

To: OPENAI OPCO, LLC (tmcentral@pirkeybarber.com)
Subject: TRADEMARK APPLICATION NO. 97733259 - GPT - OPAI013US
Sent: 4/18/2023 4:05:37 PM
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Attachments:

United States Patent and Trademark Office (USPTO)

U.S. Application Serial No. 97733259

U.S. Registration No.

Mark: GPT

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Owner: OPENAI OPCO, LLC

Reference/Docket No. OPAI013US

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PETITION DECISION

Issue date: April 18, 2023

The United States Patent and Trademark Office (USPTO) received a request to make special filed in connection with the above-identified trademark application on March 16, 2023.

Both a request to make special and a petition to make special are requests to advance the initial examination of an application out of its regular order. *Trademark Manual of Examining Procedure* (TMEP) §1710. However, a request to make special is based on an inadvertently cancelled or expired registration. Based on your grounds for advancement of initial examination, allegations of infringement and counterfeit products, a petition to make special would be the appropriate filing.

However, your request cannot be construed as an informal petition to make special because it is incomplete. Specifically, the petition is missing the petition fee as required by 37 C.F.R. §2.6 and the appropriate documentary evidence supporting the justification of special action. TMEP §1710. You state that “OpenAI is taking aggressive action against the myriad infringements and counterfeit apps.” (Req. to Make Special.) However, you omitted the required supporting evidence of the action you have taken against the infringer, e.g., a copy of a relevant civil court complaint, cease-and-desist letter. *See* TMEP §1710. Instead, you have provided a declaration statement and web articles of your product and the alleged infringement. Unfortunately, a declaration and evidence of alleged infringement are insufficient, and objective documentary evidence demonstrating your efforts against the infringement is required.

Invoking supervisory authority under Trademark Rule 2.146 to make an application “special” is an extraordinary remedy that is granted only when very special circumstances exist, such as a demonstrable possibility of the loss of substantial rights. 37 C.F.R. §2.146. A petition to make “special” is denied when the circumstances would apply equally to a large number of other applicants. TMEP §1710.01. Commonly accepted types of evidence for granting petitions to make special are copies of civil court complaints demonstrating the existence of pending litigation involving the mark, copies of cease-and-desist letters showing threatened litigation involving the mark, or copies of government regulations

showing that a trademark registration is required to secure government approval for the goods or services. *Id.*

DECISION

Therefore, your request is hereby dismissed. You may file a [new petition to make special](#) that includes supportive documentary evidence and petition fee.

/W. Wendy Jun/
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Note: This decision is not a legal determination by the USPTO of registrability, ownership or infringement.