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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Ex Parte Appeal - Serial No.	90788535
Appellant	Terumo BCT, Inc.
Applied for mark	RIKA PLASMA DONATION SYSTEM
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Submission	Request for remand/amendment
Attachments	Request for Remand - Application Serial No. 90_788535 for RIKA PLASMA DONATION SYSTEM.pdf(27034 bytes)
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Date	01/24/2023

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

In re:)
)
Application Serial No. 90/788535)
)
Applicant: Terumo BCT, Inc.)
)
Filed: June 22, 2021)
)
RIKA PLASMA DONATION SYSTEM)
_____)

REQUEST FOR REMAND

Applicant respectfully requests that the Trademark Trial and Appeal Board (“Board”) remand the subject application to the Examining Attorney and suspend the Appeal proceeding, stating as follows:

The above-identified application is the subject of an Appeal filed by Applicant. An Appeal Brief is currently due on March 6, 2023. The Examining Attorney has made final the Section 2(d) refusal to register the subject mark on the basis of a perceived likelihood of confusion with Registration No. 5,398,168 and the requirement for an acceptable description of goods. Applicant respectfully requests that the Board remand the application to the Examining Attorney for consideration of Applicant’s proposed amendment to the description of goods which would overcome both refusals and obviate the need for further pursuing this *ex parte* Appeal.

Argument and Amendment

The Examining Attorney has refused registration of the subject trademark based on the incorrect contention that “the application uses broad wording to describe medical devices and apparatus, which presumably encompasses all goods of the type described, including registrant’s more narrow medical apparatus for facilitating the inhalation of pharmaceutical preparations; medical apparatus for measuring skin hydration; microdermabrasion apparatus; phototherapeutic apparatus for medical purposes; phototherapeutic apparatus for medical purposes, namely, a LED (light-

emitting diode) light source for medical and aesthetic skin treatments; ultraviolet lamps for medical purposes; vaporizers for medical purposes” (See Final Office Action dated June 15, 2022).

However, Applicant respectfully brings to the Examining Attorney’s attention the fact that the application does **not** use “broad wording to describe medical devices and apparatus” as asserted by the Examining Attorney. Rather, the application is directed to very specific types of “medical devices and apparatus” for blood collection, processing, separation, and/or analysis as follows (emphasis added):

- medical devices and apparatus and parts and fittings therefor, **namely, medical devices and apparatus for collection, processing and separation of human blood;**
- devices for blood component separation and collection of components and parts and fittings therefor, **namely, apparatus for blood collection, plasma separation, collection and analysis;**
- accessories for blood component separation and collection devices, **namely, blood collection needles, bags, tubes, centrifuges and filters**

The foregoing wording is neither “broad” nor does it “encompass” registrant’s goods.

At this time, Applicant respectfully requests that its description of goods in Class 10 be amended to further specify the nature of its goods and to expressly exclude “registrant’s more narrow” goods as identified by the Examining Attorney above. Applicant’s proposed clarifications and exclusions are shown below in **bold underlined** font and the proposed deletion to satisfy the description refusal is shown in ~~red-strikethrough~~ font, as follows:

Medical devices and apparatus and parts and fittings therefor **in the nature of automated blood component collection systems,** namely, medical devices and apparatus for collection, processing and separation of human blood; devices for **use in connection with** blood component separation and collection of components and parts and fittings therefor, namely, apparatus

for blood collection, plasma separation, collection and analysis; accessories for **use in connection with** blood component separation and collection devices, namely, blood collection needles, bags, tubes, ~~centrifuges~~ and filters; disposable blood tubing sets for medical purposes and parts and fittings therefor **for use in connection with blood component separation and collection devices; none of the foregoing being medical apparatus for facilitating the inhalation of pharmaceutical preparations, medical apparatus for measuring skin hydration, microdermabrasion apparatus, phototherapeutic apparatus for medical purposes, phototherapeutic apparatus for medical purposes, namely, a LED (light-emitting diode) light source for medical and aesthetic skin treatments, ultraviolet lamps for medical purposes, and vaporizers for medical purposes**

Applicant believes that these amendments sufficiently distinguish its goods from those of registrant such that the citation is no longer warranted, and also satisfy the description requirement.

Wherefore, Applicant respectfully requests that the Board (i) remand this application to the Examining Attorney for consideration of the amendment to the description of goods and (ii) suspend the Appeal pending the Examining Attorney's consideration of the amendments herein.

The foregoing constitutes good cause for the requested remand and suspension.

The Board and the Examining Attorney are urged to contact the undersigned via phone or email with any questions or comments.

Respectfully submitted,

Terumo BCT, Inc.

By: /Jessica S. Sachs/
Name: Jessica S. Sachs
Attorney for Applicant,
Attorney with Harness, Dickey & Pierce, P.L.C.

Date: January 24, 2023