

Request for Reconsideration after Final Action

The table below presents the data as entered.

| Input Field | Entered |
|---|--|
| SERIAL NUMBER | 87428364 |
| LAW OFFICE ASSIGNED | LAW OFFICE 109 |
| MARK SECTION | |
| MARK | https://tmng-al.uspto.gov/resting2/api/img/87428364/large |
| LITERAL ELEMENT | IDEAL EXTRACT |
| 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) | |
| <p>Applicant has received the Final Office Action dated August 2, 2018. Applicant expresses thanks for the attention provided to this application. Previously, the January 21, 2017 Office Action stated that no conflicting marks were found that would bar registration under the Trademark Act Section 2(d). The final office action raised issues regarding the disclaimer of "EXTRACT" and required an amendment to the identification of goods. These issues are addressed and resolved herein, as explained below. A Notice of Appeal is filed simultaneously herewith.</p> <p>Disclaimer:</p> <p>In response to the requirement that Applicant disclaim "EXTRACT," applicant submits the following disclaimer, with traverse:</p> <p>No claim is made to the exclusive right to use "EXTRACT" apart from the mark as shown.</p> <p>This disclaimer fulfills the requirement of the final office action and Applicant requests acknowledgement of such.</p> <p>Identification of Goods:</p> <p>In response to the requirement that Applicant amend the description of goods, applicant has amended the goods as follows: Class 005: Pharmaceutical preparations, <u>namely, pharmaceuticals for the treatment of diabetes, rheumatoid arthritis, atherosclerosis, inflammatory bowel disease, cardiac disorders, neuropathic pain, anxiety, mood disorders, epilepsy, sleep disorders, muscular diseases including muscular dystrophy and Parkinson's disease, and neurological disorders; therapeutics, namely, weight control, appetite suppression, muscle relaxation, and sleep disorders;</u> nutritional supplements.</p> <p>Applicant believes this amendment to satisfy the identification of goods and that the application can now be approved for publication and registration.</p> <p>Conclusion:</p> <p>In view of the foregoing, Applicant respectfully submits that the remaining refusals have been satisfied with the disclaimer and amendment to the identification of goods described herein and Applicant respectfully submits that the application should be approved for publication and ultimate registration on the Principal Register.</p> | |
| GOODS AND/OR SERVICES SECTION (current) | |
| INTERNATIONAL CLASS | 005 |
| DESCRIPTION | |
| Pharmaceuticals and therapeutics for the treatment of diseases, ailments, and for general well-being; nutritional supplements | |
| FILING BASIS | Section 1(b) |
| GOODS AND/OR SERVICES SECTION (proposed) | |
| INTERNATIONAL CLASS | 005 |

| | |
|--|--|
| TRACKED TEXT DESCRIPTION | |
| Pharmaceuticals and therapeutics for the treatment of diseases, ailments, and for general well-being; Pharmaceutical preparations, namely, pharmaceuticals for the treatment of diabetes, rheumatoid arthritis, atherosclerosis, inflammatory bowel disease, cardiac disorders, neuropathic pain, anxiety, mood disorders, epilepsy, sleep disorders, muscular diseases including muscular dystrophy and Parkinson's disease, and neurological disorders; therapeutics, namely, weight control, appetite suppression, muscle relaxation, and sleep disorders; nutritional supplements | |
| FINAL DESCRIPTION | |
| Pharmaceutical preparations, namely, pharmaceuticals for the treatment of diabetes, rheumatoid arthritis, atherosclerosis, inflammatory bowel disease, cardiac disorders, neuropathic pain, anxiety, mood disorders, epilepsy, sleep disorders, muscular diseases including muscular dystrophy and Parkinson's disease, and neurological disorders; therapeutics, namely, weight control, appetite suppression, muscle relaxation, and sleep disorders; nutritional supplements | |
| FILING BASIS | Section 1(b) |
| ADDITIONAL STATEMENTS SECTION | |
| DISCLAIMER | No claim is made to the exclusive right to use EXTRACT apart from the mark as shown. |
| SIGNATURE SECTION | |
| RESPONSE SIGNATURE | /Grant R. Clayton/ |
| SIGNATORY'S NAME | Grant R. Clayton |
| SIGNATORY'S POSITION | Attorney of Record, Utah Bar Member |
| SIGNATORY'S PHONE NUMBER | 8012555335 |
| DATE SIGNED | 02/04/2019 |
| AUTHORIZED SIGNATORY | YES |
| CONCURRENT APPEAL NOTICE FILED | YES |
| FILING INFORMATION SECTION | |
| SUBMIT DATE | Mon Feb 04 13:58:54 EST 2019 |
| TEAS STAMP | USPTO/RFR-XXX.XX.XX.XXX-2 0190204135854499863-87428 364-620d9cb34711c123519f8 b6dc62ea9598e58943683aba1 bffc4b8bdad4c3edcee-N/A-N /A-20190204135214062867 |

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PTO Form 1980 (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. **87428364** IDEAL EXTRACT(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87428364/large>) has been amended as follows:

ARGUMENT(S)

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

Applicant has received the Final Office Action dated August 2, 2018. Applicant expresses thanks for the attention provided to this application. Previously, the January 21, 2017 Office Action stated that no conflicting marks were found that would bar registration under the Trademark Act Section 2(d). The final office action raised issues regarding the disclaimer of "EXTRACT" and required an amendment to the identification of goods. These issues are addressed and resolved herein, as explained below. A Notice of Appeal is filed simultaneously herewith.

Disclaimer:

In response to the requirement that Applicant disclaim "EXTRACT," applicant submits the following disclaimer, with traverse:

No claim is made to the exclusive right to use "EXTRACT" apart from the mark as shown.

This disclaimer fulfills the requirement of the final office action and Applicant requests acknowledgement of such.

Identification of Goods:

In response to the requirement that Applicant amend the description of goods, applicant has amended the goods as follows:

Class 005: Pharmaceutical preparations, namely, pharmaceuticals for the treatment of diabetes, rheumatoid arthritis, atherosclerosis, inflammatory bowel disease, cardiac disorders, neuropathic pain, anxiety, mood disorders, epilepsy, sleep disorders, muscular diseases including muscular dystrophy and Parkinson's disease, and neurological disorders; therapeutics, namely, weight control, appetite suppression, muscle relaxation, and sleep disorders; nutritional supplements.

Applicant believes this amendment to satisfy the identification of goods and that the application can now be approved for publication and registration.

Conclusion:

In view of the foregoing, Applicant respectfully submits that the remaining refusals have been satisfied with the disclaimer and amendment to the identification of goods described herein and Applicant respectfully submits that the application should be approved for publication and ultimate registration on the Principal Register.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 005 for Pharmaceuticals and therapeutics for the treatment of diseases, ailments, and for general well-being; nutritional supplements

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: *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 in the 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. ***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, 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/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Pharmaceuticals and therapeutics for the treatment of diseases, ailments, and for general well-being;~~ Pharmaceutical preparations, namely, pharmaceuticals for the treatment of diabetes, rheumatoid arthritis, atherosclerosis, inflammatory bowel disease, cardiac disorders, neuropathic pain, anxiety, mood disorders, epilepsy, sleep disorders, muscular diseases including muscular dystrophy and Parkinson's disease, and neurological disorders; therapeutics, namely, weight control, appetite suppression, muscle relaxation, and sleep disorders; nutritional supplements

Class 005 for Pharmaceutical preparations, namely, pharmaceuticals for the treatment of diabetes, rheumatoid arthritis, atherosclerosis, inflammatory bowel disease, cardiac disorders, neuropathic pain, anxiety, mood disorders, epilepsy, sleep disorders, muscular diseases including muscular dystrophy and Parkinson's disease, and neurological disorders; therapeutics, namely, weight control, appetite suppression, muscle relaxation, and sleep disorders; nutritional supplements

Filing Basis: Section 1(b), Intent to Use: *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 in the 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. ***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, 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/services that meet the certification standards of the applicant.

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use EXTRACT apart from the mark as shown.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Grant R. Clayton/ Date: 02/04/2019

Signatory's Name: Grant R. Clayton

Signatory's Position: Attorney of Record, Utah Bar Member

Signatory's Phone Number: 8012555335

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 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. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder 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 owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder'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 filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 87428364

Internet Transmission Date: Mon Feb 04 13:58:54 EST 2019

TEAS Stamp: USPTO/RFR-XXX.XX.XX.XXX-2019020413585449

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