

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

Applicant : IVOX MEDIA LLC  
Serial No. : 90059023  
Filing Date : July 17, 2020  
Mark : IVOX  
Examining Attorney : Niya Rafari-Pearson  
Law Office : 112

**RESPONSE TO OFFICE ACTION**

Commissioner For Trademarks  
P.O. Box 1451  
Arlington, Virginia 22313-1451

Dear Commissioner,

This communication responds to the Office Action dated November 9, 2020 regarding the above-referenced application. In the instant Action, the Examining Attorney has refused registration based upon a perceived likelihood of confusion with the marks in two prior registrations. The Examining Attorney has also requested a clarification of the recitation of services; an explanation of the meaning of the wording “IVOX” and a street address. Applicant complies with the Examining Attorney’s requests, but respectfully traverses the likelihood of confusion refusal and submits arguments against the same.

As an initial matter, please know that the term “IVOX” does not have any meaning or significance in the relevant trade or industry. The term IVOX was coined to suggest or connote an independent voice in media.

**A. LIKELIHOOD OF CONFUSION**

The applied-for mark is “IVOX” originally for various entertainments services in the nature of television show and motion film production services, providing a website in the field of web television, video streaming, and providing online magazines in the field of pop culture in Class 41. (Applicant has herewith amended its recitation of services to “Transmission of audio, audiovisual, and multimedia content via web-based streaming platforms, connected TV apps, and over-the-top services” in International Class 038.)


The registrants' marks is "EVOX" (Reg. No. 3765883) for "Photography, audio and video recording services in the field of automotive imaging" in Class 41 and "EVOX" (Reg. No. 2007892) for "digital audio and video production services for use in connection with virtual reality computer programs" in Class 41.

Applicant respectfully traverses the Section 2(d) refusal on the grounds that the Cited Marks and Applicant's mark are able to co-exist with several similar third party marks, which themselves already co-exist without likelihood of confusion.

**1. In addition to the Cited Marks, Other Similar Registered Marks in Use with Similar Services Co-Exist Without Likelihood of Confusion.**

As shown below, the Cited Marks are but two of a number of co-existing federal registrations for marks utilizing the term VOX in connection with various related or similar services. These include the following thirty-four (34) subsisting registrations, true and accurate copies of which registrations are attached hereto as Exhibit A. These registrations were downloaded from the TSDR system on May 8, 2021:

Reg. No.	Mark/Owner	Class 041 Services
6258368	<p><b>DJ ANARCHY / VOX DOMINI MUSIC ENTERTAINMENT</b></p> <p>Owner: Christopher Tate</p>	<p>Music composition and transcription for others; Music production services; Music publishing services; Music selection services for use in television, film, radio and video games; Music video production; Television show production; Composition of music for others; Entertainment services in the nature of recording, production and post-production services in the field of music; Entertainment, namely, live music concerts; Post-production editing services in the field of music, videos and film; Production of music; Providing a website featuring information in the field of music and entertainment; Providing an Internet website portal in the field of music; Providing on-line music, not downloadable; Providing ratings for television, movie, music, video and video game content</p>



6208368	<p><b>JURYVOX</b></p> <p>Owner: JVX Desenvolvimento de Sistemas Ltda</p>	Administration of lotteries for others; conducting raffles for others
6125608	<p><b>VOX MACHINA</b></p> <p>Owner: Critical Role LLC</p>	Publishing of books, e-books and audio books; online publication of electronic books and journals; production of radio and television programs; scriptwriting, other than for advertising purposes; television and radio entertainment, namely, television and radio shows featuring fantasy, role playing, games, animation and fiction; providing films and television programs, not downloadable, via video-on-demand services; theatre productions; film directing, production and distribution, other than for advertising; entertainment services, namely, providing an ongoing audio and visual program in the nature of digital and multimedia programs with audio and video content, featuring comedy, unscripted, variety, fantasy, and talk show elements, that is broadcast, live or recorded, via a global computer network, satellite, cable, television, radio, and to mobile devices
6034555	 <p>Owner: Vox Media, LLC</p>	Online journals featuring news, current events, and articles in the fields of politics, fashion, beauty, retail, lifestyle, relationships, parenting, self-help, and culture; providing websites featuring current event news; editorial reporting services in the fields of current events, politics, fashion, beauty, retail, lifestyle, relationships, parenting, self-help, and culture; providing websites featuring information in the field of popular culture

6034554	<p><b>THE GOODS BY VOX</b></p> <p>Owner: Vox Media, LLC</p>	<p>Online journals featuring news, current events, and articles in the fields of politics, fashion, beauty, retail, lifestyle, relationships, parenting, self-help, and culture; providing websites featuring current event news; editorial reporting services in the fields of current events, politics, fashion, beauty, retail, lifestyle, relationships, parenting, self-help, and culture; providing websites featuring information in the field of popular culture.</p>
5963343	<p><b>VOXFIT</b></p> <p>Owner: Davis, Sara</p>	<p>Arranging of seminars; Entertainment services in the nature of voice coaching; Instruction in the nature of vocal health, voice use, voice therapy, and voice coaching clinics; Personal coaching services in the field of vocal health, voice use, and voice therapy; Professional coaching services in the field of vocal health, voice use, and voice therapy; Providing fitness instruction services in the field of vocal health, voice use, voice therapy, and voice coaching; Providing fitness training services in the field of vocal health, voice use, voice therapy, and voice coaching; Providing group coaching in the field of vocal health, voice use, and voice therapy; Providing on-line digital publications in the nature of articles and blogs featuring commentary and interviews in the fields of vocal health, voice use, voice therapy, and voice coaching via the Internet; Workshops and seminars in the field of vocal health, voice use, voice therapy, and voice coaching.</p>
5939352	<p><b>ELECTRO-VOX</b></p> <p>Owner: Electrovox, LLC</p>	<p>Music production services and recording studio services.</p>


5861235	<b>VOX</b> Owner: VOX MEDIA, LLC	Entertainment services, namely, providing podcasts in the fields of news, media, politics, culture, government, public policy, legislation, health care, commerce, current events, economics, business, technology, social issues, education, history, innovation, culture, entertainment, science, and topics of general human interest; audio production services, namely, creating and producing podcasts.
5756704	<b>MOXY VOX</b> Owner: Ferguson, William P.	Providing voice overs for tapes, records and other recorded media for entertainment and education purposes
5685845	<b>TOOLVOXCOM</b> Owner: Maman Training International, LLC	Language instruction; Provision of courses of instruction in languages.
5499094	<b>TIVO BOLT VOX</b> Owner: TiVo Brands LLC	Interactive television programming; entertainment services, namely, providing online interactive electronic games; non-downloadable electronic publications in the nature of guides to interactive television programming.
5675897	<b>TIVO MINI VOX</b> Owner: TiVo Brands LLC	Interactive television programming; entertainment services, namely, providing online interactive electronic games; non-downloadable electronic publications in the nature of guides to interactive television programming
5899946	<b>VOX</b> Owner: Vox Media, LLC	Educational services, namely, arranging, organizing, and conducting educational events, conferences, seminars, and symposia in the fields of media, politics, culture, commerce, economics, and news relating to the aforementioned fields



5899945	<p><b>VOX CONVERSATIONS</b></p> <p>Owner: Vox Media, LLC</p>	<p>Providing information, news, and commentary in the field of current events via the Internet in the fields of media, politics, culture, commerce, and economics; providing online non-downloadable articles in the fields of media, politics, culture, commerce, economics, and news relating to the aforementioned fields; online journals, namely, blogs in the field of media, politics, culture, commerce, economics, and news relating to the aforementioned fields; educational services, namely, arranging, organizing, and conducting educational events, conferences, seminars, and symposia in the fields of media, politics, culture, commerce, economics, and news relating to the aforementioned fields</p>
4962390	<p><b>VOX</b></p> <p>Owner: Vox Media, LLC</p>	<p>Electronic publishing services, namely, publication of text and graphic works of others online featuring articles and commentary; digital video, audio, and multimedia publishing services; video production services</p>
4542277	<p><b>VOX POP FILMS</b></p> <p>Owner: Vox Pop Films Inc.</p>	<p>Motion picture film production; Television show production.</p>
5329948	<p><b>VOX</b></p> <p>Owner: Vox Media, LLC</p>	<p>Online journals featuring news, current events, and other timely information, namely, information in the fields of politics and culture; providing websites featuring news, current events, and other timely information, namely, information in the fields of politics and culture; editorial reporting services in the fields of current events, politics, and culture.</p>

5340971	<b>VOX.COM</b> Owner: Vox Media, LLC	Online journals featuring news, current events, and other timely information, namely, information in the fields of politics and culture; providing websites featuring news, current events, and other timely information, namely, information in the fields of politics and culture; editorial reporting services in the fields of current events, politics, and culture.
5058319	<b>VOX VERITAS COLLEGE CONSULTING, LLC</b> Owner: Vox Verita College Consulting, LLC	College admission consulting services, namely, providing seminars, workshops and independent consulting in the field of selecting and applying for admission to colleges and universities, including developing resumes for college admission, completing applications for admission, developing essays for admission applications and preparation for college admission interviews.
4894736	<b>VOX AVS</b> Owner: VOX Entertainment INC.	providing technical audio, lighting, video and theater production services.
4894712	<b>VOX PRODUCTIONS</b> Owner: VOX Entertainment INC.	special event planning for social entertainment purposes
4894683	<b>VOX ENTERTAINMENT</b> Owner: VOX Entertainment INC.	special event planning for social entertainment purposes
4264028	<b>TAXVOX</b> Owner: The Brookings Institution	Online journal, namely, a blog featuring information related to tax and budget issues and tax policy analysis

<p>3959749</p>	 <p>Owner: Cannone Sabino</p>	<p>Audio production services, namely, creating and producing ambient soundscapes, and sound stories for museums, galleries, attractions, podcasts, broadcasts, websites and games; Entertainment services in the nature of development, creation, production and post-production services of multimedia entertainment content; Libraries; Production of sound and music video recordings; Audio and video recording services; Audio recording and production; Book and review publishing; Editing or recording of sounds and images; Multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; Music publishing services; Production of audio recording; Publishing of books, e-books, audio books, music and illustrations; Sound recording studios.</p>
<p>6149941</p>	 <p>Owner: VOX S.P.A.</p>	<p>Conducting guided tours of cultural sites for educational purposes; educational instruction, namely, classes, seminars, and workshops in the field of travel, tourism; education information, namely, information about education services; providing on-line non-downloadable audio content, namely, non-downloadable audio podcasts in the field of travel and tourism; production of sound recordings; audio, video and multimedia production, and photography; audio entertainment services, namely, live musical concerts</p>



4810648	<p><b>VOXBURNER</b></p> <p>Owner: The Beans Group, LLC</p>	<p>Education and entertainment services, namely, providing classes, seminars, panel discussions and mentoring workshops in the field of marketing, market research and consumer behaviour research; arranging and conducting educational seminars and conferences marketing, market research and consumer behaviour research; entertainment services, namely, conducting contests; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of marketing; information, consultancy and advisory services relating to the aforesaid</p>
3272253	<p><b>VOX LUMIERE SILENTS YOU CAN HEAR</b></p> <p>Owner: Hayes, Kevin Saunders</p>	<p>Entertainment in the nature of live performances by musical groups, theater performers, dance groups, multi-media performances featuring light shows and laser shows, and live music</p>
3219951	 <p>Owner: PaxVox Che E. Present</p>	<p>Entertainment services in the nature of live performance by a musical band</p>
3694830	<p><b>VOX EROTIC</b></p> <p>Owner: LDW Group, Inc.</p>	<p>Entertainment in the nature of live performances by telephone actors; Entertainment services, namely, providing a website at which the general public can receive advice from an individual concerning relationships, such advice being for entertainment purposes only.</p>
3736255	<p><b>THE VOX GROUP</b></p> <p>Owner: VOX Entertainment, Inc</p>	<p>Special event planning</p>

3250287	 Owner: VOXMEDIA, LLC	Physician educational services, namely, providing continuing medical education symposia and seminars for physicians
2736297	 Owner: EYEVOX CORP	motion picture film production; video tape production; production of video discs and video cassettes for others.
2755593	<b>EYEVOX</b> Owner: EYEVOX CORP	Motion picture film production; video tape production; production of video discs and video cassettes for others.
2401395	<b>VOX</b> Owner: Planned Parenthood Federation of America, Inc.	Promoting the educational services involving pro-choice movement to young adults, namely, conducting public awareness programs and disseminating information through literature, meetings, videos, and exhibits.

As shown by the above list of marks, the Trademark Office has allowed co-existing registrations for multiple marks which include the word “VOX” (which is Latin for “voice”) for use with the same or similar services in International Class 041. See attached Exhibit B which is the definition of this term obtained on May 8, 2021 from <https://www.collinsdictionary.com/us/dictionary/english/vox>, an online dictionary.

It is respectfully submitted that if there is no concern of likelihood of confusion between those marks – all of which are used in connection with related services– there should similarly be no concern with the co-existence of registrations for the Cited Marks and Applicant’s mark for use with similar services especially since Applicant has clarified its services to “Transmission of audio, audiovisual, and multimedia content via web-based streaming platforms, connected TV apps, and over-the-top services” in International Class 038.

Applicant recognizes that third-party registrations need not be afforded substantial weight in determining likelihood of confusion; however, the Trademark Trial and Appeal Board has routinely relied upon the existence of such third-party registrations in evaluating such matters and to narrow the scope of the respective marks. See *In re Hamilton*, 225 U.S.P.Q. 174, 175-77 (T.T.A.B. 1984); *Keebler Co. v. Associate Biscuits Ltd.*, 207 U.S.P.Q. 1034, 1038 (T.T.A.B. 1980). As in *Hamilton* and *Keebler*, the third-party registrations identified above demonstrate that consumers will distinguish between the subject marks at issue herein because of the additional care that is required by consumers in selecting among the crowded field of marks.

The chart above is strong evidence that consumers are accustomed to distinguishing among such marks on the basis of words used in conjunction with VOX (e.g., "CITY" "MEDIA" "FIT" and others). Accordingly, Applicant's unique use of the phrase IVOX by itself provides significant differentiating elements that eliminate any likelihood of consumer confusion between Applicant's mark and other marks using the term VOX.

Based on the foregoing, the Cited Marks should not be used as the basis to refuse registration of Applicant's mark simply because of the shared VOX term. Doing so would prejudice Applicant and advance a greater scope of protection to the Cited Marks than any one of them is entitled to in light of what appears to be an already somewhat crowded field. See *Miller Brewing Co. v. Premier Beverages*, 210 U.S.P.Q. 43 (T.T.A.B. 1981) (no likelihood of confusion between MILLER and OL' BOB MILLER'S both for beverages); *Hershey Foods Corp. v. Cerreta*, 195 U.S.P.Q. 246 (T.T.A.B. 1977) (no likelihood of confusion between KISSES, a BIG KISS FOR YOU and SEALED WITH A KISS, all for chocolates); *United Drug Co. v. Mercirex Co.*, 86 U.S.P.Q. 112 (C.C.P.A. 1950) (no likelihood of confusion between REX and MERCIREX, both for pharmaceuticals); *Bell Labs, Inc. v. Colonia Prods., Inc.*, 231 U.S.P.Q. 569 (S.D. Fla. 1986) (confusion not likely between FINAL and FINAL FLIP, both for rodenticide); *Oreck Corp. v. United States Floor Systems, Inc.*, 231 U.S.P.Q. 634 (5<sup>th</sup> Cir. 1986) (no likelihood of confusion between XL and STEAMEX DELUXE 15 XL, both for carpet cleaners); *Con Agra, Inc. v. Saavedra*, 4 U.S.P.Q.2d 1245, 1247 (T.T.A.B. 1987) (no likelihood of confusion between PATIO for Mexican style foods and TOPATIO for Mexican themed hot sauce).

Although the Examining Attorney is not bound by the decisions of prior Examining Attorneys, Applicant submits that its arguments regarding no likelihood of confusion are supported by the fact that multiple prior Examining Attorneys have evaluated applications for marks utilizing the term VOX for various services in Class 41 and did not find a likelihood of confusion between such marks. Applicant respectfully submits that these decisions should be considered in the evaluation of Applicant's mark and that the likelihood of confusion refusal should be withdrawn. See, e.g., *In re 1776, Inc.*, 223 U.S.P.Q. 186 (T.T.A.B. 1984) (the Board reverses final refusal of registration for the mark MAMA'S, based on prior registrations for MAMA REGINA'S, MAMA VENTURA'S, MOMMA'S MONEY and ROCKY MACOCO'S MAMA'S LASAGNA, stating there is no logical basis to support refusal where the Examiners who examined the four prior registrations did not apparently foresee confusion.).

## **2. The Cited Marks are Not Famous**

It is also respectfully submitted that neither of the Cited Marks are particularly well known, let alone famous. As such, this factor also favors Applicant.

The Cited Marks are inherently and commercially weak and entitled to a very narrow scope of protection. Consumers are accustomed to encountering VOX terms in relation to various Class 041 services such that slight differences in the marks is suffice to avoid a finding that confusion is likely even when the marks are used on closely related services. See, e.g., *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818, 819 (Fed. Cir. 1986) ("The record shows that a large number of marks embodying the words 'bed and breakfast' are used for similar reservation services, a factor that weighs in favor of the conclusion that BED & BREAKFAST REGISTRY and BED & BREAKFAST INTERNATIONAL are not rendered confusingly similar merely because they share the words 'bed and breakfast.'"); see also TRADEMARK MANUAL OF EXAMINING PROCEDURE ("TMEP") § 1207.01(b)(viii) (Oct. 2017) and authorities cited therein ("If the common element of two marks is 'weak' in that it is generic, descriptive, or highly suggestive of the named goods or services, it is unlikely that consumers will be confused unless the overall combinations have other commonality.").

**B. CONCLUSION**

In view of the foregoing, Applicant respectfully requests the reconsideration and withdrawal of the Section 2(d) refusal. Prompt approval of the application for publication is respectfully requested.

DATED: May 8, 2021

Respectfully submitted,  
TDFoster – Intellectual Property Law

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