

## RESPONSE TO OFFICE ACTION

The U.S. Patent & Trademark Office has preliminarily refused registration of U.S. Serial No. 88/640315, owned by Southeast Toyota Distributors, LLC (“Applicant”), for the mark X SERIES (stylized) (“Applicant’s Mark”). The issues raised by the examining attorney are addressed in turn below.

### 1. Specimen Refusal

First, the examining attorney refused the specimen submitted by Applicant, noting that “the webpage [submitted] is not an acceptable display associated with the goods and appears to be mere advertising material.”

Applicant discussed this issue by phone with the examining attorney and explained that the specimen need not be considered solely as an online display associated with the goods because it displays the mark on the goods themselves.

As discussed, Applicant’s Mark identifies a package of optional automobile accessories offered to consumers through automotive dealerships. The specimen Applicant submitted consists of several webpages dedicated to Applicant’s X SERIES accessory package. In addition to the prominent use of Applicant’s Mark at the top of each page, the specimen also shows use of Applicant’s Mark specifically in connection with “badges of plastic for vehicles,” “alloy wheels for motor vehicles,” and “caliper covers for motor vehicles,”<sup>1</sup> as shown in the following images clipped from the specimen:

**Image 1**



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<sup>1</sup> These items are phrased according to the updated identification of goods Applicant has submitted with this office action response.

**Image 2**



**17" KMC Black Bully  
Wheels**

The blacked-out appearance of the RAV4 XP Trail begins with 17" satin black KMC Bully wheels that are branded with an X Series logo in the center cap.

**Image 3<sup>2</sup>**



**X Series Red Brake  
Caliper Covers**

Toyota Red X Series Brake Caliper covers add color and attitude to your Camry while reducing the build up of brake dust on your wheels.

The examining attorney indicated that these images would suffice as specimens of use. Accordingly, Applicant respectfully requests that the specimen refusal be withdrawn.

**2. Identification of Goods**

Second, the examining attorney required amendments to Applicant's identification of goods. Applicant has submitted the following a revised identification of goods:

***Class 12:*** *Automobile equipment packages sold as an integral part of motor vehicles and comprised primarily of a combination, in whole or in part, of exterior accessories, namely, caliper covers for motor vehicles, alloy wheels for motor vehicles, all-terrain tires for motor vehicles, motor vehicle running boards, engine exhaust tips, fender flares*

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<sup>2</sup> Although partially obscured in this image, Applicant's Mark is displayed on the red caliper cover behind the wheel.

*for land vehicles, spray-in truck bed liners, and bumper covers for automobiles, and also including plastic overlays for motor vehicle emblems, fog lights for vehicles, and badges of plastic for vehicles.*

Applicant submits that this revised description complies with the examining attorney's specifications.

### **3. Disclaimer**

Finally, the examining attorney has required that Applicant disclaim "SERIES" in Applicant's Mark. Applicant agrees to the disclaimer and has submitted the following statement:

**No claim is made to the exclusive right to use "SERIES" apart from the mark as shown.**

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In view of the foregoing, Applicant approve U.S. Serial No. 88/640315 for publication.