

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: OpenAI OpCo, LLC
Serial Nos.: 97733261 and 97733259
Date Filed: December 27, 2022
Marks: CHATGPT and GPT

To the Deputy Commissioner for Trademark Examination Policy
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir/Madam:

PETITION TO MAKE SPECIAL UNDER 37 CFR § 2.146

Statement of Facts

I, Jason Kwon, General Counsel at OpenAI OpCo, LLC (“OpenAI” or “Applicant”), am authorized to make this Statement on behalf of Applicant and have firsthand knowledge of the following facts:

1. OpenAI publicly launched its CHATGPT chatbot on November 30, 2022. The AI-powered software program, one in a series of Applicant’s GPT machine learning models, interacts with users conversationally, able to engage in real-time text-based communication and respond to questions and prompts.
2. Almost immediately upon launch, the CHATGPT software received widespread public and media attention, including being featured in numerous major news publications like the *Wall Street Journal*, *The Guardian*, *Slate*, *Vox*, and *The New York Times*, where it was recognized as “quite simply the best artificial intelligence chatbot ever released.” See Exhibit A.¹
3. The instant success of CHATGPT program and associated worldwide acclaim has led to widespread recognition of the CHATGPT mark in a very short period of time. Media outlets surmise that the CHATGPT chatbot was accessed by more than one million users within the first five days of its November 30 launch, and that the chatbot was being used by upwards of tens of millions of users within the first month. In comparison, it reportedly took the popular TikTok app nine months to reach that many users. See Exhibit B.²
4. The exceptional popularity of the CHATGPT program and mark has also resulted in an alarming number of developers quickly creating and releasing counterfeit apps purporting to be the genuine CHATGPT program or otherwise associated with OpenAI or OpenAI’s

¹ Exhibit A, <https://www.nytimes.com/2022/12/05/technology/chatgpt-ai-twitter.html>

² Exhibit B, <https://www.engadget.com/chatgpt-100-million-users-january-130619073.html>

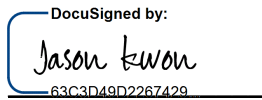
other GPT models. The flood of infringing software products has itself received prominent media attention. *See Exhibit C.*³

5. Beyond damaging the reputation and goodwill associated with OpenAI's CHATGPT and GPT marks, counterfeit "CHATGPT" and "GPT" apps and software programs present significant risk to the public and users who unsuspectingly download or access the counterfeit app believing it to be associated with OpenAI. Many of these counterfeit apps, for example, attempt to trick the user into paying the developer a fee for alleged extra access or add-ons to OpenAI's software.
6. OpenAI is taking aggressive action against the myriad infringements and counterfeit apps; however, its ability to pursue and prevent counterfeit software is dependent in part on registration of its CHATGPT and GPT marks. For example, several internet service providers will not act to remove infringing content absent proof of a trademark registration for the infringed mark. As such, it is urgent that OpenAI obtain registration of the CHATGPT and GPT marks on an expedited basis to assist with OpenAI's global anti-infringement program.
7. OpenAI recognizes that making an application "special" is an extraordinary remedy that is granted only when very special circumstances exist. The seemingly unprecedented widespread and immediate attention the CHATPGPT software received, which resulted in widespread and immediate infringements, is a very special circumstance, including one highly unlikely to apply equally to a large number of other applicants. As such, OpenAI's applications merit expedited examination.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity or the application or any trademark issued thereon.

Respectfully submitted,

Signature:

DocuSigned by:

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Jason Kwon
General Counsel

Date: 3/16/2023

³ Exhibit C, <https://techcrunch.com/2023/01/10/app-store-and-play-store-are-flooded-with-dubious-chatgpt-apps/>; <https://www.macrumors.com/2023/01/09/chatgpt-app-store-apps/>; <https://www.techradar.com/news/fake-chatgpt-apps-are-everywhere-on-android-and-ios-app-stores>