

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87388317
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/87388317/large
LITERAL ELEMENT	DOCTOR MARIJANE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
Based on the undersigned's colleague William J. Morris III's telephone conversation with the Examining Attorney on or about August 20, 2019, Applicant respectfully requests that the filing date of the application be amended from March 28, 2017, to December 20, 2018 (the date of the recent Farm Bill), and the application be re-examined with the new filing date.	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	001
DESCRIPTION	
Fertilizers; microbial inoculants for application to seeds and soils for agricultural and horticultural use; inoculants, namely, biological microorganisms for use in seeds and soils for agricultural and horticultural use	
FILING BASIS	Section 44(d)
FOREIGN APPLICATION NUMBER	1829042
FOREIGN APPLICATION COUNTRY	Canada
FOREIGN FILING DATE	03/23/2017
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	TMA1004403
FOREIGN REGISTRATION COUNTRY	Canada
FOREIGN REGISTRATION DATE	09/10/2018
FOREIGN EXPIRATION DATE	09/10/2033
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	001
TRACKED TEXT DESCRIPTION	
Fertilizers; microbial inoculants for application to seeds and soils for agricultural and horticultural use; inoculants, namely, biological microorganisms for use in seeds and soils for agricultural and horticultural use; none of the foregoing for use in connection with cannabis plants containing 0.3 percent or more THC on a dry weight basis	

FINAL DESCRIPTION	
Fertilizers; microbial inoculants for application to seeds and soils for agricultural and horticultural use; inoculants, namely, biological microorganisms for use in seeds and soils for agricultural and horticultural use; none of the foregoing for use in connection with cannabis plants containing 0.3 percent or more THC on a dry weight basis	
FILING BASIS	Section 44(d)
FOREIGN APPLICATION NUMBER	1829042
FOREIGN APPLICATION COUNTRY	Canada
FOREIGN FILING DATE	03/23/2017
INTENT TO PERFECT 44(d)	At this time, the applicant intends to rely on Section 44(e) as a basis for registration and requests that the application be suspended to await the submission of the foreign registration. If ultimately the applicant does not rely on §44(e) as a basis for registration, a valid claim of priority may be retained.
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	TMA1004403
FOREIGN REGISTRATION COUNTRY	Canada
FOREIGN REGISTRATION DATE	09/10/2018
FOREIGN EXPIRATION DATE	09/10/2033
ATTORNEY SECTION (current)	
NAME	Peter Kunin
ATTORNEY BAR MEMBERSHIP NUMBER	NOT SPECIFIED
YEAR OF ADMISSION	NOT SPECIFIED
U.S. STATE/ COMMONWEALTH/ TERRITORY	NOT SPECIFIED
FIRM NAME	DOWNS RACHLIN MARTIN PLLC
STREET	199 MAIN STREET, P.O. BOX 190
CITY	BURLINGTON
STATE	Vermont
POSTAL CODE	05402-0190
COUNTRY	US
PHONE	802-863-2375
FAX	802-862-7512
EMAIL	tmip@drm.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
DOCKET/REFERENCE NUMBER	13615081UST1
ATTORNEY SECTION (proposed)	
NAME	Peter Kunin
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	DOWNS RACHLIN MARTIN PLLC

STREET	199 MAIN STREET, P.O. BOX 190
CITY	BURLINGTON
STATE	Vermont
POSTAL CODE	05402-0190
COUNTRY	United States
PHONE	802-863-2375
FAX	802-862-7512
EMAIL	tmip@drm.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
DOCKET/REFERENCE NUMBER	13615081UST1
OTHER APPOINTED ATTORNEY	Cathleen E. Stadecker, William J. Morris III
CORRESPONDENCE SECTION (current)	
NAME	PETER KUNIN
FIRM NAME	DOWNS RACHLIN MARTIN PLLC
STREET	199 MAIN STREET, P.O. BOX 190
CITY	BURLINGTON
STATE	Vermont
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AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
DOCKET/REFERENCE NUMBER	13615081UST1
CORRESPONDENCE SECTION (proposed)	
NAME	Peter Kunin
FIRM NAME	DOWNS RACHLIN MARTIN PLLC
STREET	199 MAIN STREET, P.O. BOX 190
CITY	BURLINGTON
STATE	Vermont
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AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
DOCKET/REFERENCE NUMBER	13615081UST1

SIGNATURE SECTION	
RESPONSE SIGNATURE	/Peter Kunin/
SIGNATORY'S NAME	Peter Kunin
SIGNATORY'S POSITION	Attorney of record, VT bar member
SIGNATORY'S PHONE NUMBER	8/02-846-8342
DATE SIGNED	08/28/2019
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Aug 28 13:56:57 EDT 2019
TEAS STAMP	USPTO/RFR-X.XX.XXX.XX-201 90828135657981575-8738831 7-6106e6dbd4d60efdd9beb5f 5dae73a22a6b5d5a5d576aad c719cf869eb55d3e-N/A-N/A- 20190828131349090351

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PTO Form 1960 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **87388317** DOCTOR MARIJANE(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87388317/large>) has been amended as follows:

ARGUMENT(S)

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

Based on the undersigned's colleague William J. Morris III's telephone conversation with the Examining Attorney on or about August 20, 2019, Applicant respectfully requests that the filing date of the application be amended from March 28, 2017, to December 20, 2018 (the date of the recent Farm Bill), and the application be re-examined with the new filing date.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 001 for Fertilizers; microbial inoculants for application to seeds and soils for agricultural and horticultural use; inoculants, namely, biological microorganisms for use in seeds and soils for agricultural and horticultural use

Original Filing Basis:

Filing Basis: Section 44(d), Priority based on foreign filing: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services, and asserts a claim of priority based upon a foreign application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization, and asserts a claim of priority based upon a foreign application. **For a certification application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods or services that meet the certification standards of the applicant, and the applicant asserts a claim of priority based upon a foreign application. Claim of priority is based on [Canada application number 1829042 filed 03/23/2017]. 15 U.S.C. Section 1126(d), as amended.

Filing Basis: Section 44(e), Based on Foreign Registration: *For all applications:* The applicant attaches a copy of [Canada registration number TMA1004403 registered 09/10/2018 with a renewal date of _____ and an expiration date of 09/10/2033], and translation thereof, if appropriate. *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users on or in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods or services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: Fertilizers; microbial inoculants for application to seeds and soils for agricultural and horticultural use; inoculants, namely, biological microorganisms for use in seeds and soils for agricultural and horticultural use; [none of the foregoing for use in connection with cannabis plants containing 0.3 percent or more THC on a dry weight basis](#)

Class 001 for Fertilizers; microbial inoculants for application to seeds and soils for agricultural and horticultural use; inoculants, namely, biological microorganisms for use in seeds and soils for agricultural and horticultural use; none of the foregoing for use in connection with cannabis plants containing 0.3 percent or more THC on a dry weight basis

Filing Basis: Section 44(d), Priority based on foreign filing: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services, and asserts a claim of priority based upon a foreign application. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization, and asserts a claim of priority based upon a foreign application. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods or services that meet the certification standards of the applicant, and the applicant asserts a claim of priority based upon a foreign application. Claim of priority is based on [Canada application number 1829042 filed 03/23/2017]. 15 U.S.C. Section 1126(d), as amended.

INTENT TO PERFECT 44(d) : At this time, the applicant intends to rely on Section 44(e) as a basis for registration and requests that the application be suspended to await the submission of the foreign registration. If ultimately the applicant does not rely on §44(e) as a basis for registration, a valid claim of priority may be retained.

Filing Basis: Section 44(e), Based on Foreign Registration: *For all applications:* The applicant attaches a copy of [Canada registration number TMA1004403 registered 09/10/2018 with a renewal date of _____ and an expiration date of 09/10/2033], and translation thereof, if appropriate, before the application may proceed to registration. *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users on or in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods or services that meet the certification standards of the applicant.

The applicant's current attorney information: Peter Kunin. Peter Kunin of DOWNS RACHLIN MARTIN PLLC, is located at

199 MAIN STREET, P.O. BOX 190
BURLINGTON, Vermont 05402-0190
US

The docket/reference number is 13615081UST1.

The phone number is 802-863-2375.

The fax number is 802-862-7512.

The email address is tmip@drm.com

The applicants proposed attorney information: Peter Kunin. Other appointed attorneys are Cathleen E. Stadecker, William J. Morris III. Peter Kunin of DOWNS RACHLIN MARTIN PLLC, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, and the

attorney(s) is located at

199 MAIN STREET, P.O. BOX 190
BURLINGTON, Vermont 05402-0190
United States

The docket/reference number is 13615081UST1.

The phone number is 802-863-2375.

The fax number is 802-862-7512.

The email address is tmip@drm.com

Peter Kunin submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current correspondence information: PETER KUNIN. PETER KUNIN of DOWNS RACHLIN MARTIN PLLC, is located at

199 MAIN STREET, P.O. BOX 190
BURLINGTON, Vermont 05402-0190
US

The docket/reference number is 13615081UST1.

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The applicants proposed correspondence information: Peter Kunin. Peter Kunin of DOWNS RACHLIN MARTIN PLLC, is located at

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United States

The docket/reference number is 13615081UST1.

The phone number is 802-863-2375.

The fax number is 802-862-7512.

The email address is tmip@drm.com

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Peter Kunin/ Date: 08/28/2019

Signatory's Name: Peter Kunin

Signatory's Position: Attorney of record, VT bar member

Signatory's Phone Number: 8/02-846-8342

The signatory has confirmed that he/she is a U.S.-licensed attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any U.S. Commonwealth or territory); and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S.-licensed attorney not currently associated with his/her company/firm previously represented the owner/holder in this matter: the owner/holder has revoked their power of attorney by a signed revocation or substitute power of attorney with the USPTO; the USPTO has granted that attorney's withdrawal request; the owner/holder has filed a power of attorney appointing him/her in this matter; or the owner's/holder's appointed U.S.-licensed attorney has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: PETER KUNIN
DOWNS RACHLIN MARTIN PLLC

199 MAIN STREET, P.O. BOX 190
BURLINGTON, Vermont 05402-0190

Mailing Address: Peter Kunin
DOWNS RACHLIN MARTIN PLLC
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BURLINGTON, Vermont 05402-0190

Serial Number: 87388317

Internet Transmission Date: Wed Aug 28 13:56:57 EDT 2019

TEAS Stamp: USPTO/RFR-X.XX.XXX.XX-201908281356579815

75-87388317-6106e6dbd4d60efdd9beb5f5dae7

3a22a6b5d5a5d576aadcc719cf869eb55d3e-N/A

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