones, mobile phones, videophones, devices for hands-free use of mobile telephones, computers, computer mice, electronic docking stations, power adapters for computers, electronic organizers, digital audio and video players, e-book and covers for e-books, smart-watches, smart wristbands, headphone-

microphone combinations, microphones, acoustic speakers, loudspeakers, audio-video amplifiers, headphones,**and** earphones, stereo headphones, stereo amplifier,**and** speaker base stations, virtual reality headsets, cameras,**and** covers for cameras, electronic agendas,**and** covers for electronic agendas, carrying cases for portable electronic devices, namely, smartwatches, mobile phones, smartphones, tablets, portable computers, USB cables, USB chargers, USB flash drives, batteries, battery cases, battery chargers, power cables, battery **banks****packs**, electrical connectors, wires, cables, **and** adaptors, software and portable digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files, wearable activity trackers, computer software for the reproduction, processing and streaming of audio, video and multimedia content, downloadable mobile applications and software for smart watches and mobile devices, and tracking devices for locating and tracking lost articles; retail and wholesale store services and online retail and wholesale store services featuring lighting apparatus, linear air diffusers, electric dispensers for air fresheners, air freshener plug-ins, supply air diffusers, and electric candles; retail and wholesale store services and on-line retail and wholesale store services featuring apparatus for cooking, refrigerating, and sanitary installations; retail and wholesale store services and on-line retail and wholesale store services featuring jewelry and costume jewelry, namely, rings, bracelets, necklaces, tie-bars, scarf rings, pendants, ear clips, tie clips, cufflinks, earrings, key holders made of precious metals, brooches, pins being jewelry, clocks, watches, chronographs for use as watches, and chronometers; retail and wholesale store services and on-line retail and wholesale store services featuring electric push scooters, self-balancing boards, electric cars, and bicycles; retail and wholesale store services and on-line retail and wholesale store services featuring bags, handbags, purses, clutches, bumbags, travel baggage, valises, pocket wallets, leather purses, umbrellas, key cases, grocery tote bags, net-bags for shopping, vanity cases, not filled, duffel bags, haversacks, attaché cases, credit-card holders, business card cases, school book bags, rucksacks, small bags for men, suitcases, shopping bags, and satchels; retail and wholesale store services and on-line retail and wholesale store services featuring collars for animals, leads for animals, covers for animals, clothing for animals, and animal carriers in the nature of bags; retail and wholesale store services and on-line retail and wholesale store services featuring furniture; retail and wholesale store services and on-line retail and wholesale store services featuring household and kitchen utensils; retail and wholesale store services and on-line retail and wholesale store services featuring fabrics, bed and table covers, bath linen, household linen, and curtains of textile; retail and wholesale store services and on-line retail and wholesale store services featuring clothing, coats, mantles, raincoats, dusters, furs, dresses, suits, skirts, jackets, knitwear, trousers, shorts sets, Bermuda shorts, jeans, waistcoats, shirts, t-shirts, tops, blouses, jerseys, sweaters, blazers, cardigans, stockings, socks, underwear, corsets, brassiere, underpants, dressing gowns, nightgowns, nightwear, shifts, pajamas, bathrobes, bathing suits, beach-wraps, sun suits, sport jackets, waterproof clothing, wind-resistant jackets, anoraks, and sweat suits; retail and wholesale store services and online retail and wholesale store services featuring ties, neckties, scarves, shawls, mufflers, foulards being clothing articles, gloves being clothing, headgear, caps, hats, hoods, sashes, belts, footwear, boots, shoes, slippers, hoodies, leggings, parkas, sweatpants, sneakers, ankle boots, mittens, headbands, headwear, and face mask in the nature of clothing; retail and wholesale store services and on-line retail and wholesale store services featuring carpets, cutlery, printed matter, and stationery; retail and wholesale store services and on-line retail and wholesale store services featuring toys, games and playthings, sporting equipment, festive decorations, party novelties, artificial Christmas trees, and scooters in the nature of toys; retail and wholesale store services and on-line retail and wholesale store services featuring wines and spirits; retail and wholesale store services and on-line retail and wholesale store services featuring water and non-alcoholic beverages; providing digital collectible services, namely, operating an online marketplace for sellers and buyers of digital collectibles;**and providing digital collectible** registry services, namely, maintaining registries of digital collectibles; auction services; provision of an online marketplace via a website for

sellers and buyers of virtual goods; ~~and trading virtual goods with other users, namely, barter exchange services in the nature of providing trade exchange of virtual goods via an online marketplace featuring on a global computer information network; online retail store services, using blockchain technology, featuring virtual goods, and digital collectibles content, namely, downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars, all and authenticated by non-fungible tokens (NFTs) used with blockchain technology to represent a collectible item;~~ customer loyalty services for commercial, promotional and advertising purposes, namely, online retail store services featuring a frequent patron program in which points, rewards, vouchers, or gift cards are accumulated to be redeemed or used for purchases of goods, virtual goods and gift cards

Class 36: cryptocurrency trading and exchange services, namely, digital asset trading and exchange services; ~~issuance of tokens of value, namely, issuance of tokens and collectibles of value, namely, cryptocurrency exchange services; issuance of tokens of value and arranging and provision of digital currency exchange, namely, blockchain services in the nature of cryptocurrency exchange services featuring blockchain technology, namely, provision of digital currency or digital tokens for use by members of an online community via a global computer network; cryptocurrency exchange services, namely, financial exchange of virtual currency in the nature of digital token exchange services; cryptocurrency trading services, namely, cryptocurrency financial trading services; financial services, namely, electronic transfer of crypto assets in the nature of cryptocurrency and digital token transfer services; currency trading, namely, cryptocurrency trading services, namely, on-line real-time digital token cryptocurrency trading; issuance of tokens of value, namely, issuance of non-fungible tokens of value used with blockchain technology~~

Class 41: Entertainment services, namely, providing online, non-downloadable virtual content featuring audio featuring music, fragrances for personal use, and home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lightning apparatus, home appliances, jewelry, and watches, vehicles, pochettes, bags, and backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, art, toys, alcoholic and non-alcoholic beverages, digital animated and non-animated designs in the nature of image files of artwork, and image files of animated characters, and avatars, digital overlays in the nature of image files of artwork, and skins in the nature of image files of artwork for use online and in online virtual worlds environments created for entertainment purposes; entertainment services, namely, providing non-downloadable prerecorded music via a global communications computer networks; arranging social entertainment events, organisation of fashion shows for entertainment purposes; entertainment services, namely, providing online, non-downloadable virtual goods featuring fragrances for personal use, and home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lightning apparatus, home appliances, jewelry, and watches, vehicles, pochettes, bags, and backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, art, toys, alcoholic and non-alcoholic beverages,

digital animated and non-animated designs ***in the nature of image files of artwork, and image files of animated*** characters, ***and*** avatars, digital overlays ***in the nature of image files of artwork***, and skins ***in the nature of image files of artwork*** for use in virtual environments created for entertainment purposes; providing entertainment services via an online website, namely, arranging social entertainment events, organisation of fashion shows for entertainment purposes; entertainment services, namely, providing an online virtual environment for trading ~~virtual collectibles~~, virtual goods, ~~virtual digital files, virtual 3D assets, and virtual tokens~~ ***in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars***

Class 42: Providing temporary use of online, non-downloadable software for use in electronically trading, storing, sending, receiving, accepting and transmitting digital currency and crypto-collectibles ***in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars***, all authenticated by non-fungible tokens (NFTs); ~~and other application tokens, and providing temporary use of online, non-downloadable software for use in~~ managing digital ***currency*** transactions; providing temporary use of online, non-downloadable computer software for designing and sharing virtual goods ***in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars***; providing temporary use of online non-downloadable software for use in buying and selling downloadable virtual collectible goods ***in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars***; website hosting services, namely, hosting an interactive website enabling users to view, buy, sell, trade and clear digital assets; providing temporary use of online non-downloadable computer programs for blockchain data storage; providing temporary use of online non-downloadable computer software for facilitating blockchain-based financial transactions; providing temporary use of online non-downloadable computer programs for data authentication ***in the field of fashion*** via blockchain; providing temporary use of online non-downloadable software for tracking the purchase and sale of rights to digital ~~visual images~~ ***downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing,***

footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars; platform as a service (PAAS) featuring computer software platforms for the exchange and creation of **downloadable image files of** crypto-art, ~~crypto collectibles~~, and digital art, **all authenticated by** non-fungible tokens (**NFTs**); providing temporary use of online non-downloadable software for managing digital collectibles **in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars;** ~~providing user authentication services using blockchain-based software technology for cryptocurrency transactions, namely,~~ authentication services in the field of digitized assets, **namely, and downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars, all authenticated by** non-fungible tokens (**NFTs**); providing temporary use of online non-downloadable computer programs for the creation and trade of digital collectibles featuring works of art; design services in the field of fashion, and architectural design; art work design, namely, commercial art design and graphic art design; graphic art design; providing temporary use of online non-downloadable software for accessing **virtual currency and** virtual collectibles, ~~non-fungible tokens and other application tokens~~ **in the nature of downloadable image files of fragrances for personal use, home fragrances, candles, eyewear, portable electronic devices and related accessories, sex toys, lighting apparatus, home appliances, jewelry, watches, vehicles, pochettes, bags, backpacks, purses, clothing and accessories for animals, furniture, wooden flooring and tiles, home linen, clothing, footwear, headwear, sports equipment, carpets, toys, alcoholic and non-alcoholic beverages, artwork, and animated characters and avatars, all authenticated by non-fungible tokens (NFTs)**

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From: Abid, Nabeela

Sent: Sunday, June 11, 2023 8:34 PM

To: mail@ipcounselors.com; wwright@ipcounselors.com; hrosenson@ipcounselors.com

Subject: DIESEL (Serial No. 79346045)

Good evening,

I am the attorney assigned to examine this trademark application. I am in receipt of your 06/07/2023 response to the Office action. Because cryptocurrency, NFTs, and virtual goods represent emerging technologies, the USPTO developed new guidelines on 12/22/2022 on how to draft these particular IDs. In light of updated guidance, the ID requires additional amendments, which I am more than happy to handle via Examiner's Amendment (EA), if you so choose.

Attached are the suggested changes that are in bold and italics, and/or stricken. Please use track changes.

Kindly confirm whether you are interested in an Examiner's Amendment by **5PM EDT, June 13, 2023**. Upon your confirmation, the deadline to provide a response to the ID issues is **5PM EDT, June 20, 2023**. If you need more time, please let me know and I can grant a reasonable extension. Alternatively, if you prefer a new non-final Office action, let me know as soon as possible.

Please note that all applications are subject to review by a supervisory attorney. If we agree to changes by EA, the application will then be sent to a supervisory attorney for review prior to publication. If additional issues arise with the supervisory attorney, I will try my best to address them with you by EA if possible.

I apologize for any inconvenience this may have caused you and your client.

Kind Regards,

Nabeela Abid

Examining Attorney, Law Office 113

U.S. Patent and Trademark Office

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