

February 7, 2020

### Via Electronic Filing

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 88,492,889

Mark: GOLDENBALL (stylized with design)

Class(es): 6, 13, 17 (as filed); 13, 17 (currently amended)

Applicant: Jiayi Pan Filing Date: June 28, 2019

Office Action Dated: September 21, 2019

Attention: Karen S. Derby

Trademark Examining Attorney U.S. Patent and Trademark Office

Law Office 123

### **RESPONSE TO OFFICE ACTION**

Applicant Jiayi Pan ("**Applicant**") has received and reviewed the Office Action issued on September 21, 2019, regarding U.S. Trademark Application Serial No. 88,492,889 ("**Application**") to register the stylized mark GOLDENBALL ("**Applicant's Mark**") and submits the following response.

### I. BACKGROUND

On June 28, 2019, Applicant filed an intent-to-use application to register the stylized mark "GOLDENBALL" in connection with its products in Class 006 for "Balls of steel; Steel balls", Class 013 for "Airsoft guns not for recreational use; Pellet guns; Air shot or pellets", and Class 017



for "Plastic composite material in the form of profiles, boards, sheets, blocks, rods, powder, and pellets for use in manufacturing; Plastic in bars, blocks, pellets, rods, sheets and tubes in further manufacture for general industrial use".

On September 21, 2019, the United States Patent and Trademark Office ("**USPTO**") issued a Nonfinal Office Action refusing registration of Applicant's Mark on the grounds that Applicant's Mark is merely descriptive. Applicant is also requested to submit additional information and an amended mark description.

### II. MERELY DESCRIPTIVE REFUSAL

The Examining Attorney has refused registration of the Mark pursuant to Trademark Act Section 2(e)(1), 15 U.S.C. § 1052(e)(1), on the ground that the Mark merely describes Applicant's goods. For the following reasons, Applicant respectfully disagrees with the finding of descriptiveness and requests that the Examining Attorney reconsider the statutory refusal and allow registration of Applicant's Mark.

### A. Applicant's Mark Is Not Merely Descriptive but at Most Suggestive

The Examining Attorney's refusal on the basis that Applicant's use of the Mark is "merely descriptive" under Section 2(e)(1) is erroneous because the Mark is not merely descriptive, but at most suggestive.

A mark is considered merely descriptive if it immediately conveys knowledge of a quality, feature, function, or characteristic of an applicant's goods or services. *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012). In this context, the test is whether the mark conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods. *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1514 (TTAB 2016).

On the other hand, a mark should be considered suggestive and not merely descriptive when applied to the goods or services at issue, the mark requires imagination, thought, or perception to reach a conclusion as to the nature of those goods or services. That is, a suggestive term does not immediately tell something about the goods or services. *In re George Weston Ltd.*, 228 USPQ 57 (TTAB 1985).

In addition, descriptiveness cannot be evaluated or determined "in the abstract" but must "in relation to the particular goods for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods because of the manner of its use or intended use." *In re Chamber of Commerce*, 675 F.3d at 1300, 102 USPQ2d at 1219. Considering the Applicant's Mark in the context of the goods and its use or intended use, none of the definitions of "golden" and "ball" provides sufficient support for the Examining Attorney's finding that the Applicant's Mark is merely descriptive, for the following reasons:



# 1. The word "golden" does not immediately convey a significant meaning of Applicant's goods when the word "golden" is analyzed in relation to the goods identified.

The word "golden" is not used to convey the color of Applicant's goods. Applicant's goods encompass a variety of colors. As examples shown in Exhibit A, the color of the Applicant's goods could be white, black, red, etc. Applicant's goods could be in mixed colors, and even in customer-requested color. Applicant's goods in different colors have the same feature, the same quality, and the same function. The word "golden" at most suggests the color of gold or yellow, but the average purchaser of Applicant's goods would not just purchase the goods with the yellow or golden color, nor would they associate merely the color of gold or yellow to Applicant's goods. Therefore, considering the manner of the use or intended use of the Applicant's goods, the term "golden" would not have significance to the average purchaser of such goods. In fact, in the context of the goods identified in Class 013 and Class 017, color does not play any role as a source indication.

Furthermore, a mark is descriptive if it "imparts information directly". *In Re Abcor Dev. Corp.*, 588 F.2d 811, 814 (C.C.P.A. 1978). Given the variety of the colors of the Applicant's goods available for purchase and being sold, it is obvious that the term "golden" does not directly impart information of the Applicant's goods to its purchasers.

2. The use of "ball" in the Mark is not descriptive because it does not immediately convey knowledge of a feature of Applicant's goods.

First, in order to expedite the examination process, Applicant voluntarily deletes Class 6 "Balls of steel; Steel balls" from the registration. The remaining goods or services are Class 013 for "Airsoft guns not for recreational use; Pellet guns; Air shot or pellets", and Class 017 for "Plastic composite material in the form of profiles, boards, sheets, blocks, rods, powder, and pellets for use in manufacturing; Plastic in bars, blocks, pellets, rods, sheets and tubes in further manufacture for general industrial use".

Second, the word "ball" at most establishes some form of relation between Applicant's goods and a spherical shape generally, without any description as to how Applicant's goods relate to balls. Bearing such relation, however, is far from being "mere descriptive" as the Examining Attorney has found. The word "pellet" does not refer to "a small, solid or densely packed ball or mass" in the context of air shot or airsoft BBs. Instead, the meaning of "a small, solid or densely packed ball or mass" the Examining Attorney cited is used to describe "food, wax or medicine". *See* Exhibit B. Alternatively, "pellet" means "any of various projectiles fired from a weapon", where it covers a variety of shapes. *See* Exhibit B.

Moreover, Examining Attorney's evidence of examples of "using gold, golden and/or ball to describe the same or similar goods offered by applicant" are not probative. First of all, airsoft guns and air guns are different in many ways. One of the differences is that airsoft guns use small <u>plastic</u> projectiles with limited range and power, while air guns use projectiles made of <u>metal</u> that are powered by CO<sub>2</sub>. See Exhibit C. The examples cited by the Examining Attorney are all air gun



pellets that are made of metal instead of plastic. However, Applicant is seeking registration in goods that are "plastic composite material" in Class 017 and "air shot or pellets" in Class 013. Additionally, the examples cited do not show actual use in commerce within the United States. The google image was from an e-bay UK website where goods are offered for sale in the UK market. Therefore, the link associated with the image is not actually providing any goods that are "using gold, golden and/or ball to describe the same or similar goods offered by applicant".

Therefore, considering Applicant's Mark GOLDENBALL as a whole, the Examining Attorney's evidence does not establish a direct and instantaneous connection either between the word "golden" and Applicant's Mark, or the word "ball" and Applicant's Mark.

### B. Third-Party Registration

Third-Party Registration is one of the factors and considerations that determine whether a mark is descriptive, TMPE §1209.03(a). Although the finding of descriptiveness is fact based and each case must stand on its own merits, we must consider third-party registration on the question of descriptiveness. Applicant notes that the word mark GOLDENBALL in standard character format received principal registration (Registration Number 3954352) on November 3, 2011, under Class 13 for "plastic airsoft BBs and plastic airsoft spheres for use as ammunition", without refusal of registration or disclaimer. *See* Exhibit D. The mark is now dead due to fee-related cancellation. Nevertheless, this evidence shows that the mark GOLDENBALL is registrable, at least under Class 013. Applicant respectfully requests Examining Attorney consider the above-mentioned third-party registration on the question of descriptiveness.

### III. ADDITIONAL INFORMATION

Applicant is requested to submit additional information about Applicant's goods. Applicant hereby submits the information for record.

### A. The Meanings of "Golden" and "Ball" in the Applicant's Industry.

Airsoft pellets are projectiles typically made of plastic. Though often known as "BBs", airsoft BBs are not the same as the metal projectiles that BB guns fire. See Exhibit E. The word "golden" does not mean a type of material consisting of metal gold in the Applicant's industry. When searching the term "goldenball airsoft" using google images, very few results are found pertaining to airsoft BBs or pellets similar to the color of gold. See Exhibit F.

In Applicant's industry, the ammunition used in airsoft guns is called "BB". Airsoft users do not call airsoft ammunition "ball" or "balls". The word "ball" at most establishes some form of relation between Applicant's goods and a spherical shape generally, without any description as to how Applicant's goods relate to balls.

B. Golden or Ball Does Not Describe a Feature, Ingredient, Characteristic, Purpose, or Function of Applicant's Goods.



As discussed in Section II, neither the word "golden" nor "ball" describes a feature, ingredient, characteristic, purpose of function of Applicant's goods. The word "golden" used in the Applicant's Mark in connected with the Applicant's goods does not convey or intend to convey the color of Applicant's goods. Applicant offers goods in other colors as well, including white, black, and red. *See* Exhibit A. Moreover, Applicant does not specifically advertise the color yellow or gold, nor does it manufacture, or claim to manufacture, goods only in yellow or gold. The word "ball" at most establishes some form of relation between Applicant's goods and a spherical shape generally, without any description as to a feature, ingredient, characteristic, purpose or function of Applicant's goods.

### C. Golden or Ball Is Not Used in Applicant's Industry in Relation to Similar Goods.

When searching the term "goldenball airsoft" using Google images, almost all of the records returned are related Applicant's goods. *See* Exhibit F. Although Applicant's goods are new to the U.S. market, GOLDENBALL is a known brand in other foreign markets since 2006 thus indicates a source of goods and/or services to the perspective customers. The word "golden" or "ball" is not used in Applicant's industry in relation to similar goods.

### IV. AMENDED MARK DESCRIPTION

In accordance with the Examining Attorney's request, Applicant has submitted the following amended description of the Mark.

The mark consists of a stylized wording "GOLDENBALL".

### V. CONCLUSION

Having fully responded to the issues raised in the Office Action, Applicant respectfully requests that its application pass to registration.

February 7, 2020

Respectfully submitted, By: /Zhizhou Wang/

Zhizhou Wang

Shanze Partners, Attorneys at Law



1001 4th Ave, Suite 3200 Seattle, WA 98154 leowang@shanzepartners.com

Attorney for Applicant

#### **Exhibits**

#### Exhibit A

Manufacturing samples and on-sale products of Applicant's goods <a href="http://www.goldenball.cn/products.asp?BigClassID=80">http://www.goldenball.cn/products.asp?BigClassID=80</a>

### Exhibit B

Pellet, Merriam-Webster Dictionary, <a href="https://www.merriam-webster.com/dictionary/pellet">https://www.merriam-webster.com/dictionary/pellet</a>

### Exhibit C

What is the difference between an air gun and an airsoft gun? Quora. <a href="https://www.quora.com/What-is-the-difference-between-an-air-gun-and-an-airsoft-gun">https://www.quora.com/What-is-the-difference-between-an-air-gun-and-an-airsoft-gun</a>

#### Exhibit D

GOLDENBALL, Registration Number 3954352, Trademark Status & Document Retrieval (TSDR) <a href="http://tsdr.uspto.gov/#caseNumber=85117152&caseSearchType=US\_APPLICATION&caseType=DEFAULT&searchType=statusSearch">http://tsdr.uspto.gov/#caseNumber=85117152&caseSearchType=US\_APPLICATION&caseType=DEFAULT&searchType=statusSearch</a>

### Exhibit E

Beginners Guide to Airsoft, http://www.techbrigade.org/about/beginners-guide-to-airsoft/

### Exhibit F

"Goldenball airsoft", google image,

https://www.google.com/search?biw=1337&bih=749&tbm=isch&sxsrf=ACYBGNRwyfFmlWgA7nkvZmXObmlG AXc7Q%3A1575182291316&sa=1&ei=01 jXfXlEsrH5gLD06CADg&q=goldenball+airsoft&oq=goldenball+airsoft&gs\_l=img.3..35i39j0i24.1062.1062..1298...0.0..0.243.664.0j3j1.......0....1..gws-wiz-

img.bkwbIXxyjYk&ved=0ahUKEwi1m7in65PmAhXKo1kKHcMpCOAQ4dUDCAc&uact=5



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### Exhibit A

Manufacturing samples and on-sale products of Applicant's goods

http://www.goldenball.cn/products.asp?BigClassID=80



网站首页 关于我们 产品展示 联系我们 English

### 产品分类

精密球类 塑料BB弹

生物可降解BB弹

### 特种BB

发光BB

双色BB

4.5mm BIO BB 8mm BIO BB

6mm 玻璃BB

4.5mm 钢球

金球牌BB弹

彩弹

### 产品展示

Join order list





□ 编号: 554 双色 BB,0.12g

系列 S Series

型号 GBA012S.C1.C2

重量(g) 0.12

了解详情>>



□ 编号: 560

双色 BB,0.15g 系列 S Series

型号 GBA015S.C1.C2

重量(g) 0.15

了解详情>>



□ 编号: 561

双色 BB,0.20g

系列 S Series 型号 GB4020S.C1.C2

重量(g) 0.20

了解详情>>



□ 编号: 562 双色 BB,0.23g

系列 S Series

型号 GB4023S.C1.C2

重量(g) 0.23

了解详情>>



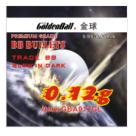
□ 编号: 563 双色 BB,0.25g

系列 S Series

型号 GB4025S.C1.C2

重量(g) 0.25

了解详情>>



□ 编号: 564 发光BB弹 0.12g

系列 Trace BB Series

型号 A012GL 重量(g) 0.12

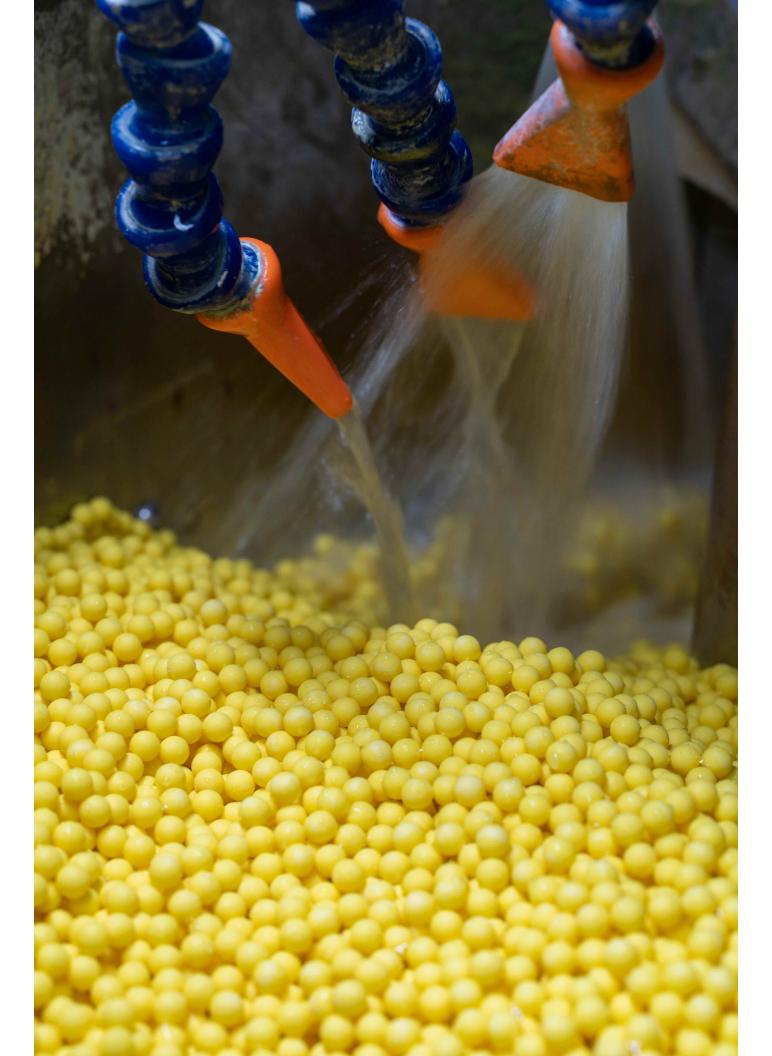
了解详情>>

□ 编号: 566 发光BB弹 0.15g

系列 Trace BB Series











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Exhibit B

Pellet, Merriam-Webster Dictionary, <a href="https://www.merriam-webster.com/dictionary/pellet">https://www.merriam-webster.com/dictionary/pellet</a>



- GAMES
- BROWSE THESAURUS
- WORD OF THE DAY
- WORDS AT PLAY
- LOG IN
- REGISTER
- •

### <u>settings</u>

• SAVED WORDS

pellet



dictionary thesaurus view recents

<u>Login</u> or <u>Register</u> Hello,

- **GAMES**
- BROWSE THESAURUS
- WORD OF THE DAY
- WORDS AT PLAY
- <u>SETTINGS</u>
- •
- SAVED WORDS view recents

# pellet

### noun

### <u> Save Word</u>

To save this word, you'll need to log in.

# Log In pel·let | \ 'pe-let \ \

## Definition of pellet

(Entry 1 of 2)

1a: a usually small rounded, spherical, or cylindrical body (as of food or medicine)
b: a wad of indigestible material (as of bones and fur) regurgitated by a bird of prey
2: any of various projectiles fired from a weapon (such as an air rifle)

pellet

### verb

pelleted; pelleting; pellets

Definition of *pellet* (Entry 2 of 2)

### transitive verb

1: pelletize

2: to strike with pellets

Other Words from *pellet* Synonyms Example Sentences Learn More about *pellet* 

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## Other Words from pellet

Noun

pelletal \ 'pe-lə-t<sup>a</sup>l \ adjective

## Synonyms for pellet

Synonyms: Noun

• ball,

• bullet

### Visit the Thesaurus for More (3)

## Examples of *pellet* in a Sentence

Noun the tightly packed *pellets* of a shotgun cartridge Recent Examples on the Web: Noun The *pellets* are turned into plastic products, and environmentalists say marine animals mistake them for food. — <u>USA TODAY</u>, "Pumpkin boat, foie gras ban, library raccoons: News from around our 50 states," 31 Oct. 2019 Patch Reef's Ultrablade MX turf field, manufactured by Sprinturf, features a natural filler as opposed to the rubber *pellets* poured on top of most similar artificial surfaces. — <u>Gary Curreri, sun-sentinel.com</u>, "Patch Reef Park gets turf fields to keep players cool," 24 Oct. 2019

These example sentences are selected automatically from various online news sources to reflect current usage of the word 'pellet.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. <u>Send us feedback</u>.



## First Known Use of pellet

Noun

14th century, in the meaning defined at sense 1a

Verb

1607, in the meaning defined at sense 1

# History and Etymology for pellet

Noun

Middle English *pelote*, from Anglo-French, from Vulgar Latin \**pilota*, diminutive of Latin *pila* ball

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## Learn More about pellet

Share *pellet* 

Post the Definition of pellet to Facebook



Share the Definition of pellet on Twitter



Time Traveler for pellet



## The first known use of *pellet* was in the 14th century

See more words from the same century

# Dictionary Entries near pellet

**Pellaea** 

pellagra

pellagric

pellet

pellet bell

pelleter

pellet gun

See More Nearby Entries

## Statistics for *pellet*

Last Updated

23 Nov 2019

Look-up Popularity

Bottom 40% of words

Cite this Entry

"Pellet." The Merriam-Webster.com Dictionary, Merriam-Webster Inc., https://www.merriam-webster.com/dictionary/pellet. Accessed 30 November 2019.

Style: MLA



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More Definitions for pellet

pellet





# English Language Learners Definition of pellet

: a small, hard ball of food, medicine, etc.

: a small metal object that is shot from a gun

See the full definition for *pellet* in the English Language Learners Dictionary

pellet

noun

pel·let | \ 'pe-lət 🕠 \

## Kids Definition of pellet

1: a little ball (as of food or medicine)

2: a piece of small shot

3: a wad of material (as bones and fur) that cannot be digested and has been thrown up by a bird of prey (as an owl)

pellet

### noun

pel·let | \ 'pel-ət 🕠 \

## Medical Definition of pellet

: a usually small rounded or spherical body specifically : a small cylindrical or ovoid compressed mass (as of a hormone) that is implanted subcutaneously for slow absorption into bodily tissues

Keep scrolling for more

More from Merriam-Webster on pellet

Thesaurus: All synonyms and antonyms for pellet

Rhyming Dictionary: Words that rhyme with pellet

Spanish Central: Translation of pellet

Nglish: <u>Translation of pellet for Spanish Speakers</u>

Britannica English: <u>Translation of pellet for Arabic Speakers</u>

Comments on pellet

What made you want to look up *pellet*? Please tell us where you read or heard it (including the quote, if possible).

**SHOW COMMENTS** (+)

### **WORD OF THE DAY**

incognito •

with one's identity concealed

Get Word of the Day daily email!



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### Exhibit C

What is the difference between an air gun and an airsoft gun? Quora.

https://www.quora.com/What-is-the-difference-between-an-air-gun-and-an-airsoft-gun

Search for questions, people, and topics

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Airsoft Guns Airsoft Weapons

### What is the difference between an air gun and an airsoft gun?

#### 5 Answers



Mark Lefebre, Master Mechanic, Gunsmith and Journeyman Machinist Answered Sep 24 2018 · Author has 56 answers and 18.5k answer views

In short, a lot.

Airsoft uses small 6mm plastic BBs and are driven by spring, motor or gas power. They are of limited range and power, generally safe to use in any environment.

An air gun uses .177 pellets or BBS made of lead or steel powered by CO2, large springs or compressed air (via pumping a handle on the air gun). They are generally lethal to small game and many people have been seriously injured and killed by them. They can have a dangerous range of over 100 meters. They should be handled and treated as you would a regular firearm. They require a backstop to catch the pellet or BB when...(more)

**Related Questions** 

More Answers Below

Which is more powerful, an airsoft gun or a BB gun?

What is the physical difference between a real gun and an airsoft gun?

What are the differences between a BB gun and an Airsoft gun?

Which is better, an airsoft gun or a BB gun?

Should I buy a airsoft gun or air/pellet gun?



Bukkiah Golden, Engineer

Answered Nov 19, 2018 · Author has 120 answers and 143.9k answer views Originally Answered: How can you tell the difference between an air soft gun and a real gun?

In a "Street" situation there may be insufficient time, lighting, angle/perspective to

determine the difference even for very well trained people.

The difference between BB guns I grew up with and a .45 were pronounced enough to the people familiar with both, that a quick determination was usually possible. Mostly from spotting the features of the BB gun which were clearly NOT features of real guns they were vaguely made to imitate.

However I think that is no longer the case. You can NOT tell the difference until you closely inspect many guns/toys! The proliferation of "air soft" near identic...(more)

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Answered Feb 13, 2018 · Author has 469 answers and 108k answer views

The operative difference is in the projectile.

#### **Related Questions**

Which is more powerful, an airsoft gun or a BB gun?

What is the physical difference between a real gun and an airsoft gun?

What are the differences between a BB gun and an Airsoft gun?

Which is better, an airsoft gun or a BB gun?

Should I buy a airsoft gun or air/pellet gun?

How does the MP5k Airsoft gun compare to other airsoft guns?

"Air gun" typically refers to rifles and pistols and lately machine guns designed to use compressed air of some sort to propel a metallic projectile such as BB or ball, pellets or darts. Calibers typically are .177" or .22" but can be larger.

"Air Soft" guns also include rifles or pistols and use compressed air but typically fire plastic BBs of 6mm diameter which are less likely to cause injury or damage. This is good for indoor practice and the company has a line of equipment for this activity.

1.6k views · View 5 Upvoters · Answer requested by Sanskar bhargava



John Shea, former Environmental Health at City of Boston (1982-2017) Answered Feb 13, 2018 · Author has **1.3k** answers and **315.6k** answer views

An airgun is any of various projectile shooting devices powered by compressed air or CO2. The compressed air may come from a precharged tank, a on board pump, or a spring piston.

Airsoft and paint ball guns are a sub-category of airgun designed and intended for gaming. They are safe when used as intended while wearing appropriate safety equipment. Never use other types of airguns for these sports as those projectiles can cause human injury or death when misused. They are intended for hunting, target shooting, or plinking, not for shooting at humans wearing protection effective only against p...(more)

#### **Related Questions**

More Answers Below

How does the MP5k Airsoft gun compare to other airsoft guns?

What are the different uses of Airsoft guns?

Can I use the body of an airsoft gun for a real gun?

What is the best CRW airsoft gun?

Why does my Airsoft gun shoot to the right?



Al Martel, Barrister, Solicitor & Notary Public at Martel Law Office (2009-present)

Answered Nov 19, 2018 · Author has 267 answers and 63k answer views

Originally Answered: How can you tell the difference between an air soft gun and a real gun?

Manufacturers try to make air soft as realistic as possible and so it can be difficult to differentiate the two from a distance (especially if the tip isn't orange). Always remember that a gun is a gun and even an air soft can make one lose an eye. The muzzle on an air soft is usually much smaller than on a "real gun", although a 22lr isn't that much bigger in diameter. Pay attention to the action mechanism and you will be easily able to tell air soft and "real gun" apart.

Al.

416 views · View 1 Upvoter

#### **Related Questions**

Which is more powerful, an airsoft gun or a BB gun?

What is the physical difference between a real gun and an airsoft gun?

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Why does my Airsoft gun shoot to the right?

What is the most powerful airsoft pistol?

How do I get reliable and cheap Airsoft guns?

What can be done to an "AEG" airsoft gun in order to increase distance?

What are good Airsoft BB gun brands?

How can I tell what gun an airsoft gun is based on?

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GOLDENBALL, Registration Number 3954352, Trademark Status & Document Retrieval (TSDR) <a href="http://tsdr.uspto.gov/#caseNumber=85117152&caseSearchType=US\_APPLICATION&caseType=DEFAULT&searchType=statusSearch">http://tsdr.uspto.gov/#caseNumber=85117152&caseSearchType=US\_APPLICATION&caseType=DEFAULT&searchType=statusSearch</a>

**BULK DATA:** Since May 7 at 12 a.m., the TSDR Application Programming Interface (API) has not included all information. Images of trademark registration certificates issued since July 2016 and some office actions are absent in the API. Customers who need to retrieve a copy of a registration certificate or an office action should download it directly from the TSDR documents tab.

**INTERMITTENT SYSTEM ISSUES:** Due to high-volume usage, you may experience intermittent issues on the Trademark Status and Document Retrieval (TSDR) system between 6 – 8 a.m. ET. Refreshing your web browser should resolve the issue. If you still need assistance accessing a document, email **teas@uspto.gov** and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

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Mark: GOLDENBALL

### GOLDENBALL

US Serial Number: 85117152 Application Filing Date: Aug. 27, 2010

US Registration 3954352 Registration Date: May 03, 2011

Number:

Register: Principal

Mark Type: Trademark

TM5 Common Status

**Descriptor:** 



DEAD/REGISTRATION/Cancelled/Invalidated

The trademark application was registered, but subsecancelled or invalidated and removed from the regis

Status: Registration cancelled because registrant did not file an acceptable declaration under Sectio

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**Status Date:** Dec. 08, 2017

Publication Date: Feb. 15, 2011

Date Cancelled: Dec. 08, 2017

### **Mark Information**

### **Goods and Services**

#### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Plastic airsoft BBs and plastic airsoft spheres for use as ammunition

International Class(es): 013 - Primary Class U.S Class(es): 002, 009

Class Status: SECTION 8 - CANCELLED

Basis: 1(a)

**First Use:** May 23, 2009 **Use in Commerce:** May 23, 2009

**Basis Information (Case Level)** 

**Current Owner(s) Information** 

**Attorney/Correspondence Information** 

**Prosecution History** 

**TM Staff and Location Information** 

**Assignment Abstract Of Title Information - Click to Load** 

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### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 88,492,889

Mark: GOLDENBALL (stylized with design)

Class(es): 6, 13, 17 (as filed); 13, 17 (currently amended)

Applicant: Jiayi Pan

Filing Date: June 28, 2019

Office Action Dated: September 21, 2019

Attention: Karen S. Derby

Trademark Examining Attorney

U.S. Patent and Trademark Office

Law Office 123

Exhibit E

Beginners Guide to Airsoft, http://www.techbrigade.org/about/beginners-guide-to-airsoft/



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## **Beginners Guide to Airsoft**

### Okay, I'm listening. Tell me more.

Airsoft is, in the authors' opinion, "Paintball for grown-ups." An airsoft gun is a full size replica of a real life gun. Many people collect them as they represent high quality replica models of otherwise unobtainable firearms. Others get dressed up in camouflage gear and run around private grounds shooting at each other. This is known as a "Skirmish" or "Skirmishing".

Originating in Japan, and now popular all over the world including Asia, the United States and Europe, Airsoft has branched out into, and been embraced by, the Corporate Leisure industry while keeping it's niche popularity with its fans. The film and television industry also use airsoft guns as they provide lifelike replicas that are much less dangerous than the real thing. If you look carefully at the pilot episode of Stargate SG1, for example, you will see they were using Airsoft guns as props.

The ammunition used in airsoft is a small 6 mm diamter plastic ball known as a "BB." Airsoft BBs are not the same as the 4.5 mm steel balls that BB Air guns fire, nor the 4.6 mm (0.180 in) "BB" size lead birdshot from which the term "BB" originates. Contrary to popular belief BB does not mean "Ball Bearing".

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### Cool. What about the shooters then?

Most modern guns (and many less modern) have their airsoft analogues. They fall into 3 main categories and are differentiated by the type of gun and the mechanism they use to fire the projectile. Quality can vary considerably from gun to gun and manufacturer to manufacturer. As a general rule of thumb the more metal used in the fabrication of the weapon the more durable and robust it will be.

### **Electric:**

The most popular type of airsoft gun for skirmishing is known as the AEG, or Automatic Electric Gun. The first AEGs were made by the Japanese Manufacturer Tokyo Marui (usually known as TM). TM have produced copies of most of the automatic rifles that are in use around the world today. Since TM made the first AEG many more manufacturers have appeared: Cyma, G&G, ICS, VFC, KWA, WE, Krytac and ASG to name but a few. There are now airsoft versions of the Russian Kalashnikov AK series, through

the space age Austrian Steyrs and Belgian FN's to the ubiquitous Colt M16 / M4 and an almost complete range of German Heckler and Koch's. Even British favourites like the SLR / L1A1, Sterling SMG, STEN, the SA80 / L85 / L86 and the L119A1 are available. Everything from sub-machine guns, through assault rifles to light and heavy machine guns are available. There are even Airsoft miniguns. AEGs use a combination of a pneumatic piston, gears, a motor and electric systems to produce a fully automatic gun. Manufactured typically of a combination of plastic for the moulded parts and metal for the moving and mechanical parts. The magazine capacities of these guns are often much bigger than the original "real steel," as they are known, weapons. For example, airsoft AKs typically have a 600 round magazine available. The real steel AK only has a 30 round magazine. Prices range from as little as £100 to £2000 or more for a top end Systema "Professional Training Weapon" or PTW rifle.



**AEG Light Machine Guns** 



An AEG Kalashnikov. You can see the BBs leaving the barrel.

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### Gas:

Pistol users are well catered for by gas powered weapons. These are usually powered purely by stored, pressurised gas. The gas is stored, along with the BBs, in the pistol magazine. For pistols the main gasses are either CO2, in the form of 12g capsules, or "Green Gas" (essentially Propane or Propane based mixes). Gas Pistols and Rifles have many more moving parts than AEGS. Often the entire slide or bolt moves when the gun is fired, making for a much more realistic and satisfying experience. Gas Blow Back guns (GBB for short) can be as powerful as AEGs. Pistols are carried as a backup weapon or used in pistol only games, which can get quite frantic at close quarters. Most of the better manufacturers make GBB's including Tokyo Marui, Western Arms, Tanaka, WE, KWA and KSC. Most are single shot affairs, but some are full auto. Typically a little cheaper than AEG's, prices run from £60 to £300. Since this article was originally written GBB Rifles have become much more usable and gas efficient and there are now a significant range of models of GBBRs available from the likes of TM, WE and KWA.

NOTE: CO2 powered weapons and HPA powered weapons are not allowed at Tech Brigade.





A gas powered revolver blow back pistol. The photo has caught the pistol mid cycle with the slide moving.



A gas powered revolver pistol.

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### Spring:

The third type of gun is the spring rifle or pistol, most commonly found as the sniper rifle. These are bolt action, single shot weapons. They are essentially identical in operation to manually cocked spring air rifles. A spring pushes a piston forward in a cylinder to propel the BB down the barrel. Due to some legislation single shot rifles can use higher power. As a result they have greater range and can be tweaked to have greater accuracy than an AEG. One can spend over £400 for the best sniper guns. Shotguns, which fire a salvo of 3 rounds, are also popular and use the pump action to compress a spring. Spring pistols and rifles were the very first kinds of airsoft guns and ruled the airsoft world until the arrival of the TM FAMAS, the first AEG. Spring pistols are puny things compared to modern gas pistols but can still be highly entertaining.



A spring powered bolt action sniper rifle.





A spring powered tri-shot shotgun.

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### Others:

The 3 generic types listed above are the most common types of airsoft guns, but others such as Non Blowback (NBB) guns, Automatic Electric Pistols (AEP), compressed air and shell ejecting types are available along with many other specialist types.

In the last few years Compressed air has also become a possibility for powering gas airsoft guns. Often known as "High Pressure Air" or HPA systems. HPA sees something of a return to the paintball systems where the rifle has to be connected to a remote air reservoir or tank, usually by a long umbilical hose. There are two schools of thought on HPA systems: those who love the increased shot to shot consistency or high rates of fire which HPA can provide and those who dislike the reduction in realism that having to carry around an air tank, pressure regulator and hose line introduces.

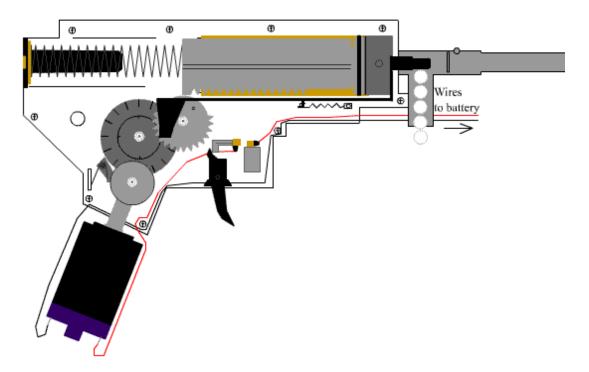
There are also BB grenades but these are almost useless (wisely) due to safety/explosion restraints and should be saved for urban room clearing and small bunker clear-outs. There are even grenade launchers. Modelled around the 38 mm grenade launcher system they use "Moscarts." These typically fire a salvo, or shower, of up to 200 BB rounds in a slightly diverging flight path. Airsoft shotguns use the same divergent technique. Moscarts are really only a very close range last ditch weapon quite unlike the real 38 mm grenade launcher.

NOTE: HPA powered weapons are not allowed at Tech Brigade. Back to top

### How do the guns work?

### How does an AEG work?

When the user pulls the trigger, a circuit is completed and the motor runs. I hrough the gearbox, the motor pulls a piston inside the cylinder back against a spring. The chamber fills with air. A mechanism pushes a BB from the magazine into the breach or hop-up unit. The piston is then released and the spring pushes it forwards. The air in the chamber is rapidly compressed and the BB is pushed at speed out of the barrel.



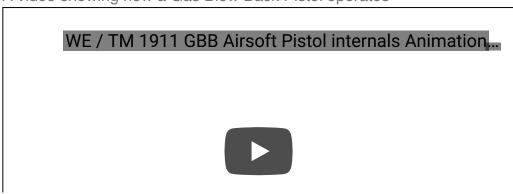
Animation of how an AEG works.

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### How does a GBB pistol work?

(In simplistic terms) When the trigger is squeezed, gas is released from the magazine pushing the BB out of the barrel. Simultaneously a small cylinder fills up with gas pushing against a piston which pushes the slide back resetting the mechanism and reloading a BB in to the chamber for firing.

A video showing how a Gas Blow Back Pistol operates



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12/1/2019

### What is "Hop-up"?

The secret to the range and accuracy achieved by airsoft rifles is all down to another Tokyo Marui invention. Modern guns impart backspin to the BB in the barrel, by means of a mechanism called Hop-Up. The backspin is applied by squeezing the BB under a rubber pad known as the "Bucking". By applying more or less pressure to the bucking, through a pad known as the "Nub", more or less backspin can be applied.



Animation of how the Hop-Up works

The backspin makes the round fly further by giving the BB lift to counteract the force of gravity.



The effect of hop-up adjustment.

The effect of getting lift from backspin is called the "Magnus Effect". A correctly adjusted HOP makes the round fly in a stable manner without losing height until almost the end of its flight, at which point it drops off quickly. The adjustment of hop-up and the selection and discussion of the best hop-up parts is a huge subject worthy of it's own dedicated website.

How the Magnus Effect works



### What is a "Skirmish" then?

People who have played Paintball are struck by the similarities that Skirmishing has with that sport. Often, they are also surprised by the differences.

A skirmish is an organised game, or series of games which take place over a day (or more than one day). Basically, the players split up into two teams and compete against each other. Objectives vary; King of the Hill, Hostage Rescue, Blow the Bridge are all common examples. Players try to shoot their opponents to take them out of the game. Shot players have to remove themselves from the arena of play for a short period by returning to a nominated place before they can return to the game. As you can imagine, safety is paramount so eye protection is mandatory and all players must pay attention to all pregame briefings.

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### How does one know when you're hit?

### First a bit of science:

When one is hit by a paintball round, it hurts. The paintballs are large (0.68" /17.27mm dia), heavy (max 3.2 gramme) and liquid filled. Paintballs are fired at muzzle energies around 6 to 12 times those allowed in airsoft: 16 Joules for rifles and 8 Joules for pistols. To be useful, a paintball has to be strong enough to survive being fired from its gun, yet be travelling fast enough and be fragile enough, to break when it hits it's target. Paintballs can, and do, leave some really tasty bruises. You certainly know when you have been hit by a paintball.

Airsoft BBs are smaller (6mm dia) and lighter (usually 0.20-0.25 gramme up to a max ~0.45 gramme). Muzzle energies are legally limited (due to the recently introduced Policing and Crime Act) to 1.3 joules for fully automatic rifles and 2.5 Joules for single shot/semi auto rifles. In practice most sites set limits lower than the legal maximum. At Tech Brigade we use 1.14 Joules for automatics and 2.3 Joules for single shot / semi auto. The Rules section has more detailed information on power limits. While a BB flies much faster it is much lighter and doesn't carry anywhere near the kinetic energy of a paintball. A BB can leave a small bruise. They can break unprotected skin and can, and do, break teeth which is why we highly recommend wearing full face protection. At longer ranges BBs wont bruise or break skin. Back to top

#### So how do I know I am hit?

Usually, you'll feel the round (or rounds) hit you. If you've been hit by BBs from an AEG, the chances are you're going to be hit by a number of rounds. That feeling is quite unmistakable. You might also hear the person who shot you celebrating in the distance! If a sniper round hits you, it will be a single shot, but you will feel it. Some will tell you that it hurts and undeniably, while a paintball round provides a punch, an airsoft round can sting. Not enough to really hurt, but enough to leave you in no doubt you've been hit and not to want it to happen again too soon. That said, players often wear various chest rigs or plate carriers or, in cold weather, may have several layers of clothing. This can make it difficult to feel a hit. Also if you are at the far end of the rifle's range the BB will have lost almost all of it's kinetic energy and might not make much impact. You may have to rely on hearing the hit which makes a distinctive noise. As airsoft is entirely based on honour, reliant on people being honest and calling their hits, if you are uncertain about whether or not you have been hit just call yourself hit. As we operate a re-spawn system you will only be out of the game for as long as it takes you to get back to the re-spawn point and get back in to the fray again. If in doubt call the hit!

## What then?

This is where a lot of people new to airsoft have been known to frown a little and look slightly puzzled. When a person is hit, they are expected to own up to it. As there is no paint there is no way to show you are hit so it is down to each player to be honourable and own up to being hit themselves. Traditionally, the shot player shouts, in a clear loud voice, "Hit!" and stands up and raises their gun or free hand above their head. Try to make sure you call your hit quickly and loudly. Bear in mind that the person who shot you is likely to still be firing with a noisy airsoft gun held at their shoulder. So you need to be loud enough for them to hear you from some distance and over the noise of the gun firing next to their head. Once you have called yourself "Hit" immediately walk straight to your re-spawn point continuing to

hold your gun or arm above your head. Don't look around trying to see who shot you or where the shot came from. Don't talk to anyone, "Dead men don't talk!", until you have reached the re-spawn point.



A selection of images of players calling "Hit!"

Some are tempted not to take their hits. Do bear in mind that the chances are the person who shot you knows the fact and will raise the matter with the person concerned, either at the time or during a break. Players can quickly get a reputation and those who are known not to take their hits might find they are not welcomed in teams, and may find themselves singled out as a target.

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## Isn't it a bit boring having been hit and waiting for a new game?

Which takes us to the next principle, central to the sport. Tech Brigade pioneered the Dead Zone or Respawn system. In most games a player gets to live more than once. Both teams have a designated "Dead Zone". When a player is hit, they go to the Dead Zone. After which they are free to rejoin the game. A wise player might change a battery or top up a magazine during this time. Another game option is the 'Medic Rule' where a designated team member can bring you back to life – this would mean that you stay where hit until the medic can reach you.

It used to be that most airsoft sites didn't play the Dead Zone system, but used the paintball-originated Safe Zone system, whereby once you are hit, you retired to a nominated Safe Zone and were out for the remainder of that game. We found that this needed too many marshals to police and was quite disheartening for the new or unlucky player who got hit in the first 20 seconds of a game. These days www.techbrigade.org/about/beginners-guide-to-airsoft/

most skirmish sites use some variation on the Dead Zone or Re-spawn system.

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## So, what games can you play?

Airsoft attempts to recreate the thrill of an infantry engagement. Overwhelmingly, these take place in two arenas. The Urban setting and the Woodland setting. In general, the players are split up into two teams. One team, designated the defenders, have to protect an object, building or person. The others have to attack and shoot, secure or "blow up" the objective.

Sometimes, it will simply be a war of attrition, kill as many of the other team as you can. King of the Hill relies on holding a set objective whilst a timer counts down. Once the timer has expired, the team at the objective wins.

Sometimes a game will have limits on the hardware that can be used. We know them as "Pistol and Pump only" which means, no AEG's or snipers, or "All Electric" which is self-explanatory. These days these sort of games are played infrequently..

A time limit can be set on a game. This has the effect of controlling the tempo and thereby how the players play the game. On a long game, people will be patient and tactical. In a short game, players will be more mobile and take more risks.

At Tech Brigade we use a number of in-game props:

- "Herman": A head and shoulders aluminium cut out target which has to be shot to end the game.
- Flags: Which need to be captured / collected.
- Mortar Tubes: Which either have a whistle attached which has to be blown or a small firework inside which has to be set off (over 18s only)
- Mission Boxes: Three yellow ammo boxes containing: A battery, A key switched intermediate box / pyrotechnic firing box and an Alarm box. These have to be gathered together and connected using special short cables in a daisy chained fashion. These can be used in several permutations:
  - 1. Battery and the key switched intermediate box / pyrotechnic firing box in pyro box mode to fire a pyrotechnic device.
  - 2. Battery and Alarm box.
  - 3. Battery, the key switched intermediate box / pyrotechnic firing box in switched box mode and Alarm box.

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## What's better, attack or defend?

Well, they are very different.

#### Defending

When you're defending you will usually have a nice, dug in, position to defend and be aware of where your comrades are because you are all defending the same position. Your Dead Zone (if those rules are played) will likely be close by, so your hit players can recover quickly. They can work well as a team and benefit from mutual support. But, they don't know where the attack will come from.

### **Attacking**

Meantime, the attackers have the freedom of the game area and if they are good, they can outflank the defenders. They know more or less where the objective is. But, they are often uncoordinated because they are spread out and their Dead Zone might be a fair distance away. At Tech Brigade, the Gamesmaster will have the attackers out-number the defenders; it makes for a better game. Back to top

# How many games will you play and how long are they?

Depending on the game type, a game will typically last between 10 to 60 minutes. Occasionally, a specially organised game will last more than an hour. It's usual to play games in batches of two or three, without returning to the Safe Zone so players should carry enough ammunition, batteries and gas to cover this. Usually each game session will be one team attacks one defends, then a swap round, then return to to the Safe Zone to reload and tell the stories. How long a day lasts is down to nature and weather! The What happens during the day section has a bit more of a breakdown of the usual TB day. Back to top

## How will I know the game is over?

Good question! Don't worry we wont leave you alone in the field like a lost WWII Japanese soldier! In common with many elite special forces, at Tech Brigade, "No-one gets left behind!". All games have one of two ending scenarios:

- The game objective is achieved by the Attacking force: As in the attackers capture the flag, over run the base, shoot the VIP, locate the hidden items or otherwise complete their goal. In some cases this will involve blowing a whistle, setting off an alarm or firework or hitting a metal target. Either way there will be a noise and a shout of "Game Over!" Usually followed by several blasts of a whistle.
- The game objective is not achieved and the Defenders succeed in preventing the attackers completing their mission. This usually happens with the Defenders holding out and running down the game clock. One of the organisers keep's an eye on the clock and will shout out how many minutes are left towards the end of the game: "10 minutes to go", "5 minutes to go", etc. When time runs out a whistle will be blown. Followed by shouts of "Game Over!"

On the very rare occasions when players have dug themselves in to a defensive position some distance from where the action is and missed the whistle blowing and shouting we do notice and send out search parties to retrieve our lost comrades.

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# How do I know which side is which?

We use coloured armbands to identify which side are the Attackers and which are the Defenders. The Defenders always wear Red armbands. The Attackers don't usually wear armbands. In some game scenarios we might have three teams. On these occasions we break out the special Blue armbands  $\odot$  .



A defending player showing the red defenders armband.





Pre-game briefing for the attacking team. Note the Green flag which is the Re-spawn marker and that none of the players have armbands.

# More questions?

Get on to our forum, you will need to register to ask a question, but from then on, we will do all we can to help you.

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#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 88,492,889

Mark: GOLDENBALL (stylized with design)

Class(es): 6, 13, 17 (as filed); 13, 17 (currently amended)

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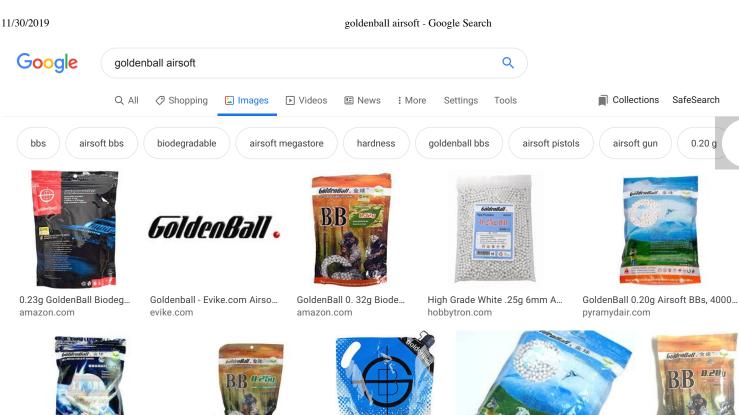
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#### Exhibit F

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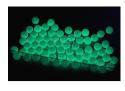


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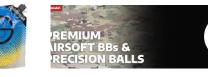
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