

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Application Serial Number: 90254764
Applicant: Nexel Technologies Corporation
Mark: NEXEL
Law Office: 113
Examining Attorney: Marynelle W. Wilson

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

RESPONSE TO OFFICE ACTION PURSUANT TO 37 C.F.R. § 2.62

Dear Examiner:

Applicant respectfully submits this Response to the Office Action issued on January 4, 2021, against Applicant’s NEXEL Mark under U.S. Trademark Application Serial No. 90254764 (the “Applicant’s Mark”), in light of prior filed pending U.S. Trademark Application Serial No. 79247402 for the term NEXL associated with international Classes 009 and 042 (the “Prior Pending Mark”) and United States Trademark Application Serial No. 88024092 for the term NEXEL associated with international Classes 038 and 039 (the “Applicant’s Prior Mark”).

I. RESPONSE TO SECTION 2(D) LIKELIHOOD OF CONFUSION REFUSAL

In light of the verified declaration stating that the “Applicant is the owner of Application Serial No. 88024092”, the Applicant respectfully requests that the Examining Attorney withdraw its 2(d) likelihood of confusion refusal.

Regarding the Prior Pending Mark cited against the Applicant and in light of the Applicant's Prior Mark, the following timeline is proffered to establish the series of events:

1. July 03, 2018, the Applicant files Applicant's Prior Mark with the United States Patent and Trademark Office ("USPTO").
2. November 08, 2018, the Prior Pending Mark is filed with the USPTO.
3. October 4, 2020, Applicant's Mark is filed with the USPTO.

The Applicant's Mark is identical to the Applicant's Prior Mark except for the addition of Class 042. The Applicant's Prior Mark was not cited in a likelihood of confusion rejection against the Prior Pending Mark. In light of the proffered explanation of the series of events, the Applicant respectfully requests that the Examining Attorney withdraw its likelihood of confusion rejection.

II. CONCLUSION

In view of the foregoing, Applicant respectfully requests the Examining Attorney withdraw its refusal and allow the Applicant's Mark to be published on the Principal Register. Any questions that would expedite the examination of this application can be directed to the undersigned attorney by telephone or email. If the above explanation does not support withdrawing the likelihood of confusion rejection, then Applicant respectfully requests an opportunity to proffer legal arguments in response prior to the Examining Attorney issuing a notice of suspension.

Sincerely,

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