

ESTTA Tracking number: **ESTTA1068089**

Filing date: **07/14/2020**

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

Proceeding	92073355
Party	Plaintiff MDR Fitness Corp.
Correspondence Address	MICHAEL A PAINTER ISAACMAN KAUFMAN PAINTER LOWY & ZUCKER PC 1100 GLENDON AVENUE, 15TH FLOOR LOS ANGELES, CA 90024 UNITED STATES Primary Email: painter@ikplaw.com 310-881-6800
Submission	Other Motions/Papers
Filer's Name	Michael A. Painter
Filer's email	painter@ikplaw.com
Signature	/Michael A. Painter/
Date	07/14/2020
Attachments	DOC1620.2020.1.Part 9.pdf(2747786 bytes)

EXHIBIT 12

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77846891

Filing Date: 10/12/2009

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	<u>doTERRA On Guard</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	doTERRA On Guard
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	doTERRA Holdings, LLC
*STREET	370 West Center Street
*CITY	Orem
*STATE (Required for U.S. applicants)	Utah
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	84057
PHONE	801-615-7200
FAX	801-655-0746
EMAIL ADDRESS	XXXX
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Utah
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	003
IDENTIFICATION	Antibacterial skin soaps; Antibacterial soap
*FILING BASIS	

Exhibit " 12 " - Page 1

*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/25/2008
FIRST USE IN COMMERCE DATE	At least as early as 04/25/2008
SPECIMEN FILE NAME(S)	<u>\\TICRS\EXPORT8\IMAGEOUT8\778\468\77846891\xml1\FT K0003.JPG</u>
SPECIMEN DESCRIPTION	Picture of product bottle showing mark
*INTERNATIONAL CLASS	003
IDENTIFICATION	Aromatherapy oil; Aromatherapy oils; Bath oils; Body oil; Body oils; Cleaning swabs for household purposes; Cosmetic oils; Cosmetic oils for the epidermis; Essential oils; Essential oils for food flavorings; Essential oils for household use; Essential oils for personal use; Essential oils for use in manufacturing of gelscaps and other dietary supplements; Essential oils for use in the manufacture of scented products; Massage oil; Massage oils; Natural essential oils; Oils for cleaning purposes; Oils for cosmetic purposes; Oils for perfumes and scents; Oils for toiletry purposes; Scented oils
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/25/2008
FIRST USE IN COMMERCE DATE	At least as early as 04/25/2008
SPECIMEN FILE NAME(S)	<u>\\TICRS\EXPORT8\IMAGEOUT8\778\468\77846891\xml1\FT K0004.JPG</u>
SPECIMEN DESCRIPTION	Picture of product bottle with name of mark
*INTERNATIONAL CLASS	005
IDENTIFICATION	Antibacterial cleaners; Antibacterial hand lotions; Antibacterial handwash
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/25/2008
FIRST USE IN COMMERCE DATE	At least as early as 04/25/2008
SPECIMEN FILE NAME(S)	<u>\\TICRS\EXPORT8\IMAGEOUT8\778\468\77846891\xml1\FT K0005.JPG</u>
SPECIMEN DESCRIPTION	Picture of product bottle showing mark
*INTERNATIONAL CLASS	005
IDENTIFICATION	Household deodorant
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/25/2008
FIRST USE IN COMMERCE DATE	At least as early as 04/25/2008
SPECIMEN FILE NAME(S)	<u>\\TICRS\EXPORT8\IMAGEOUT8\778\468\77846891\xml1\FT K0006.JPG</u>
SPECIMEN DESCRIPTION	Picture of product bottle with mark
*INTERNATIONAL CLASS	005
IDENTIFICATION	Sanitizing wipes
*FILING BASIS	SECTION 1(b)
*INTERNATIONAL CLASS	005

IDENTIFICATION	Throat lozenges
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/25/2008
FIRST USE IN COMMERCE DATE	At least as early as 04/25/2008
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	spec-6817811218-162023189 . On Guard launch flier 093009_1 .pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT8\IMAGEOUT8\778\468\77846891\xml1\FTK0007.JPG
SPECIMEN DESCRIPTION	Flyer showing picture of the container with the words doTERRA On Guard on the container
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Mark A. Wolfert
FIRM NAME	doTERRA Holdings, LLC
STREET	370 West Center Street
CITY	Orem
STATE	Utah
COUNTRY	United States
ZIP/POSTAL CODE	84057
PHONE	801-615-7200
FAX	801-655-0746
EMAIL ADDRESS	mwolfert@doterra.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
*NAME	Mark A. Wolfert
FIRM NAME	doTERRA Holdings, LLC
*STREET	370 West Center Street
*CITY	Orem
*STATE (Required for U.S. applicants)	Utah
*COUNTRY	United States
*ZIP/POSTAL CODE	84057

PHONE	801-615-7200
FAX	801-655-0746
*EMAIL ADDRESS	mwolfert@doterra.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	2
FEE PER CLASS	275
*TOTAL FEE PAID	550
SIGNATURE INFORMATION	
* SIGNATURE	/Mark A. Wolfert/
* SIGNATORY'S NAME	Mark A. Wolfert
* SIGNATORY'S POSITION	General Counsel
* DATE SIGNED	10/12/2009

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77846891

Filing Date: 10/12/2009

To the Commissioner for Trademarks:

MARK: doTERRA On Guard (Standard Characters, see [mark](#))

The literal element of the mark consists of doTERRA On Guard.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, doTERRA Holdings, LLC, a limited liability company legally organized under the laws of Utah, having an address of
370 West Center Street
Orem, Utah 84057
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 003: Antibacterial skin soaps; Antibacterial soap; Aromatherapy oil; Aromatherapy oils; Bath oils; Body oil; Body oils; Cleaning swabs for household purposes; Cosmetic oils; Cosmetic oils for the epidermis; Essential oils; Essential oils for food flavorings; Essential oils for household use; Essential oils for personal use; Essential oils for use in manufacturing of gelscaps and other dietary supplements; Essential oils for use in the manufacture of scented products; Massage oil; Massage oils; Natural essential oils; Oils for cleaning purposes; Oils for cosmetic purposes; Oils for perfumes and scents; Oils for toiletry purposes; Scented oils

In International Class 003, the mark was first used at least as early as 04/25/2008, and first used in commerce at least as early as 04/25/2008, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Picture of product bottle showing mark; Picture of product bottle with name of mark.

[Specimen File1](#)

[Specimen File2](#)

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 005: Antibacterial cleaners; Antibacterial hand lotions; Antibacterial handwash; Household deodorant; Sanitizing wipes; Throat lozenges

Intent to Use: The applicant has 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. (15 U.S.C. Section 1051(b)).

In International Class 005, the mark was first used at least as early as 04/25/2008, and first used in commerce at least as early as 04/25/2008, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Picture of product bottle showing mark; Picture of product bottle with mark; Flyer showing picture of the container with the words doTERRA On Guard on the container.

JPG file(s):

[Specimen File1](#)

[Specimen File2](#)

Original PDF file:

[spec-6817811218-162023189 . On Guard launch flier 093009 1 .pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

The applicant's current Attorney Information:
Mark A. Wolfert of doTERRA Holdings, LLC
370 West Center Street
Orem, Utah 84057
United States

The applicant's current Correspondence Information:

Mark A. Wolfert
doTERRA Holdings, LLC
370 West Center Street
Orem, Utah 84057
801-615-7200(phone)
801-655-0746(fax)
mwolfert@doterra.com (authorized)

A fee payment in the amount of \$550 has been submitted with the application, representing payment for 2 class(es).

Declaration

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, and the like, 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; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Mark A. Wolfert/ Date Signed: 10/12/2009
Signatory's Name: Mark A. Wolfert
Signatory's Position: General Counsel

RAM Sale Number: 11204
RAM Accounting Date: 10/13/2009

Serial Number: 77846891
Internet Transmission Date: Mon Oct 12 17:20:54 EDT 2009
TEAS Stamp: USPTO/FTK-XX.XXX.XX.XXX-2009101217205471
8626-77846891-46060516de9b711a9cdb519dd5
1928db47-CC-11204-20091012162023189177

dōTERRA On Guard

EXHIBIT 13



Are you ready?

Don't let the flu season catch you off guard.

Introducing dōTERRA's On Guard™ Protecting Throat Drops providing the immune-supporting benefits of On Guard proprietary essential oil blend in the convenience of an all-natural throat drop. Blended in a base of organic cane juice and brown rice syrup, On Guard Protecting Throat Drops include CPTG Certified Pure Therapeutic Grade® wild orange, clove, cinnamon, eucalyptus, rosemary, and myrrh essential oils. On Guard Protecting Throat Drops help calm and soothe dry, scratchy throats while supporting a healthy oral environment. The anti-microbial properties of the essential oils in the On Guard blend, when taken internally, can also support mobile immunities throughout the body. On Guard Protecting Throat Drops can be a potent addition to a defensive health strategy against seasonal threats and infectious outbreaks.

dōTERRA®

Primary Benefits

- Helps calm and soothe dry, scratchy throats*
- Helps defend against pathogenic microbes of the mouth and throat*
- Supports fixed and mobile immune functions*

On Guard™ Protecting Throat Drops

30 All-natural drops

Item code: 3405

Consultant price:
\$14. 50 (14.50 PV)



* These statements have not been evaluated by the FDA. This product

EXHIBIT 14

United States of America

United States Patent and Trademark Office

dōTERRA On Guard

Reg. No. 3,806,204

Registered June 22, 2010

Int. Cls.: 3 and 5

TRADEMARK

PRINCIPAL REGISTER

DOTERRA HOLDINGS, LLC (UTAH LIMITED LIABILITY COMPANY)
370 WEST CENTER STREET
OREM, UT 84057

FOR: AROMATHERAPY OIL; AROMATHERAPY OILS; BATH OILS; BODY OIL; BODY OILS; CLEANING SWABS FOR HOUSEHOLD PURPOSES; COSMETIC OILS; COSMETIC OILS FOR THE EPIDERMIS; ESSENTIAL OILS; ESSENTIAL OILS FOR FOOD FLAVORINGS; ESSENTIAL OILS FOR HOUSEHOLD USE; ESSENTIAL OILS FOR PERSONAL USE; ESSENTIAL OILS FOR USE IN MANUFACTURING OF GELCAPS AND OTHER DIETARY SUPPLEMENTS; ESSENTIAL OILS FOR USE IN THE MANUFACTURE OF SCENTED PRODUCTS; MASSAGE OIL; MASSAGE OILS; NATURAL ESSENTIAL OILS; OILS FOR CLEANING PURPOSES; OILS FOR COSMETIC PURPOSES; OILS FOR PERFUMES AND SCENTS; OILS FOR TOILETRY PURPOSES; SCENTED OILS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 4-25-2008; IN COMMERCE 4-25-2008.

FOR: HOUSEHOLD DEODORANT; THROAT LOZENGES, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 11-1-2009; IN COMMERCE 11-1-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,641,123.

SER. NO. 77-846,891, FILED 10-12-2009.

KAELIE KUNG, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

CERTIFICATE OF SERVICE

The undersigned hereby certifies the within PETITIONER'S APPENDIX OF EVIDENCE IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT was served on the Registrant through its counsel of record in this matter via e-mail from my business e-mail address with Isaacman, Kaufman, Painter, Lowy & Zucker, P.C., conaway@ikplaw.com, without any known e-mail error message, bounce-back or other technical defect, as follows:

Krista Weber Powell

KWPowell@traskbritt.com

Glenn R. Bronson

GRBronson@traskbrill.com

Colette V. Dubois

CVDubois@traskbritt.com

Trisha A. McFarland

TAMcFarland@traskbritt.com

Trask Britt

230 South 500 East, Suite 300

Salt Lake City, Utah 84102

KWPowell@traskbritt.com

Executed this 14th day of July, 2020 at Los Angeles, California.


SHERYL R. CONAWAY