

Note To The File

Serial Number: 97409903
Date: 08/01/2022 6:06 pm
Created by: Adetayo Adeyiga

LABCORP COLOFIT

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Changed

- Issued Examiner's Amendment/Priority Action and Entered Changes

Discussed file with Attorney/Applicant

- via Phone
- via E-Mail
- Left message

Mon 8/1/2022 5:50 PM

From: Adeyiga, Adetayo

To: Otey, Tiffani

Cc: Frith, Kathy ; Bryner, Bill ; Yates, Emily

RE: Trademark Applications for Laboratory Corporation of America Holdings

Hi Tiffani,

You're very welcome, thank you for getting back to me, and sounds good. Have a nice evening!

Adetayo

From: Otey, Tiffani <TOtey@kilpatricktownsend.com>

Sent: Monday, August 1, 2022 5:46 PM

To: Adeyiga, Adetayo <Adetayo.Adeyiga@USPTO.GOV>

Cc: Frith, Kathy <KFrith@kilpatricktownsend.com>; Bryner, Bill

<BBRYNER@kilpatricktownsend.com>; Yates, Emily <EYates@kilpatricktownsend.com>

Subject: RE: Trademark Applications for Laboratory Corporation of America Holdings

CAUTION: This email has originated from a source outside of USPTO. PLEASE CONSIDER THE SOURCE before responding, clicking on links, or opening attachments.

Dear Examiner Adeyiga:

Thank you for your patience on these applications. We appreciate your assistance with correcting the errors you noted. Please see my comments below in red response to each of your questions to us. Please do proceed with an Examiner's Amendment regarding the disclaimers and entity information. Regarding the Class 10 ID, please issue an office action as we are awaiting client confirmation on the correct amendments to the ID.

Please let me know if you have questions or need additional information.

Sincerely,

Tiffani D. Otey

Kilpatrick Townsend & Stockton LLP

1001 West Fourth Street | Winston-Salem, NC 27101-2400

office 336 607 7503 | fax 336 734 2617

totey@kilpatricktownsend.com | [My Profile](#) | [VCard](#)

Begin forwarded message:

From: "Adeyiga, Adetayo" <Adetayo.Adeyiga@uspto.gov>

Date: July 25, 2022 at 5:05:50 PM EDT

To: "Bryner, Bill" <BBRYNER@kilpatricktownsend.com>

Cc: tadmin <tadmin@kilpatricktownsend.com>, "Frith, Kathy" <KFrith@kilpatricktownsend.com>

Subject: Trademark Applications for Laboratory Corporation of America Holdings

Hello William,

My name is Adetayo and I'm the attorney here at the USPTO handling the review of your applications for your client Laboratory Corporation of America Holdings. I just called and left you a voice message

but wanted to follow up with this email to let you know that I've finished examining the applications and for the most part, the marks are almost ready to go, however, there are a few issues that need to be resolved before I can move the applications along. They are detailed below:

MVX (SN: 97252312)

1. The entity information is missing. Please confirm whether this information should be entered as a Delaware Corporation. **Confirmed, the entity is a Delaware Corporation.**

PLASMA FOCUS (SN: 97486746)

1. We'll need a disclaimer of the wording "PLASMA" since it is descriptive of the services. **Please proceed with disclaimer of "Plasma" apart from the whole mark.**

LABCORP ONDEMAND (SN: 97092954)

1. We'll need a disclaimer of the wording *ondemand* in its correct form, namely, "ON DEMAND" since this is descriptive of the services. **Please proceed with disclaimer of "on demand" apart from the whole mark.**

LABCORP ONDEMAND COLOFIT (SN: 97409896) & LABCORP COLOFIT (SN: 97409903)

1. Re: SN: 97409896, we'll need a disclaimer of the wording *ondemand* in its correct form, namely, "ON DEMAND" since this is descriptive of the services. **Please proceed with disclaimer of "on demand" apart from the whole mark.**

1. The ID in class 010 in both applications needs to be slightly amended. Therefore, I propose the following ID in class 010 with my amendments in bold/highlight/italics:

1. "Cancer screening test kit comprised of implements **in the nature of _____** *{further specify nature of "implements" goods within kit, in class 010}* and container for collecting patient stool samples for analysis" in International Class 010. **We are awaiting client feedback on this ID. Please issue office actions for this ID issue.**

1. Lastly, I noticed that in these two applications, the entity information was entered as a North Carolina Corporation, which is inconsistent with the entity information in all of the co-pending applications that I've just reviewed, as well as almost all of applicant's prior registrations/applications that include the wording LABCORP, with the exception of one I believe. In all others, the entity information is listed as a Delaware Corporation. Please confirm whether this was an error (i.e., whether Laboratory Corporation of America Holdings, a North Carolina Corporation, does not actually exist) and if the entity information in these two applications should have been entered as a Delaware Corporation. If this is the case, I will correct the error, however, please be advised that in my search, I noticed that applicant has one prior-pending application where the entity information was also listed as a North Carolina Corporation (SN: 90881246 for LABCORP DIAGNOSTIC ASSISTANT – currently published for opposition as of 6/21/22). Therefore, even if we correct the potential error in these two applications, these two applications will need to be suspended until the potential error is also corrected in that application, as we are *technically* dealing with 2 different entities, for 2d purposes. Finally, if none of this was done in error, and the entity information in these 2 applications is in fact a North Carolina Corporation, then please be advised that I will have to issue several 2d refusals, citing many if not all of the Labcorp marks where the entity information is listed as a Delaware corporation. I hope all of this makes sense. **Laboratory Corporation of America Holdings, a North Carolina Corporation does not exist. Identifying**

the applicant as organizing in North Carolina was an error; the applicant is and, as you noted, has been, a Delaware Corporation. Thank you for your note on app. Ser. No. 90881246. We are taking steps to correct the incorrect entity information in that application as well.

Therefore, as soon as you get a chance, please either call or email me back letting me know you're OK with the proposed changes and/or how you would like to resolve the issues outlined above, and if acceptable, I'll take care of everything on my end via Examiner's Amendments where possible. However, if I do not hear back from you within 24 hours, then I will issue Office Actions. If you think you need longer than 24 hours, please kindly respond letting me know as such.

Thanks for your time and I hope to hear back from you soon!

Adetayo J. Adeyiga
Trademark Examining Attorney

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