

# TRADEMARK POSITION MEMORANDUM

EARTH<sup>®</sup> Corporation Ltd.

Date: December 7, 2023

## EXECUTIVE SUMMARY

EARTH<sup>®</sup> Corporation holds a valid Ohio state trademark registration for its EARTH<sup>®</sup> design mark (including the stylized 'X' swoosh element) in Class 42 for FinTech and technology services. This mark does not conflict with SpaceX's federal design mark, which is registered in Class 39 for aerospace launch services. The marks operate in different industries with different goods and services, and feature opposite visual trajectories representing conceptually opposite movements (Earth-bound vs. space-bound). There is no likelihood of consumer confusion under established trademark law principles.

## COMPARATIVE TRADEMARK ANALYSIS

Element	EARTH <sup>®</sup> Corporation	SpaceX
Registration	Ohio State Trademark (Design Mark)	Federal Trademark No. 88365691 (Design Mark)
First Use	January 1, 2023	November 2014
Trademark Class	Class 42 (Science & Technology Services)	Class 39 (Transportation & Storage Services)
Goods/Services	Online crowdfunding, FinTech, UBI technology platforms	Launch services for satellites and spacecraft into space
Industry	Financial Technology, Peer-to-Peer Platforms	Aerospace, Rocket Launch Services
X Design Trajectory	Thin at top-left, fat at bottom-right (descending to Earth)	Fat at bottom-left, thin at top-right (launching to space)
Visual Metaphor	Meteor/object falling to Earth	Rocket launching into space

## CRITICAL DESIGN DISTINCTION

The X swoosh designs are conceptually and visually opposite. The SpaceX X swoosh is thick at the bottom-left and tapers thin toward the top-right, visually representing a rocket's launch trajectory ascending from Earth into space. This matches SpaceX's core business of launching payloads into orbit. In direct contrast, the EARTH<sup>®</sup> X swoosh is thin at the top-left and becomes thick at the bottom-right, representing the opposite trajectory—objects descending from space to Earth, similar to a meteor falling to Earth. This opposite directionality is intentional and reinforces each company's distinct conceptual positioning: SpaceX focuses on leaving Earth for space, while EARTH<sup>®</sup> focuses on bringing value back down to Earth through Universal Basic Income platforms. The marks are therefore visually distinguishable and conceptually opposed, further reducing any likelihood of consumer confusion.

## LEGAL ANALYSIS

**No Likelihood of Confusion:** Under the Lanham Act (15 U.S.C. § 1051 et seq.), trademark infringement requires a likelihood that consumers will confuse the source of goods or services. The critical factors are: (1) similarity of marks, (2) similarity of goods/services, (3) similarity of trade channels, and (4) strength of the senior mark. Here, despite using a stylized X design element, the marks operate in entirely different

trademark classes (42 vs. 39), serve completely different markets (FinTech/UBI platforms vs. aerospace launch services), and feature opposite visual trajectories. No reasonable consumer would confuse a Universal Basic Income technology platform with a rocket launch service provider.

**Different Trademark Classes:** The USPTO's Nice Classification system separates goods and services into 45 distinct classes. EARTH<sup>®</sup> operates in Class 42 (computer and scientific services), while SpaceX's design mark is registered in Class 39 (transportation and storage services). Courts consistently hold that marks in different classes serving different industries present low likelihood of confusion. See *DuoProSS Meditech Corp. v. Inviro Medical Devices Ltd.*, 695 F.3d 1247 (Fed. Cir. 2012).

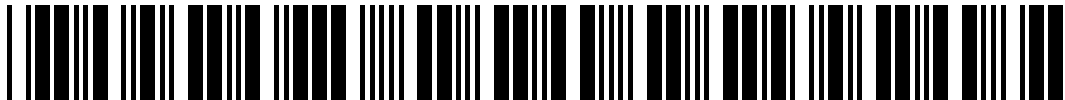
**Different Industries and Customer Bases:** SpaceX provides rocket launch services to governments, satellite companies, and space agencies. EARTH<sup>®</sup> provides peer-to-peer financial technology platforms and Universal Basic Income infrastructure to individuals and businesses. These customer bases do not overlap, use different purchasing channels, and operate at completely different price points and decision-making processes.

**Opposite Visual Design Elements:** While both marks incorporate a stylized X with a swoosh element, the trajectories are opposite. This intentional design opposition, combined with the complete word marks ('EARTH' vs. 'SPACEX'), creates sufficient visual distinction to avoid consumer confusion. The opposing trajectories reinforce the conceptual opposition between the brands: space-bound versus Earth-bound.

## CONCLUSION

EARTH<sup>®</sup> Corporation's registered trademark does not infringe upon or create likelihood of confusion with SpaceX's federal design mark. The marks operate in different trademark classes, serve different industries and customer bases, and feature opposite design trajectories that reinforce their conceptual differences. EARTH<sup>®</sup> has conducted appropriate due diligence and maintains a valid, defensible trademark position for its business operations in the FinTech and Universal Basic Income technology sectors.

Prepared for: EARTH<sup>®</sup> Corporation Ltd.  
Date: December 7, 2023



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
01/06/2023	202300600106	SERVICE MARK REGISTRATION (SMO)	125.00	0.00	0.00	0.00

### Receipt

This is not a bill. Please do not remit payment.

ANTHONY CHRISTOPHER SAINT MICHAEL  
8 CROOKED CRK  
MILFORD, OH 45150

# STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Frank LaRose  
4978203

It is hereby certified that the Secretary of State of Ohio has custody of the business records for  
**EARTHXTHE X IS IN THE SHAPE OF ONE ARM OF THE X IN A DOWNWARD ARC, SIMILAR TO A  
METEOR FALLING TO EARTH.**  
and, that said business records show the filing and recording of:

Document(s)

**SERVICE MARK REGISTRATION**

Class 42

Effective Date: 01/06/2023

Document No(s):

**202300600106**



United States of America  
State of Ohio  
Office of the Secretary of State

Witness my hand and the seal of the  
Secretary of State at Columbus, Ohio this  
6th day of January, A.D. 2023.

Ohio Secretary of State

**SPECIMEN**  
**(Legal Document Cover Page)**



# United States of America

United States Patent and Trademark Office

# EARTHX

**Reg. No. 7,514,805**

**Registered Sep. 24, 2024**

**Int. Cl.: 35**

**Service Mark**

**Principal Register**

SAINT MICHAEL, ANTHONY, C (UNITED STATES INDIVIDUAL)  
8 Crooked Crk.  
Milford, OHIO 45150-209

SAINT MICHAEL, CYNTHIA, I (UNITED STATES INDIVIDUAL)  
8 Crooked Crk.  
Milford, OHIO 45150-209

CLASS 35: On-line retail store services featuring a wide variety of consumer goods of others

FIRST USE 1-1-2022; IN COMMERCE 4-5-2022

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 98-226,525, FILED 10-17-2023

*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



## **REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

### **Requirements in the First Ten Years\***

#### **What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

### **Requirements in Successive Ten-Year Periods\***

#### **What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

### **Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

**NOTE:** A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.