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May 10, 2010

Via Federal Express

Cheryl Butler, Esq.

Trademark Trial and Appeal Board

RE: Mark: OXYTET  
Cancellation No...: 92051809  
Registrant: Alpha Pharma Inc.  
Mailing Date: May 7, 2010

77/231,184

This letter is to respond to the Board's Order, dated May 7, 2010, deferring consideration of Respondent's Motion, dated April 6, 2010. In the Order, the Board requested that Respondent provide a signed declaration, under Trademark Rule 2.20 (37 C.F.R. § 2.20) and pay a fee of \$100.

Attached is a copy of Respondent's Section 7 Request, filed on March 29, 2010, containing the requisite verification, signature and declaration. Although Respondent paid the applicable filing fee in connection with its Section 7 Request, we are also submitting today an additional fee of \$100, by check, to ensure receipt by the Board.

As these items fulfill the requirements set forth in the Board's May 7 Order, we respectfully request that the Respondent's Motion of April 6, 2010 be processed and, accordingly, that the registration be amended and the Cancellation Proceeding be dismissed.

Thank you for your assistance. Please do not hesitate to contact the undersigned should you require anything further.

Sincerely,

TEPPER & EYSTER, PLLC

  
Maury M. Tepper

**Terri Morris**

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**From:** teas@uspto.gov  
**Sent:** Monday, March 29, 2010 3:05 PM  
**To:** Maury Tepper  
**Subject:** Registration number 3577155: Received Your Section 7 Request

**TTAB**

We have received your Section 7 Request Form below.

To the Commissioner for Trademarks:

The registrant requests the following amendment(s) to registration no. **3577155**

**CLASSIFICATION AND LISTING OF GOODS/SERVICES**

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

**Current:** Class 005 for veterinary preparations and pharmaceuticals, namely, an antibiotic for use in treating poultry and swine

Original Filing Basis:

**Filing Basis: Section 1(a), Use in Commerce:** The registrant is using the mark in commerce, or the registrant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/31/1985 and first used in commerce at least as early as 12/31/1985, and is now in use in such commerce.

**Proposed:** Class 005 for veterinary preparations and pharmaceuticals, namely an antibiotic for use in treating poultry and swine, which preparations and pharmaceuticals are in the form of feed additives or as an additive to drinking water

**Filing Basis: Section 1(a), Use in Commerce:** The registrant is using the mark in commerce, or the registrant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/31/1985 and first used in commerce at least as early as 12/31/1985, and is now in use in such commerce.

**ADDITIONAL STATEMENTS**

05/13/2010 SWILSON1 00000002 77231184

**Miscellaneous Statement(s)**

01 FC:6403

100.00 DP

An amendment of the goods in the registration based on Trademark Coexistence Agreement.

**FEE(S)**

Fee(s) in the amount of \$100 is being submitted.

Signature: /Maury M. Tepper, III/ Date: 03/29/2010

Signatory's Name: Maury M Tepper III


Signatory's Position: Attorney of Record, NC Bar

**Request Signature**

Signature: /Maury M. Tepper, III/ Date: 03/29/2010

Signatory's Name: Maury M Tepper III

Signatory's Position: Attorney of Record, NC Bar

  
05-11-2010

U.S. Patent & Trademark Dept. Form 352

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 registrant'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 registrant in this matter: (1) the registrant 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 registrant has filed a power of attorney appointing him/her in this matter; or (4) the registrant'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 Declaration of Use of Mark under Section 8; a Combined Declaration of Use of Mark under Sections 8 & 15; or a Combined Declaration of Use of Mark/Application for Renewal of Registration of Mark under Sections 8 & 9 in conjunction with this Section 7 Request.

Thank you.

The TEAS support team

Mon Mar 29 15:05:16 EDT 2010

STAMP: USPTO/S7R-97.67.66.234-20100329150515985123-3577155-

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