

# AI & Trademark

## -IS GPT Trademarkable?

1

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National Chengchi University 政治大學

# AI & Trademark

- When addressing generative artificial intelligence and intellectual property, much of the focus has been on copyrights.
- Actually, generative artificial intelligence is also relevant to trademark, including trademark application, trademark rights and trademark infringement.
- Moreover, generative AI will help trademark professionals deal with complex and repetitive docketing tasks, assist them in creating and safeguarding valuable trademark assets.

# Presently, Most Cases Involving AI Is Copyright Related Cases

AI WRITING

## OpenAI and ChatGPT Lawsuit List

We looked at all lawsuits occurring against OpenAI and listed them below. In addition to the relevant detail we had a lawyer provide some commentary. This list will remain updated as an easy-to-reference location for any lawsuits against OpenAI ordered by date (oldest to newest).



Jonathan Gillham

May 1, 2024

Jerry Fong - AI & Trademark

Here's all lawsuits occurring against OpenAI and ChatGPT are given below:

- Daily News Lp Et Al V. Microsoft Corporation - April 30, 2024.
- The New York Times Company v. Openai Inc. - December 27, 2023.
- Sancton v. OpenAI Inc. et al - November 21, 2023.
- Authors Guild et al v. OpenAI Inc. et al - September 19, 2023.
- Chabon v. OpenAI, Inc. - September 8, 2023.
- OpenAI, Inc. v. Open Artificial Intelligence, Inc. - August 4, 2023.
- Doe 3 et al v. GitHub, Inc. et al - November 10, 2022.
- DOE 1 et al v. GitHub, Inc. et al - November 3, 2022.
- T. et al v. OpenAI LP et al - September 5, 2023.
- Walters v. OpenAI LLC - July 14, 2023.
- Silverman, et al v. OpenAI Inc. - July 7, 2023.
- Tremblay v. OpenAI Inc. - June 28, 2023.
- PM et al v. OpenAI LP et al - June 28, 2023.



# Trademark Is As Important and Valuable to AI Industry As In Other Industries

## THE TOP 100 MOST Valuable Brands 2024

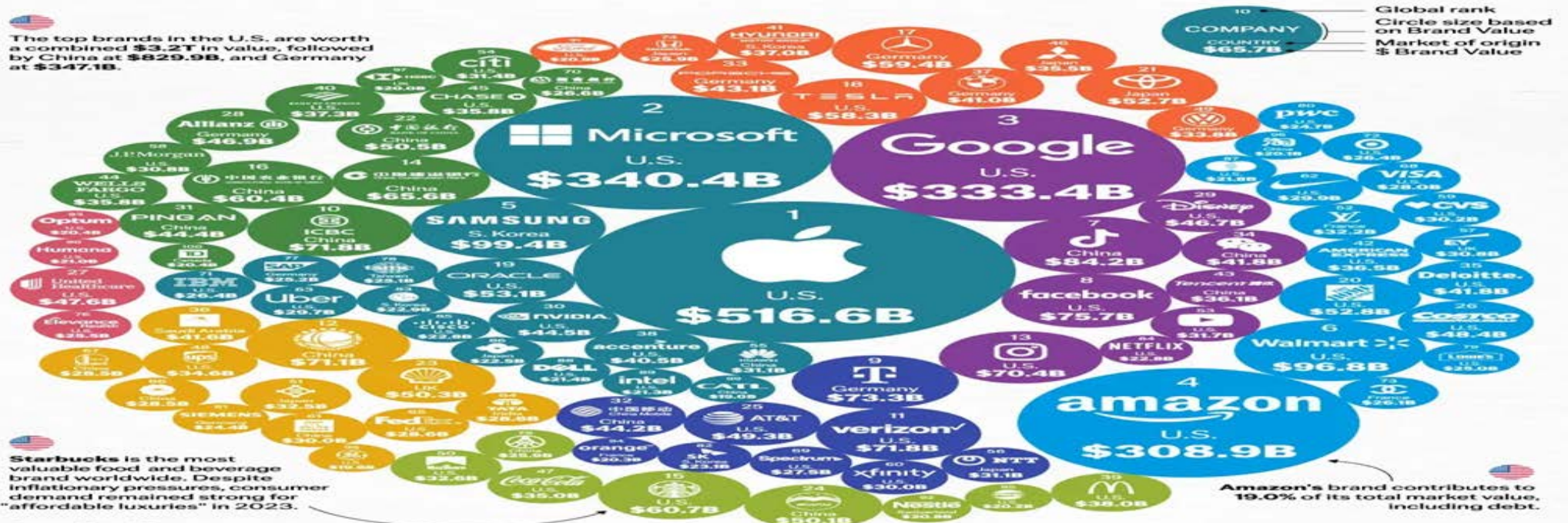
Below, we show the world's most valuable brands based on Brand Finance's Global 500 ranking in 2024.

- Tech & Services (17)
- Media (9)
- Retail (17)
- Telecoms (9)
- Banking & Insurance (14)
- Energy & Utilities (12)
- Food & Beverages (8)
- Automobiles (10)
- Healthcare Services (4)

How is a brand's value determined?



The top brands in the U.S. are worth a combined \$3.2T in value, followed by China at \$829.9B, and Germany at \$347.1B.



Source: Brand Finance

VISUAL CAPITALIST

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COLLABORATORS RESEARCH + WRITING Dorothy Neufeld | ART DIRECTION + DESIGN Sabrina Lam



# Trademark Is As Important and Valuable to AI Industry As In Other Industries



OpenAI Failed to register GPT & ChatGPT with USPTO until now and the proliferating of similar marks illustrate the importance of the trademark issues.

AI is here to stay  
Trademark is equally important

# New AI applications in trademark field

7

## AI-Augmented Trademark Clearance Search and Watch

Take back control of your trademark clearance search and watch program with our range of AI-driven solutions for trademark screening, monitoring and analysis. Our Markify trademark clearance search & watch platform provides rapid and cost-effective access to the insights you need to make informed decisions about trademark protection and enforcement.



## Navigating the Future: AI Trademark Search Revolutionizing Intellectual Property Administration

By- Gopal Singh Rawat  
Editors - Rahul Raj

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# AI-native platform that makes practicing trademark law easier

Trademark Search, Docketing, Watch, and Brand Protection in Web2 and Web3

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# New AI applications in trademark field

8

**⚡ Powerful platform to manage your Trademark assets**

Trademark Search, Watch and Brand Protection made easy with Trademarkia.ai

**Advanced AI Search**  
Compare existing trademarks before filing your mark to know registrability chances within seconds

**Powerful Analysis**  
Visualise analysis reports and understand chances of success in filing new trademark applications.

**Reliable Automation**  
Generate prompts to help draft a comparison report between two trademark applications.

## Clarivate Launches AI-Enhanced Solution to Accelerate Trademark Watching

**The Next-Generation of TrademarkNow**

Trusted by industry professionals worldwide, our TrademarkNow platform offers reliable and mature AI-powered end-to-end trademark solutions. We simplify trademark navigation, whilst ensuring precision and efficiency in safeguarding distinctiveness.

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**CORSEARCH**

2024/8/2

# New AI applications in trademark field

## Search and Analytics

Questel edits world-class software for TM & Designs searches

Search options: Filters Create report Reports History

Databases (241)

Trademark Name

Description

Image

Custom strategy Advanced similarity Advanced similarity + POCA Linguistic analysis

ANY (default) AND

Upload an image Select an image

Questel

Hide image editor

## Predictive AI

Searched logo:

What our algorithm is able to find:

Signatilk SUPERBOX

## Identify infringement



## Brand Naming

A brand, composed of a text and a logo, with bright colors to express adventure. It must express ecology and nature-awareness. It must suggest Europe and tradition.



# New AI applications in trademark field

10




**FEDERAL REGISTER**  
The Daily Journal of the United States Government



[Notice](#)

## Guidance on Use of Artificial Intelligence-Based Tools in Practice Before the United States Patent and Trademark Office

A Notice by the Patent and Trademark Office on 04/11/2024



UNITED STATES PATENT AND TRADEMARK OFFICE

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## Ask us about artificial intelligence-based tools in practice before the USPTO

Published on: 05/08/2024 11:56 AM

[\[\[VIEW\\_THIS\]\]](#)

### USPTO Alert



**Public webinar on recent Guidance on Use of Artificial Intelligence-Based Tools in Practice Before the USPTO**

Questions must be submitted in advance by May 12.

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2024/8/2



# New AI applications in trademark field

11

- EUIPO's AI Tools: The European Union Intellectual Property Office (EUIPO) has implemented AI tools like the TMview search image, which uses AI to find visually similar trademarks in its database.
- WIPO's AI Tools: WIPO has developed AI-powered tools for trademarks, such as Global Goods & Services Terms Explorer and Image Similarity Search in the Global Brand Database

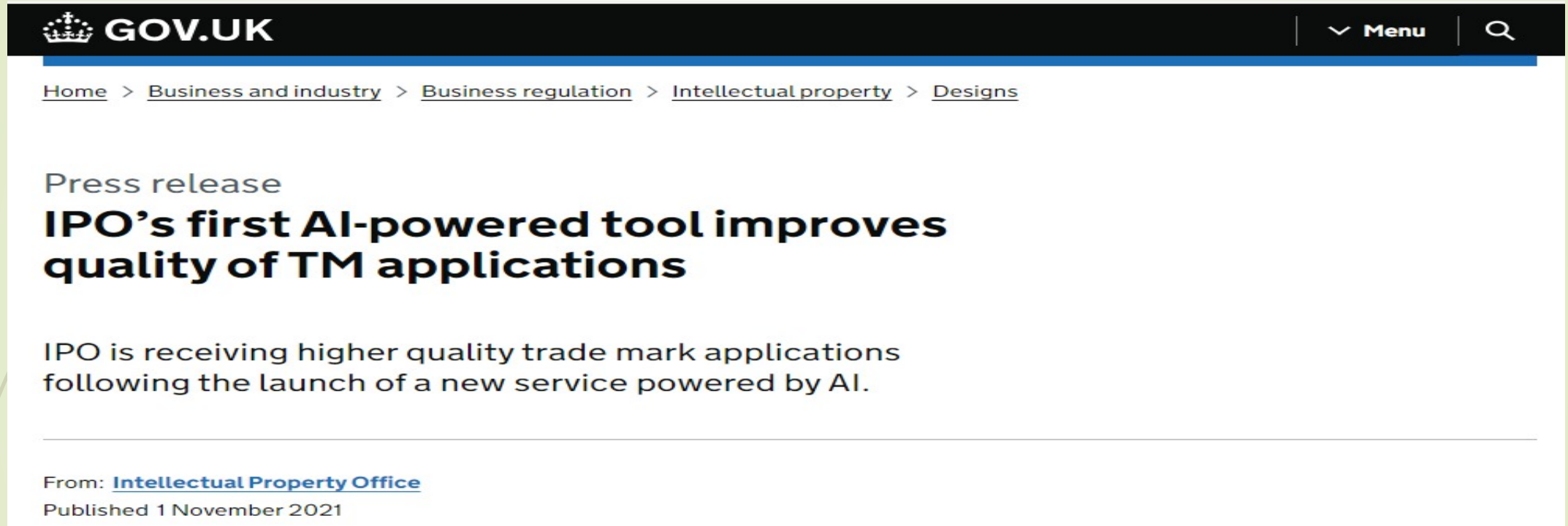
## WIPO Launches State-of-the-Art Artificial Intelligence-Based Image Search Tool for Brands

Geneva, April 1, 2019  
PR/2019/831

The World Intellectual Property Organization (WIPO) has launched a new **artificial intelligence** (AI)-powered image search technology that makes it faster and easier to establish the distinctiveness of a **trademark** in a target market.

2024/8/2

# New AI applications in trademark field



The screenshot shows a GOV.UK website page. At the top is the GOV.UK logo and a navigation bar with 'Menu' and a search icon. Below the navigation bar is a breadcrumb trail: 'Home > Business and industry > Business regulation > Intellectual property > Designs'. The main content area is titled 'Press release' and features the headline 'IPO's first AI-powered tool improves quality of TM applications'. Below the headline is a sub-headline: 'IPO is receiving higher quality trade mark applications following the launch of a new service powered by AI.' At the bottom of the page, it says 'From: Intellectual Property Office' and 'Published 1 November 2021'.

GOV.UK

Menu

Home > Business and industry > Business regulation > Intellectual property > Designs

Press release

## IPO's first AI-powered tool improves quality of TM applications

IPO is receiving higher quality trade mark applications following the launch of a new service powered by AI.

From: [Intellectual Property Office](#)

Published 1 November 2021

IP Australia has launched an AI trademark checker. This free tool enables users to check existing trademarks to save time and money.

The tool has been piloted since October 2022 and now has been released for public use. It is approximately being used for 140 applications per week, with the primary user base being small businesses.

# Taiwan's TIPO Joins WIPO and Other Countries to Provide Image-Based AI Trademark Searching Services

## 智慧局推出「以圖找圖」神器 用AI檢索「圖形商標」

商標檢索系統

簡易搜尋

以圖找圖

選擇檔案

建議圖片裁切為正方形尺寸 242px \* 242px 以上  
檔案大小限制：5MB

搜尋 →

最新領案進度

一般案件 2023/07/17 前申請已領案，  
快軌案件 2023/09/14 前申請已領案。

Jerry Fong - AI & Trademark

經濟部智慧財產局3月25日推出AI人工智慧「以圖找圖商標檢索系統」，民眾可以透過上傳商標圖片，輕鬆快速地尋找他人已申請或註冊之相同或近似商標，作為自行評估是否提出申請商標註冊的參考，並降低因申請商標與他人商標構成近似混淆而被核駁的風險，進而增加商標註冊成功的機會。

智慧局表示，新上線的AI「以圖找圖」功能，可以檢索智慧局商標資料庫內之申請中、取得註冊及被核駁的圖形商標資料。隨著這項功能的推出，智慧局將成為繼歐盟智慧局(EUIPO)、澳洲智慧局(IP Australia)、新加坡智慧局(IPOS)、世界智慧財產權組織全球品牌數據庫(WIPO Global Brand Database)等官方機構之後，具備AI「以圖找圖」檢索功能的機構，同時也是我國實現自主開發AI檢索功能與技術的重要里程碑。

智慧局強調，該「以圖找圖商標檢索系統」歷經長達三年的開發和測試及內部審查人員試用和評估，證實這項新功能針對相同、高度近似的前案商標，檢出率極高。民眾只需要上傳商標圖樣，無需輸入任何要件，就可以取得AI初步過濾從第1類至第45類全類的近似商標檢索結果，迅速判斷是否可能與他人的商標近似混淆。

2024/8/2



# How Generative AI May Implicate Trademarks

# How Generative AI May Implicate Trademarks

- File similar trademark applications
- Use trademarks in AI training materials
- Trademarks used in user's prompts
- Trademarks appeared in AI-Generated outputs
  - Getty Images (US) v. Stability AI-the AI-generated output itself contains trademarks

# How Generative AI May Implicate Trademarks

## Getty Images sues AI art generator Stable Diffusion in the US for copyright infringement



Getty Images watermark appeared in AI generated images



/ Getty Images has filed a case against Stability AI, alleging that the company copied 12 million images to train its AI model 'without permission ... or compensation.'

By JAMES VINCENT

Feb 7, 2023, 12:56 AM GMT+8 | [16 Comments](#) / [16 New](#)



An illustration from Getty Images' lawsuit, showing an original photograph and a similar image (completed by Getty Images) generated by Stable Diffusion. Image: Getty Images



# How Generative AI May Implicate Trademarks

- A generative AI company may not directly infringing upon a trademark, but could be held liable for indirect infringement.
- To establish contributory liability, a plaintiff must show the defendant either “intentionally induced another to infringe” his or her trademark or “continued to supply its product to one whom it knows or had reason to know was engaging in trademark infringement.”













# Even An AI Company Needs Trademark Strategy

# Ethiopia's Trademark Strategy






# OpenAI Has Filed 28 Trademark Applications with USPTO, But Filed GPT & ChatGPT Application AFTER Launching ChatGPT

OpenAI		GPT-3	
			
<b>OpenAI</b>	<b>OpenAI</b>	<b>OPENAI CODEX</b>	<b>OPENAI CODEX</b>
<b>OPENAI FEATHER</b>	<b>OPENAI FEATHER</b>	<b>OPENAI</b>	<b>OPENAI</b>
			
<b>OPENAI</b>	<b>OPENAI</b>	<b>OPENAI</b>	<b>OPENAI</b>
<b>ChatGPT</b>	<b>ChatGPT</b>	<b>CHATGPT</b>	<b>CHATGPT</b>
<b>GPT-5</b>	<b>GPT-5</b>	<b>GPT-4</b>	<b>GPT-4</b>
<b>GPT</b>	<b>GPT</b>		
<b>DALL-E</b>	<b>DALL-E</b>	<b>WHISPER</b>	<b>WHISPER</b>
<b>GPT-7</b>	<b>GPT-7</b>		
<b>OAI</b>	<b>OAI</b>	<b>GPT STORE</b>	<b>GPT STORE</b>
<b>VOICE ENGINE</b>	<b>VOICE ENGINE</b>	<b>GPT-4o</b>	<b>GPT-4o</b>
<b>GPT-6</b>	<b>GPT-6</b>	<b>CODEX</b>	<b>CODEX</b>
<b>SORA</b>	<b>SORA</b>	<b>GPT-V</b>	<b>GPT-V</b>

# OpenAI's Trademark Application with USPTO

## -Most Applications Are Still Pending

The screenshot shows the USPTO Trademark Search results for the keyword 'OpenAI'. The search is filtered by 'Owner' and shows 28 results. The results are displayed in a grid format, showing the first four results. Each result includes the trademark name, status, goods and services, class, serial number, and owner.

Trademark Name	Status	Goods & Services	Class	Serial	Owners
	LIVE REGISTERED	IC 009: Downloadable computer programs and downloadable computer...	009, 042	97784771	OpenAI, Inc. (CORPORATION; DELAWARE, USA)
GPT-3	LIVE REGISTERED	IC 042: Software as a service (SaaS) services, namely, providing...	042	90092493	OPENAI OPCO, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)
OpenAI	DEAD ABANDONED	(ABANDONED) IC 009: Computer software for artificial intelligence.	009	87178985	OpenAI, Inc. (CORPORATION; DELAWARE, USA)
OPENAI CODEX	LIVE PENDING	IC 009: Downloadable computer programs and downloadable computer...	009, 042	98121966	OpenAI, Inc. (CORPORATION; DELAWARE, USA)

Presently, only GPT-3, GPT-4 and OpenAI's logo were registered

# OpenAI's Trademark Application with USPTO


## -Most Applications Are Still Pending

<p><b>ChatGPT</b></p> <p>Wordmark <a href="#">CHATGPT</a></p> <p>Status <b>LIVE</b> <b>PENDING</b></p> <p>Goods &amp; services IC 009: downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97928136</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	<p><b>CHATGPT</b></p> <p>Wordmark <a href="#">CHATGPT</a></p> <p>Status <b>LIVE</b> <b>PENDING</b></p> <p>Goods &amp; services IC 009: downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97733261</p> <p>Owners OPENAI OPCO, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>
<p><b>GPT-5</b></p> <p>Wordmark <a href="#">GPT-5</a></p> <p>Status <b>LIVE</b> <b>PENDING</b></p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 98089548</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	<p><b>GPT-4</b></p> <p>Wordmark <a href="#">GPT-4</a></p> <p>Status <b>LIVE</b> <b>REGISTERED</b></p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97836275</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>
<p><b>GPT</b></p> <p>Wordmark <a href="#">GPT</a></p> <p>Status <b>LIVE</b> <b>PENDING</b></p> <p>Goods &amp; services IC 009: downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97733259</p> <p>Owners OPENAI OPCO, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	<p></p> <p>Wordmark</p> <p>Status <b>LIVE</b> <b>PENDING</b></p> <p>Goods &amp; services IC 038: Providing access to databases; providing internet chatrooms;...</p> <p>Class 038, 042, 045</p> <p>Serial 98071178</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>



# OpenAI Is Filing More Trademark Applications Now!

23

<p><b>DALL·E</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97484422</p> <p>Owners OPENAI OP CO, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	<p><b>WHISPER</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97815511</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>
<p><b>GPT-7</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 98233552</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	 <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 98210921</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>
<p><b>OAI</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: (Based on Use in Commerce) Downloadable software in the nature...</p> <p>Class 009, 042</p> <p>Serial 98018580</p> <p>Owners OPENAI OP CO, LLC (LIMITED LIABILITY COMPANY; Delaware, USA)</p>	<p><b>GPT STORE</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 035: Online retail store services featuring computer software...</p> <p>Class 035, 038, 009, 042</p> <p>Serial 98268934</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>
<p><b>VOICE ENGINE</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 042: Providing online non-downloadable computer software and software...</p> <p>Class 042, 009</p> <p>Serial 98456635</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; Delaware, USA)</p>	<p><b>GPT-4o</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 042: providing online non-downloadable computer software; software...</p> <p>Class 042, 009</p> <p>Serial 98553660</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; Delaware, USA)</p>
<p><b>GPT-6</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 98233550</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	<p><b>CODEX</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 97797253</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>
<p><b>SORA</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs and downloadable computer...</p> <p>Class 009, 042</p> <p>Serial 98405663</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>	<p><b>GPT-V</b></p> <p>Wordmark</p> <p>Status <b>LIVE</b> PENDING</p> <p>Goods &amp; services IC 009: Downloadable computer programs, downloadable computer software...</p> <p>Class 009, 042</p> <p>Serial 98308027</p> <p>Owners OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)</p>

2024/9/2

# USPTO denies OpenAI's 'GPT' trademark request, citing descriptive nature



Maxwell Nelson | Tech Journalist

Last updated: 15 February, 2024

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[TW Why Trust Us](#)



APRIL 10, 2024 | IP BLOG

## OpenAI's "GPT" Trademark Application Rejected by USPTO

Arash Rouhi

### No 'GPT' trademark for OpenAI

Devin Coldewey / 1:05 PM PST • February 15, 2024

Registration is refused because the applied-for mark merely describes a feature, function, or characteristic of applicant's goods and services. The USPTO further noted that "GPT" is a generic mark that is widely used throughout the artificial intelligence industry

# GPT Application Prosecution History

Select All <input type="checkbox"/>	Create/Mail Date	Document Description	Document Category	Document Type
<input type="checkbox"/>	Apr. 17, 2024	Application Extension to Response		XML
<input type="checkbox"/>	Feb. 06, 2024	Final Action		MULTI
<input type="checkbox"/>	Nov. 28, 2023	Amendment and Mail Process Complete		MULTI
<input type="checkbox"/>	Nov. 27, 2023	Response to Office Action		MULTI
<input type="checkbox"/>	Nov. 27, 2023	Response to Office Action		MULTI
<input type="checkbox"/>	Aug. 23, 2023	Application Extension to Response		XML
<input type="checkbox"/>	May 25, 2023	Non-Final Action		MULTI
<input type="checkbox"/>	May 20, 2023	Notice of Acceptance of AAU		XML
<input type="checkbox"/>	May 19, 2023	Accept-AAU-Notice		PDF
<input type="checkbox"/>	May 04, 2023	XSearch Search Summary		PDF
<input type="checkbox"/>	Apr. 18, 2023	Petition Decision		XML
<input type="checkbox"/>	Mar. 16, 2023	Request to Make Special		MULTI
<input type="checkbox"/>	Mar. 09, 2023	AAU Processing Complete		MULTI
<input type="checkbox"/>	Mar. 07, 2023	Amendment to Allege Use		MULTI
<input type="checkbox"/>	Mar. 07, 2023	Specimen		JPEG
<input type="checkbox"/>	Dec. 27, 2022	Application		MULTI

OpenAI first released ChatGPT on November 30, 2022, but filed its GPT trademark application on December 27, 2022



# GPT Trademark Final Office Action

**United States Patent and Trademark Office (USPTO)  
Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97733259

**Mark:** GPT

**Correspondence Address:**

Steven M. Espenshade  
PIRKEY BARBER PLLC  
1801 EAST 6TH STREET  
SUITE 300  
AUSTIN TX 78702  
UNITED STATES

**Applicant:** OPENAI OPCO, LLC

**Reference/Docket No.** OPAI013US

**Correspondence Email Address:** tmcentral@pirkeybarber.com

## **FINAL OFFICE ACTION**

### **SUMMARY OF ISSUES MADE FINAL:**


- Section 2(e)(1) Refusal—Merely Descriptive
- Advisory: Supplemental Register
- Specimen Not Acceptable—*Partial Refusal as to Class 09 Only*

# GPT Trademark Final Office Action

- ▶ Registration is refused because the applied-for mark merely describes a feature, function, or characteristic of applicant's goods and services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); see TMEP §§1209.01(b), 1209.03 et seq.
- ▶ A mark is merely descriptive if “it immediately conveys information concerning a feature, quality, or characteristic of [an applicant's] goods or services.” In re N.C. Lottery, 866 F.3d 1363, 1367, 123 USPQ2d 1707, 1709 (Fed. Cir. 2017)
- ▶ [T]he refusal to register the applied-for mark in International Class 09 is now made FINAL because applicant failed to provide evidence of use of the applied-for mark in commerce. 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.56(a), 2.63(b); TMEP §§904, 904.07, 1301.04(g)(i).



GPT mark is still pending because OpenAI filed an Extension Application and extends the response deadline until August 6, 2024

# OpenAI's ChatGPT Trademark Application

<b>Generated on:</b>	This page was generated by TSDR on 2024-07-07 03:49:39 EDT		
<b>Mark:</b>	CHATGPT		
	<b>CHATGPT</b>		
<b>US Serial Number:</b>	97733261	<b>Application Filing Date:</b>	Dec. 27, 2022
<b>Register:</b>	Principal		
<b>Mark Type:</b>	Trademark, Service Mark		
<b>TM5 Common Status Descriptor:</b>		<b>LIVE/APPLICATION/Under Examination</b>	
	The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.		
<b>Status:</b>	A final Office action refusing registration has been sent (issued) because the applicant neither satisfied nor overcame all requirements and/or refusals previously raised. The applicant may respond by filing (1) a request for reconsideration; and/or (2) an appeal to the Trademark Trial and Appeal Board. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.		
<b>Status Date:</b>	Feb. 09, 2024		
<b>▲ Mark Information</b>			
<b>▲ Related Properties Information</b>			
<b>▲ Goods and Services</b>			
<b>▲ Basis Information (Case Level)</b>			
<b>▼ Current Owner(s) Information</b>			
<b>Owner Name:</b>	OPENAI OPCO, LLC		
<b>Owner Address:</b>	3180 18TH ST., SUITE 100 SAN FRANCISCO, CALIFORNIA UNITED STATES 94110		
<b>Legal Entity Type:</b>	LIMITED LIABILITY COMPANY	<b>State or Country Where Organized:</b>	DELAWARE



# OpenAI's ChatGPT Trademark Application

Generated on:	This page was generated by TSDR on 2024-07-07 03:15:56 EDT		
Mark:	CHATGPT		
			
US Serial Number:	97928136	Application Filing Date:	May 09, 2023
Register:	Principal		
Mark Type:	Trademark, Service Mark		
TM5 Common Status	LIVE/APPLICATION/Under Examination		
Descriptor:		The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.	
Status:	A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.		
Status Date:	Feb. 20, 2024		

# ChatGPT's Prosecution History

▼ Prosecution History		
Date	Description	Pro
Apr. 17, 2024	APPLICATION EXTENSION GRANTED/RECEIPT PROVIDED	
Apr. 17, 2024	APPLICATION EXTENSION TO RESPONSE PERIOD - RECEIVED	
Feb. 09, 2024	NOTIFICATION OF FINAL REFUSAL EMAILED	
Feb. 09, 2024	FINAL REFUSAL E-MAILED	
Feb. 09, 2024	FINAL REFUSAL WRITTEN	
Dec. 01, 2023	TEAS/EMAIL CORRESPONDENCE ENTERED	
Nov. 27, 2023	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Nov. 27, 2023	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 23, 2023	APPLICATION EXTENSION GRANTED/RECEIPT PROVIDED	
Aug. 23, 2023	APPLICATION EXTENSION TO RESPONSE PERIOD - RECEIVED	
May 26, 2023	NOTICE OF ACCEPTANCE OF AMENDMENT TO ALLEGE USE E-MAILED	
May 25, 2023	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
May 25, 2023	NON-FINAL ACTION E-MAILED	
May 25, 2023	NON-FINAL ACTION WRITTEN	
May 25, 2023	USE AMENDMENT ACCEPTED	
Apr. 18, 2023	PETITION TO DIRECTOR DISMISSED	
Apr. 17, 2023	ASSIGNED TO PETITION STAFF	
Apr. 13, 2023	ASSIGNED TO EXAMINER	
Apr. 11, 2023	ASSIGNED TO PETITION STAFF	
Mar. 16, 2023	TEAS REQUEST TO MAKE SPECIAL RECEIVED	
Mar. 08, 2023	AMENDMENT TO USE PROCESSING COMPLETE	
Mar. 08, 2023	USE AMENDMENT FILED	
Mar. 07, 2023	TEAS AMENDMENT OF USE RECEIVED	
Feb. 22, 2023	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jan. 23, 2023	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
Dec. 30, 2022	NEW APPLICATION ENTERED	

ChatGPT was released on November 30, 2022, but OpenAI filed ChatGPT trademark applications on December 30, 2022

# ChatGPT● Prosecution History

## ▼ Prosecution History

Date	Description	Proceeding Number
May 16, 2024	APPLICATION EXTENSION GRANTED/RECEIPT PROVIDED	
May 16, 2024	APPLICATION EXTENSION TO RESPONSE PERIOD - RECEIVED	
May 16, 2024	ASSIGNED TO EXAMINER	
Feb. 20, 2024	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Feb. 20, 2024	NON-FINAL ACTION E-MAILED	
Feb. 20, 2024	NON-FINAL ACTION WRITTEN	
Feb. 01, 2024	ASSIGNED TO EXAMINER	
Jun. 08, 2023	NOTICE OF DESIGN SEARCH CODE E-MAILED	
Jun. 07, 2023	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
May 12, 2023	NEW APPLICATION ENTERED	

The second ChatGPT mark was filed on May 12, 2023



# ChatGPT's Final Office Action

**United States Patent and Trademark Office (USPTO)  
Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97733261

**Mark:** CHATGPT

**Correspondence Address:**

Steven M. Espenshade  
PIRKEY BARBER PLLC  
1801 EAST 6TH STREET  
SUITE 300  
AUSTIN TX 78702  
UNITED STATES

**Applicant:** OPENAI OPCO, LLC

**Reference/Docket No.** OPAI015US

**SUMMARY OF ISSUES MADE FINAL:**

- Section 2(e)(1) Refusal—Merely Descriptive
- Advisory: Section 2(f) Claim of Acquired Distinctiveness



# ChatGPT's Final Office Action

33

- Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods and/or services is the combined mark registrable.
- In this case, both the individual components and the composite result are descriptive of applicant's goods and/or services and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods and/or services.
- Additionally, the evidence of record shows that both the wording "CHAT" and "GPT" are used descriptively in applicant's software industry to refer to a particular type of software where users may ask questions and an AI model then answers those questions based on data that has been inputted into the model.

# Present status of ChatGPT & GPT Worldwide

# GPT Search Results (US)

uspto Trademark Search

Home > Search results

General search > gpt

3,548 results for gpt

Presently, 3,548 GPT related trademarks registered or pending

Wordmark	Status	Goods & services	Class	Serial	Owners
GPT	LIVE	IC 009: downloadable computer programs and downloadable computer...	009, 042	97733259	OPENAI OPCO, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)
GPT	DEAD CANCELLED	(CANCELLED) IC 007: [ FILTERS AND PURIFIERS FOR MACHINES, NAMELY,...	007	85730013	GRAND PLASTIC TECHNOLOGY CORPORATION (CORPORATION; TAIWAN)
GPT	LIVE REGISTERED	IC 009: ELECTRONIC THERMOSTATS, NAMELY, SENSORS AND CONTROLLERS USED...	009	75929555	ETI INC. (CORPORATION; INDIANA, USA)
GPT	DEAD ABANDONED	(ABANDONED) IC 009: electronic sensors and controllers used for...	009	75491042	Environmental Technology, Inc. (CORPORATION; INDIANA, USA)
GPT	DEAD CANCELLED	(CANCELLED) IC 009: [ PROTECTIVE APPARATUS FOR THE HEAD AND FACE,...	009	73617770	BACOU-DALLOZ EYE & FACE PROTECTION, INC. (CORPORATION; DELAWARE, USA)
GPT	DEAD CANCELLED	(CANCELLED) IC 009: [ communications equipment; namely, telephone...	009	74166228	GPT LIMITED (CORPORATION; UNITED KINGDOM)
GPT	DEAD CANCELLED	(CANCELLED) IC 036: [ Real estate management including the management...	036, 037, 035	79035323	GPT Management Holdings Limited (CORPORATION; AUSTRALIA)
GPT	DEAD CANCELLED	(CANCELLED) US A: [ Plastic Plumbing Fixtures Including Tubs, Showers,...	A	73248464	Ghesquiere Plastic Testing, Inc. (CORPORATION; MICHIGAN, USA)
GPT	DEAD ABANDONED	(ABANDONED) IC 009: [ electrical, electronic, electro-optical and...	009	74166227	GPT LIMITED (CORPORATION; UNITED KINGDOM)
GPT	DEAD	US A: [ PLUMBING MATERIAL DEVICES, FIXTURES, FITTINGS, EQUIPMENT,...	A	86329882	GHESQUIERE PLASTIC TESTING, INC. (CORPORATION; MICHIGAN, USA)
GPT	DEAD ABANDONED	(ABANDONED) IC 038: Transmission and distribution of data and audio...	038, 009, 042	86329882	Gold Post Technologies, Inc. (CORPORATION; NEVADA, USA)
GPT	LIVE REGISTERED	IC 040: consulting services in the field of polyethylene terephthalate...	040, 042, 045	85847390	GRUPO PETROTEMEX, S.A. DE C.V. (sociedad anónima de capital variable; MEXICO)

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2024/8/2



# ChatGPT Search Results (US)

Trademark Search

Home > Search results

General search chatgpt

Status filter: 53 results for chatgpt

☒ Live 27  
☒ Registered  
☒ Pending 26  
☒ Dead  
☒ Cancelled  
☒ Abandoned

Sort

Configure

☒ Show image

Reset

ChatGPT

Wordmark: [CHATGPT](#)

Status: **DEAD** ABANDONED

Goods & services: (ABANDONED) IC 009: Educational workbooks, pamphlets, textbooks,...

Class: 009, 025, 028, 041

Serial: 97719809

Owners: Brand Central, LLC (LIMITED LIABILITY COMPANY; CALIFORNIA, USA)

ChatGPT

Wordmark: [CHATGPT](#)

Status: **DEAD** ABANDONED

Goods & services: (ABANDONED) IC 009: Downloadable augmented reality software for use in...

Class: 009

Serial: 97931268

Owners: ChatGPT Artificial Intelligence Institute Inc (CORPORATION; COLORADO, USA)

ChatGPT

Wordmark: [CHATGPT](#)

Status: **LIVE** PENDING

Goods & services: IC 009: downloadable computer programs and downloadable computer...

Class: 009, 042

Serial: 97928136

Owners: OpenAI OpCo, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)

ChatGPT

Wordmark: [CHATGPT](#)

Status: **LIVE** PENDING

Goods & services: IC 009: downloadable computer programs and downloadable computer...

Class: 009, 042

Serial: 97733261

Owners: OPENAI OPKO, LLC (LIMITED LIABILITY COMPANY; DELAWARE, USA)

ChatGPT Kids

Wordmark: [CHATGPT KIDS](#)

Status: **LIVE** PENDING

Goods & services: IC 041: Simulation-based training services in the field of financial,...

Class: 041, 042

Serial: 98105465

Owners: Joy Singfield (INDIVIDUAL; USA)

ChatGPT Warnings

Wordmark: [CHATGPT WARNINGS](#)

Status: **DEAD** ABANDONED

Goods & services: (ABANDONED) IC 042: Provision of information relating to computer...

Class: 042

Serial: 97863918

Owners: Galvin Jr, Charles A. (INDIVIDUAL; USA)

The CHATGPT University

Wordmark: [THE CHATGPT UNIVERSITY](#)

Status: **LIVE** PENDING

Goods & services: IC 041: Business training; Business training consultancy services...

Class: 041

Serial: 98374452

Owners: NEUTERMAN INC. (CORPORATION; CALIFORNIA, USA)

ChatGPT For Recruiters

Wordmark: [CHATGPT FOR RECRUITERS](#)

Status: **DEAD** ABANDONED

Goods & services: (ABANDONED) IC 041: Educational services, namely, conducting online...

Class: 041

Serial: 98083235

Owners: Tier 1 Consulting, Inc. (CORPORATION; GEORGIA, USA)

ChatGPT Kids AI

Wordmark: [CHATGPT KIDS AI](#)

Status: **LIVE** PENDING

Goods & services: IC 009: Downloadable computer software using artificial intelligence...

Class: 009, 025, 042

Serial: 98112521

Owners: JOY SINGFIELD (INDIVIDUAL; USA)

The ChatGPT Coach

Wordmark: [THE CHATGPT COACH](#)

Status: **LIVE** PENDING

Goods & services: IC 041: Business training; Business training consultancy services...

Class: 041

Serial: 98374540

Owners: NEUTERMAN INC. (CORPORATION; CALIFORNIA, USA)

ChatGPT

Wordmark: [CHATGPT](#)

Status: **LIVE** PENDING

Goods & services: IC 034: Humidors; Tobacco; Cigarette filters; Cigarette paper...

Class: 034

Serial: 97807667

Owners: STATE BULL COMPANY LIMITED (limited company (Ltd.); CHINA)

Chat-GPT

Wordmark: [CHAT-GPT](#)

Status: **DEAD** ABANDONED

Goods & services: (ABANDONED) IC 009: Downloadable augmented reality software for use in...

Class: 009

Serial: 97931225

Owners: ChatGPT Artificial Intelligence Institute Inc (CORPORATION; COLORADO, USA)

2024/8/2

ChatGPT registration is much less.  
Only 53 registered or pending  
ChatGPT applications

# OpenAI Needs to Prove GPT Is Not A Generic Term, Which Is More Difficult.

- USPTO Final Office Action: “In addition to being merely descriptive, the applied-for mark appears to be generic in connection with the identified goods and/or services. ”
- “A generic mark, being the ‘ultimate in descriptiveness,’ cannot acquire distinctiveness” and thus is not entitled to registration on either the Principal or Supplemental Register under any circumstances. In re La. Fish Fry Prods., Ltd., 797 F.3d 1332, 1336, 116 USPQ2d 1262, 1264 (Fed. Cir. 2015).
- If OpenAI cannot overcome this generic term decision, GPT will not be registered in US. (even though it already registered in other countries.)

# OpenAI Needs to Argue ChatGPT Have Acquired Secondary Meaning So As to Register

- In response to the refusal, applicant may assert a claim that the applied-for mark has acquired distinctiveness under Trademark Act Section 2(f). Applicant may respond by (1) requesting to amend the application to assert a claim of acquired distinctiveness under Section 2(f) and (2) providing sufficient evidence to support this claim (such as verified statements of long term use, advertising and sales expenditures, examples of typical advertisements, affidavits and declarations of consumers, customer surveys).
- This evidence must demonstrate that the relevant public understands the primary significance of the mark as identifying the source of applicant's product or service rather than identifying the product or service itself. In re Steelbuilding.com, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1422 (Fed. Cir. 2005).



# WIPO Madrid System Search Shows A Different Picture

WIPO

Help English IP Portal login

Home > Global Brand Database > Search by Brand Name

## Global Brand Database

BRAND NAME BRAND LOGO ADVANCED SEARCH EXPLORE

Brand name: contains 'chatGPT'

Edit your search TMview

Displaying 1-30 of 112 results (Most relevant first)

Results view Statistics view

Change layout Sort results Results per page Download results

Filters

<input type="checkbox"/> Select all			
<input type="checkbox"/> CHATGPT	CHATGPT	<input type="checkbox"/> CHATGPT	CHATGPT
Owner: اوبين آيه آي اوه بي كو، ال ال سي (USA)	Owner: اوبين آيه آي اوه بي كو، ال ال سي (USA)	Owner: اوبين آيه آي اوه بي كو، ال ال سي (USA)	Owner: ROMPER ADMINISTRADORA DE MARCAS (Brazil)
IPR: National Trademark Registration	IPR: National Trademark Registration	IPR: National Trademark Registration	IPR: National Trademark Application
Country of filing: Qatar Jerry Fong - AI & Trademark	Country of filing: Qatar	Country of filing: Qatar	Country of filing: Brazil
Status:  Registered (February 14, 2024)	Status:  Registered (February 14, 2024)	Status:  Registered (February 14, 2024)	Status:  Pending (April 12, 2023)

# WIPO Madrid System Search Shows A Different Picture

Registered or pending GPT trademark reached 680









Brand name: contains the word 'GPT'

Edit your search TMview

Displaying 1-30 of 680 results (Most relevant first) Results view Statistics view

Change layout Sort results Results per page Download results

Filters →

<input type="checkbox"/> Select all	<input type="checkbox"/> GPT	<input type="checkbox"/> GPT-3 GPT	<input type="checkbox"/> GPT
			
Owner شركة المشروع الذهبي للتجارة (Oman)	Owner OpenAI OpCo, LLC (USA)	Owner OpenAI OpCo, LLC (USA)	Owner MARCONI COMMUNICATIONS LIMITED (UK)
IPR National Trademark Application	IPR National Trademark Application	IPR National Trademark Application	IPR National Trademark Registration
Country of filing Oman	Country of filing Singapore	Country of filing Singapore	Country of filing Bulgaria
Status  Pending (November 8, 2018)	Status  Pending (February 14, 2023)	Status  Pending (February 14, 2023)	Status  Expired
Number OM/T/1/123604	Number 40202304935P	Number 40202304935P	Number 00016887
Nice class 37	Nice class 42	Nice class 42	Nice class 9, 16

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2024/8/2

# Will OpenAI Acquire ChatGPT & GPT's Trademarks or Will They become Generic Terms?

41

WIPO

Help English IP Portal login

Home > Global Brand Database > Search

## Global Brand Database

BRAND NAME BRAND LOGO ADVANCED SEARCH EXPLORE VIENNA ASSISTANT G&S EXPLORER REPORTS

### GPT

REGISTERED TRADEMARK - IGE-IPI (Switzerland)

Download PDF Open in a new tab

210 Serial number 01493/2023	220 Application date February 3, 2023	541 Reproduction of the mark where the mark is represented in standard characters GPT
111 Registration number 793613	151 Registration date February 22, 2023	
551 Kind of mark Individual	180 Expiry date February 3, 2033	

Jerry Fong - AI & Trademark

2024/8/2



# Will OpenAI Acquire ChatGPT & GPT's Trademarks or Will They become Generic Terms?

## OpenAI Fights for Trademark Rights to GPT Amid Slew of Infringements and Counterfeit Apps

📅 Apr 24, 2023

OpenAI announce its Brand Policy  
-An Important Step to Assert Secondary Meaning

## Brand guidelines

Language and assets for using the OpenAI brand in your marketing and communications.

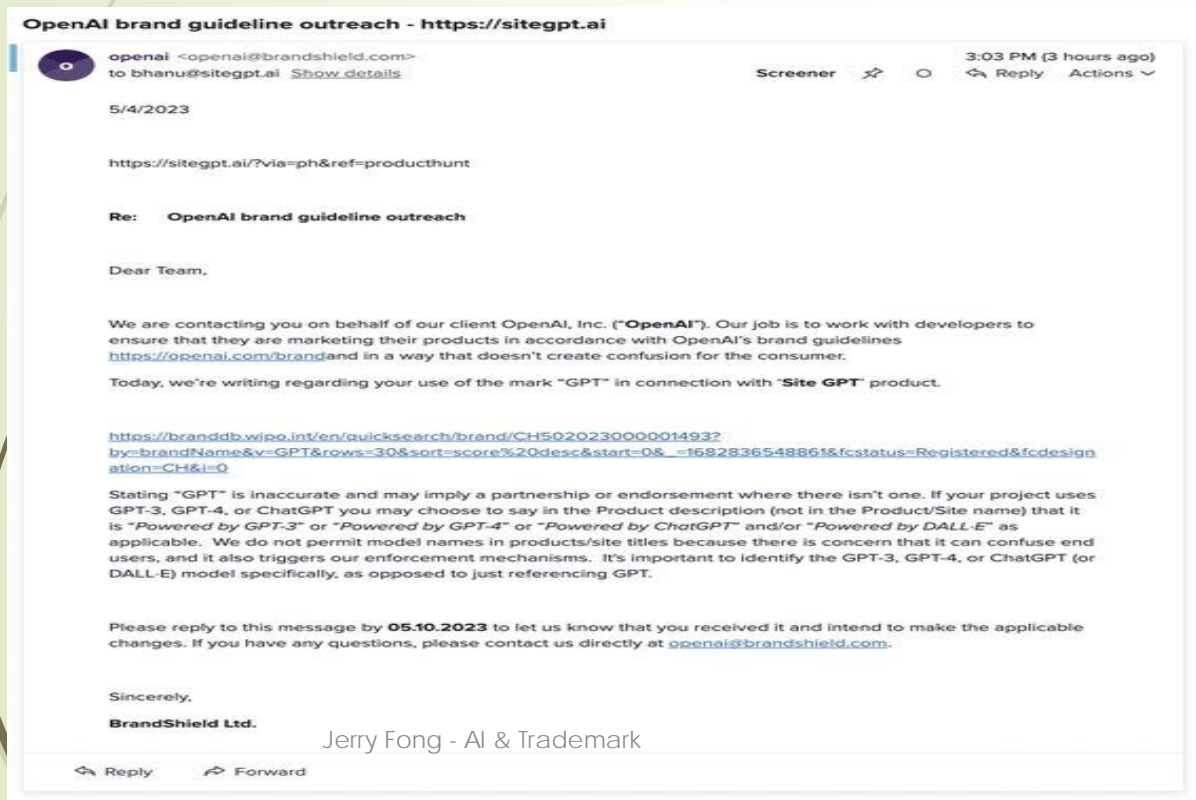
### About

The "OpenAI" name, the OpenAI logo, the "ChatGPT" and "GPT" brands, and other OpenAI trademarks, are property of OpenAI. These guidelines are intended to help our partners, resellers, customers, developers, consultants, publishers, and any other third parties understand how to use and display our trademarks and copyrighted work in their own assets and materials.

# Will OpenAI Acquire ChatGPT & GPT's Trademarks or Will They become Generic Terms?

## OpenAI says use of GPT in domain name is trademark violation

Last updated on: May 15, 2023 by [Justin](#) — [Leave a Comment](#)



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OpenAI is asking users to cease and desist from using the term GPT in their domain names, site titles, or subtitles as it goes against their brand guidelines.

# Conclusion

- In this generative AI era, trademark will be an essential tool for competition, just like other intellectual property. As a result, proper strategy needs to be adopted.
- OpenAI failed to satisfy the “distinctiveness” requirement for trademark registration. Still, if OpenAI can prove ChatGPT has acquired “distinctiveness” (secondary meaning) then it is eligible for registration. As for GPT mark, if it is a generic term, proving “distinctiveness” will be more difficult and may render GPT mark not registratable in the US. Other countries may not reach the same result.



# Conclusion

- Once successfully registered, like in Switzerland, OpenAI can enforce its trademark rights against infringers, including domain name owners.
- Since OpenAI is actively defending its rights, the marks, once registered, will not become generic terms easily, just as Xerox or other marks.
- AI services providers shall adopt trademark strategy to enhance their consumer awareness of its trademarks/brands so as to increase value and competitiveness.



ANY Question?