

PTO Form 1830 (Rev 9/2007)

OMB No. 0851-0050 (Exp. 4/30/2009)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77551547
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 105
<b>MARK SECTION (no change)</b>	
<b>OWNER SECTION (no change)</b>	
<b>LEGAL ENTITY SECTION (current)</b>	
<b>TYPE</b>	limited partnership
<b>STATE/COUNTRY WHERE LEGALLY ORGANIZED</b>	Texas
<b>LEGAL ENTITY SECTION (proposed)</b>	
<b>TYPE</b>	limited partnership
<b>STATE/COUNTRY WHERE LEGALLY ORGANIZED</b>	Texas
<b>NAME OF ALL GENERAL PARTNERS, ACTIVE MEMBERS, INDIVIDUAL, TRUSTEES, OR EXECUTORS, AND CITIZENSHIP/INCORPORATION</b>	Drucker Technology, Inc., a Texas Corporation
<b>ARGUMENT(S)</b>	
<p><b>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</b></p> <p><b>Applicant: DRUCKER LABS, LP.</b></p> <p>Serial No.: 77/551,547</p> <p>Examining Attorney: Myriah A. Habeeb</p> <p>Law Office: 105</p> <p>Examining Attorney Telephone: (571) 272-8909</p> <p>Mark: INTRABIOTIC</p> <p style="text-align: center;"><b>RESPONSE TO OFFICE ACTION</b></p>	

This is in response to the Final Office Action of July 2, 2009.

**REMARKS**

**I. ENTITY INDEFINITE**

The Examining Attorney has rejected the application on the grounds that Applicant's identification of the general partners of Applicant is indefinite. In response, Applicant has corrected the identification of the general partners of Applicant as follows:

Applicants have amended the identification of the owner, Drucker Labs, LP to state that it is a limited partnership legally organized under the laws of Texas, comprising of general partner, Drucker Technology, Inc., a Texas Corporation, having an address of  
Suite 100  
1600 Capital Ave. – Suite 100  
Plano, Texas 75074  
United States

Dr. Richard A Drucker is the sole shareholder of Drucker Technology, Inc., but not a general partner of Drucker Labs, LP.

**II. FILING BASIS UNCLEAR**

The Examining Attorney has rejected the application on the grounds that the filing basis is unclear. Applicant hereby withdraws its attempted amendment of this application from Section 1(b) to Section 1(a). Applicant intends to proceed with the Section 1(b) basis. Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application. Accordingly, filing basis for this application remains Section 1 (b), Intent to Use.

A Declaration under 37 C. F. R. 2.20, 2.33 to this effect has been filed electronically.

**CONCLUSION**

For the foregoing reasons, Applicant requests that the Examining Attorney reconsider the refusal and withdraw the same. Applicant believes that it has complied with the outstanding requirements of the Examining Attorney and that the present Application is in condition for publication. Such action is respectfully requested at the earliest possible date. Applicant's attorney requests that the Examining Attorney contact the undersigned if further clarification is needed or if a telephone conference would be useful in resolving the issues pending in this matter.

It is believed that no additional fee is due. If this is incorrect, the Commissioner is hereby authorized to charge any fees that may be required by this paper to Deposit Account No. 50-0605.

Respectfully submitted,

Date: January 4, 2010

/Theodore F. Shiells/  
Theodore F. Shiells

CARR LLP  
670 Founders Square  
900 Jackson Street  
Dallas, Texas 75202  
(214) 760-3000  
(214) 760-3003 (FAX)

<b>CORRESPONDENCE SECTION</b>	
NAME	Theodore F. Shiells
FIRM NAME	CARR LLP
INTERNAL ADDRESS	No. 670
STREET	900 Jackson Street
CITY	Dallas
STATE	Texas
ZIP/POSTAL CODE	75202
COUNTRY	United States
PHONE	214-760-3032
FAX	214-760-3003
EMAIL	tshiells@carrip.com
AUTHORIZED EMAIL COMMUNICATION	Yes
<b>SIGNATURE SECTION</b>	
DECLARATION SIGNATURE	/Theodore F. Shiells/
SIGNATORY'S NAME	Theodore F. Shiells
SIGNATORY'S POSITION	Attorney of record, Texas bar member
DATE SIGNED	01/04/2010
RESPONSE SIGNATURE	/Theodore F. Shiells/
SIGNATORY'S NAME	Theodore F. Shiells
SIGNATORY'S POSITION	Attorney of record, Texas bar member
DATE SIGNED	01/04/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Mon Jan 04 13:47:44 EST 2010
TEAS STAMP	USPTO/RFR-69.15.115.218-2 0100104134744318882-77551 547-4603e384caecdec5722d 59dfaf652d9-N/A-N/A-20100 104134231110015

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

**Request for Reconsideration after Final Action**

**To the Commissioner for Trademarks:**

Application serial no. 77551547 has been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicant:** DRUCKER LABS, LP.  
**Serial No.:** 77/551,547  
**Examining Attorney:** Myriah A. Habeeb  
**Law Office:** 105  
**Examining Attorney Telephone:** (571) 272-8909  
**Mark:** INTRABIOTIC

**RESPONSE TO OFFICE ACTION**

This is in response to the Final Office Action of July 2, 2009.

**REMARKS**

**I. ENTITY INDEFINITE**

The Examining Attorney has rejected the application on the grounds that Applicant's identification of the general partners of Applicant is indefinite. In response, Applicant has corrected the identification of the general partners of Applicant as follows:

Applicants have amended the identification of the owner, Drucker Labs, LP to state that it is a limited partnership legally organized under the laws of Texas, comprising of general partner, Drucker Technology, Inc., a Texas Corporation, having an address of

Suite 100  
1600 Capital Ave. Suite 100  
Plano, Texas 75074  
United States

Dr. Richard A Drucker is the sole shareholder of Drucker Technology, Inc., but not a general partner of Drucker Labs, LP.

**II. FILING BASIS UNCLEAR**

The Examining Attorney has rejected the application on the grounds that the filing basis is unclear. Applicant hereby withdraws its attempted amendment of this application from Section 1(b) to Section 1 (a). Applicant intends to proceed with the Section 1(b) basis. Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application. Accordingly, filing basis for this application remains Section 1 (b), Intent to Use.

A Declaration under 37 C. F. R. 2.20, 2.33 to this effect has been filed electronically.

#### CONCLUSION

For the foregoing reasons, Applicant requests that the Examining Attorney reconsider the refusal and withdraw the same. Applicant believes that it has complied with the outstanding requirements of the Examining Attorney and that the present Application is in condition for publication. Such action is respectfully requested at the earliest possible date. Applicant's attorney requests that the Examining Attorney contact the undersigned if further clarification is needed or if a telephone conference would be useful in resolving the issues pending in this matter.

It is believed that no additional fee is due. If this is incorrect, the Commissioner is hereby authorized to charge any fees that may be required by this paper to Deposit Account No. 50-0605.

Respectfully submitted,

Date: January 4, 2010

/Theodore F. Shiells/  
Theodore F. Shiells

CARR LLP  
670 Founders Square  
900 Jackson Street  
Dallas, Texas 75202  
(214) 760-3000  
(214) 760-3003 (FAX)

#### **APPLICANT AND/OR ENTITY INFORMATION**

##### **Applicant proposes to amend the following:**

**Current:** Drucker Labs, LP, a limited partnership having an address of  
1600 Capital Avenue Suite 100  
Plano, Texas 75074  
United States

972-526-5155

972-881-9766

**Proposed:** Drucker Labs, LP, a limited partnership legally organized under the laws of Texas, comprising of Drucker Technology, Inc., a Texas Corporation, having an address of

1600 Capital Avenue Suite 100

Plano, Texas 75074

United States

972-526-5155

972-881-9766

#### **CORRESPONDENCE ADDRESS CHANGE**

Applicant proposes to amend the following:

**Current:**

DRUCKER LABS, LP  
1600 CAPITAL AVE.  
SUITE 100  
PLANO, TX 75056

**Proposed:**

Theodore F. Shiells of CARR LLP, having an address of  
No. 670 900 Jackson Street Dallas, Texas 75202  
United States  
tshiells@carrllp.com  
214-760-3032  
214-760-3003

**SIGNATURE(S)****Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 244. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Theodore F. Shiells/ Date: 01/04/2010  
Signatory's Name: Theodore F. Shiells  
Signatory's Position: Attorney of record, Texas bar member

**Request for Reconsideration Signature**

Signature: /Theodore F. Shiells/ Date: 01/04/2010  
Signatory's Name: Theodore F. Shiells  
Signatory's Position: Attorney of record, Texas bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian

attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77551547

Internet Transmission Date: Mon Jan 04 13:47:44 EST 2010

TEAS Stamp: USPTO/RFR-69.15.115.218-2010010413474431

8882-77551547-4603e384caecdec5722d59dfa

f652d9-N/A-N/A-20100104134231110015