IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application	)	Law Office: 120
	)	
Serial No.: 88/218530	)	Examining Atty.: Dean, Jules
	)	
Applicant: Atrium Separate IP Holdings Number 1, LLC	)	**Response to Office Action Mailed March 6, 2019**
	)	
Class No.: 042	)	
	)	
Mark: **PTX LABS**	)	
	)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

AMENDMENTS

In the Identification of Services:

Please change the identification of services to –Providing Non-downloadable software, namely, non-downloadable blockchain software for administering decentralized computer blockchain applications; Providing non-downloadable blockchain software for use in distributed computing environments; blockchain platform as a service (PAAS) and software as a service (SAAS) featuring blockchain software for developing, building and operating distributed blockchain applications, in International Class 042--.

REMARKS

I.   Likelihood of Confusion Under §2(d)

Within the Office Action, registration has been refused because it is asserted that there would be a likelihood of confusion with U.S. Application Serial Numbers 86476389 and 86491721 to "PT-X." Applicant respectfully requests reconsideration.

The applied for mark is associated with the operating software and hardware for a blockchain platform. Specifically, like a BIOS or operating system of a computer, the "PTX LABS" mark is associated with the underlying software/hardware of the blockchain system that is not specific to a particular use, but like an operating system or BIOS enables the hardware to support or provide a platform for those other specific use applications. For example, like computer hardware implementing a Windows operating system provides a platform for Microsoft Word, the software/hardware associated with the "PTX LABS" mark would provide a platform for other applications to run on the blockchain system.

As a result, although the term "PTX" of the applied for mark "PTX LABS" may be similar to the mark "PT-X," the description of goods and services are not closely related. The only commonality between the respective descriptions of goods and services is "computer software ... and hardware." Specifically, the descriptions of the "PT-X" mark, beyond the generic recitation of computer software, firmware and hardware, is related to financial transactions, billing payment, banking, etc. There is no description of the "PT-X" mark being related to the underlying hardware/software of blockchain, blockchain platforms, distributed computing environments or decentralized computer applications to which the "PTX LABS" mark is associated. Similarly, there is no description of the "PTX LABS" mark being associated with financial transactions, billing payment, banking, etc. Additionally, there are numerous other live registered trademarks that use the term "PTX" (e.g. registration nos. 5705383 - PTX; 5583998 - ROWWET PTX; 5359804 - PTX PRIMAL THERAPIES, INC.; 5359447 - PTX; 4969483 - PTX; 4713796 - PTX; 4734939 - PTX; 4569862 - PTX; 4500540 - PTX; 4295225 - PTX; 4669483 - X PTX; 3386604 - PTX FUNCTIONAL TRAINER; 2976644 - PTX; 0829470 - PTX) illustrating the narrow scope of the "PT-X" marks. Accordingly, the Applicants respectfully submit that, in light of the above amendments and arguments above, there would not be a likelihood of confusion between the "PTX LABS" mark and the cited "PT-X" marks.

II.   Identification Of Services

Within the Office Action, it is stated that the recitation of services is unacceptable as indefinite. Applicant has amended the recitation of services to be more definite in light of the Examining Attorney's suggestions. In particular, the recitation of services is similar to that suggested by the Examining Attorney, but the software has been specified to be blockchain software, which as described above is the software upon which the blockchain operates, not financial software as suggested.

For at least these reasons, Applicant's mark is not descriptive and is entitled to registration on the Principal Register. Applicant believes its application is now in condition for registration.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: June 13, 2019   By: /Jonathan O. Owens/

Jonathan O. Owens
Reg. No. 37,902
Attorneys for Applicant