

**UNITED STATES DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE**

Mark: **MAXX**
U.S. Application Serial Number: 88/211,966
Office Action: Dated March 14, 2019

RESPONSE TO OFFICE ACTION

Applicant, Traxxas, L.P., filed a 1(b) application on November 30, 2018 for the trademark MAXX in Class 009 (“Applicant’s Mark”). The Examining Attorney has issued a first Office Action refusing the above referenced application under Trademark Act Section 2(d) based on a likelihood of confusion with Registration Nos. 4,304,096 (the 096 Registration) and 4,760,658 (the 658 Registration).

Applicant proposes to amend the current identification of goods as follows:

Class 009: Batteries and battery chargers, all the foregoing for use in connection with specifically motorized model vehicles, namely, scale model vehicles, radio-controlled model vehicles, and remote-controlled model vehicles.

Based on the proposed amendments above to the identification of goods herewith, Applicant respectfully submits that the amendment obviates any risk of a likelihood of confusion with the cited registrations.

As amended, Applicant’s proposed use of the above referenced mark now narrows the identification of goods to identify goods separate and distinct from the goods encompassed by the cited registrations. In the same manner that the 096 Registration and 658 Registration have been able to coexist on the register due to their different identifications for electric batteries and battery chargers for tools on one hand, and battery chargers for mobile phones on the other, as amended, Applicant’s application should also similarly be able to coexist with the cited registrations.

In view of all of the foregoing, Applicant respectfully requests that the Section 2(d) refusal be withdrawn, and the above referenced application approved for publication.