

Applicant: Ponto Care, Inc.
Ser. No. 88/420,876

Mark: PONTO
Law Office: 103
Examining Attorney: Christopher M. Law

In the office action dated July 24, 2019, the Examining Attorney identified several issues that are required to be addressed in order for the application to proceed to registration, namely:

- Prior-Filed Applications
- Indefinite Identification of Goods and Services
- Multiple-Class Application Requirements
- Amended English Translation Required.

Applicant has addressed the identification of goods and services and multi-class application requirements within the online response form and confirms that it has accepted the proposed wording provided by the Examiner for International Classes 9, 35, 39, 42 and 44 and has amended the description for Class 10 in accordance with the Examiner's request for further clarification of the goods.

In response to the substantive refusal of the referenced application, please note the following:

Amended English Translation Required

The Applicant submitted a translation of the mark PONTO as "bridge" in the original application. However, the Examiner has indicated that the proper translation is "point." Applicant respectfully calls to the Examiner's attention that the Applicant has chosen the word "ponto" based on its meaning in Esperanto, namely "bridge," and attaches relevant printouts from Wiktionary.org and Glosbe.com evidencing the same. Applicant also attaches copies of trademark registrations for VIDADO (Reg. No. 5,936,572), KORBATO (Reg. No. 5,385,136), AFERO (Reg. No. 5,023,909), LUMIGA (Reg. No. 4,465,251), and ADICIO (Reg. No. 3,282,702) where Esperanto has been identified as the relevant language for translation. In view thereof, Applicant maintains its original translation submission and requests that the Examiner remove the requirement to enter an alternate translation.

Trademark Act Section 2(d) – Likelihood of Confusion Refusal

The Examining Attorney has identified two prior pending U.S. trademark applications (Ser No. 88/233,117) and (88/460,774) that, if they mature to registration, may be cited as the basis for refusing registration of the Applicant's mark. Although Applicant is not obligated to enter a response at this time, Applicant elects to submit the following arguments in support of registration such that the potential citations should be removed.

U.S. Ser. No. 88/233,117

Lupus Foundation of America, Inc. (“LFA”) has a pending application for POINT for *training services, namely, providing web-based instruction in the field of health and disease assessments; testing services, namely, providing web-based testing of knowledge in the field of health and disease assessments.*

Similarity of Marks

As noted above, Applicant’s mark PONTO means “bridge” and therefore, even when translated, there is no likelihood of confusion between POINT and BRIDGE. Moreover, as shown in the specimen submitted in support of LFA’s application, the term “POINT” is an acronym for “Professional Online Instrument Training.” As such, even if PONTO were properly translated to “point” the relevant consumer would not confuse POINT, an acronym, with PONTO.

In the event that the Examiner is not persuaded by the difference in appearance and meaning of the marks, Applicant reserves the right to file substantive arguments in support of registration if and when the prior application matures to registration.

US Ser. No. 88/460,774

Hansgrohe SE filed an application for PONTOS for a variety of *electronic databases, downloadable mobile applications and software and computer firmware programs* which, as stated in the application are all “*for use in connection with sanitary products, sanitary fittings, and sanitary fittings and sanitary installations, in particular for bath and kitchen.*”

Relatedness of Goods and Services

Applicant does not deny that the words PONTOS and PONTO are similar. However, the parties clearly operate in different channels of trade and provide distinct product offerings such that there is no likelihood of confusion.

As stated on the Hansgrohe SE website, www.hansgrohe-group.com, Hansgrohe is “a leading manufacturer of showers, shower systems, bathroom and kitchen faucets, and kitchen sinks.” The PONTOS product, apparently already in the marketplace as evidenced by Hansgrohe’s website (attached) is, not surprisingly, and consistent with the scope of goods identified in its application, “a smart home water management system.” As evidenced by Applicant’s website www.ponto-care.com, with relevant pages attached, and described in the scope of its goods and services in the subject application, Applicant operates in the healthcare industry and

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specifically offers remote medical exams, collects exam data which is sent to the patient's doctor to provide high-quality telemedicine evaluations. The Applicant's products and services are the type chosen with significant care and attention by both doctors and individuals seeking medical care. Therefore, consumers are far from likely to believe there is any relation between healthcare products and services and home sanitary water management systems.

In view of the above, Applicant respectfully requests that the Examining Attorney reconsider a potential likelihood of confusion in the event of registration of the prior application and approve the subject mark for publication.