

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Marvel Characters, Inc.
Serial Number: 88419785
Filing Date: May 7, 2019
Mark: TOY BIZ

Examining Atty.: Carrie Young, Esq.
Law Office: 117

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

RESPONSE TO OFFICE ACTION

Marvel Characters, Inc. ("Applicant") submits the following amendments and remarks in response to the Office Action dated July 20, 2019 (the "Office Action").

AMENDMENTS

Please amend the description of goods as follows ("Applicant's Amended Goods"):

Action skill games; action figures; board games; card games; children's multiple activity toys; badminton sets; balloons; basketballs; bath toys; baseball bats; baseballs; beach balls; bean bags; bean bag dolls; bobblehead dolls; bowling balls; bubble making wand and solution sets; chess sets; toy imitation cosmetics; Christmas stockings; Christmas tree ornaments and decorations; collectable toy figures; crib mobiles; crib toys; disc toss toys; dolls; doll clothing; doll accessories; doll playsets; electric action toys; equipment sold as a unit for playing card games; fishing tackle; fishing rods; footballs; golf balls; golf gloves; golf ball markers; hand-held units for playing electronic games for use with or without an external display screen or monitor; hockey pucks; hockey sticks; infant toys; inflatable toys; inflatable pool toys; jigsaw puzzles; jump ropes; kites; magic tricks; marbles; manipulative games; mechanical toys; music box toys; musical toys; parlor games; party favors in the nature of small toys; paper party favors; paper party hats; party games; playing cards; plush toys; puppets; roller skates; rubber balls; skateboards; snow boards; snow globes; soccer balls; spinning tops; squeeze toys; stuffed toys; table tennis balls; table tennis paddles and rackets; table tennis tables; talking

toys; target games; teddy bears; tennis balls; tennis rackets; toy action figures and accessories therefor; toy boats; toy bucket and shovel sets in the nature of sand toys; toy building blocks; toy mobiles; toy vehicles; toy scooters; toy cars; toy figures; toy banks; toy vehicles in the nature of trucks; toy watches; toy weapons; toy building structures and toy vehicle tracks; video game machines for use with televisions; volley balls; wind-up toys; yo-yos; toy trains and parts and accessories therefor; toy aircraft; fitted plastic films known as skins for covering and protecting electronic game playing apparatus, namely, video game consoles, and hand-held video game units; balls for games; battery operated action toys; bendable toys; construction toys; game tables; inflatable inner tubes for aquatic recreational use; inflatable swimming pools; piñatas; radio controlled toy vehicles; role playing games; snow sleds for recreational use; stacking toys; surf boards; swim fins; toy furniture; toy gliders; toy masks; toy model train sets; water slides

DISCLAIMER REQUIREMENT

The Examining Attorney indicated that “Applicant must provide a disclaimer of the unregistrable part(s) of the applied-for mark even though the mark as a whole appears to be registrable. See 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a), and “attached evidence from an online dictionary shows this wording means “something that provides amusement.” Thus, when the term “toy” in the applicant’s mark is used in relation to the applicant’s goods, it merely informs consumers that the applicant provides toys for amusement.”

The first definition of “toy” in the definition provided by the Examining Attorney is “an object for a child to play with.” Applicant has entered a partial disclaimer of “TOY” for Applicant’s Amended Goods for those products that are “for a child to play with.”

Accordingly, Applicant agrees to the following *partial* disclaimer: No claim is made to the exclusive right to use TOY apart from the mark as shown as to the following goods:

Action skill games; action figures; board games; card games; children's multiple activity toys; balloons; bath toys; beach balls; bean bags; bean bag dolls; bobblehead dolls; bubble making wand and solution sets; chess sets; toy imitation cosmetics; collectable toy figures; crib toys; disc toss toys; dolls; doll clothing; doll accessories; doll playsets; electric action toys; equipment sold as a unit for playing card games; hand-held units for playing electronic games for use with or without an external display screen or monitor; infant toys; inflatable toys; inflatable pool toys; jigsaw puzzles; jump ropes; kites; magic tricks; marbles; manipulative games; mechanical toys; music box toys; musical toys; parlor games; party favors in the nature of small toys; paper party favors; paper party hats; party games; playing cards; plush toys; puppets; rubber balls; spinning tops; squeeze toys; stuffed toys; talking toys; target games; teddy bears; toy action figures and accessories therefor; toy boats; toy bucket and shovel sets in the nature of sand toys; toy building blocks; toy mobiles; toy vehicles; toy scooters; toy cars; toy figures; toy banks; toy vehicles in the nature of trucks; toy watches; toy weapons; toy building structures and toy vehicle tracks; video game machines for use with televisions; wind-up toys; yo-yos; toy trains and parts and accessories therefor; toy aircraft; balls for games; battery operated action toys; bendable toys; construction toys; inflatable swimming pools; piñatas; radio controlled toy vehicles; role playing games; stacking toys; toy furniture; toy gliders; toy masks; toy model train sets; water slides

For the remaining items in the description of goods, Applicant submits that such products are not "playthings" or "toys" as defined and thus no disclaimer should be required. In particular, no disclaimer should be required for the following goods that include things like Christmas ornaments and sporting goods:

badminton sets; basketballs; baseball bats; baseballs; bowling balls; Christmas stockings; Christmas tree ornaments and decorations; crib mobiles; fishing tackle; fishing rods; footballs; golf balls; golf gloves; golf ball markers; hockey pucks; hockey sticks; roller skates; skateboards; snow boards; snow globes; soccer balls; table tennis balls; table tennis paddles and rackets; table tennis tables; tennis balls; tennis rackets; volley balls; fitted plastic films known as skins for covering and protecting electronic game playing apparatus, namely, video game consoles, and hand-held video game units; game tables; inflatable inner tubes for aquatic recreational use; snow sleds for recreational use; surf boards; swim fins

CONCLUSION

For the foregoing reason, Applicant respectfully requests that the application be approved for publication.