**IN THE U.S. PATENT AND TRADEMARK OFFICE**

| | |
|---|---|
| Mark: | CANNASOL |
| Serial No. | 88164338 |
| Filing Date: | 2018-10-19 |
| Examining Attorney: | Lindsey H. Ben |

**Response to Office Action Dated February 5, 2020**

**Refusal – No Bona Fide Intent to Lawfully Use the Mark in Commerce**

As of the amended filing date of December 20, 2018, CBD satisfying the condition as recited in the revised identification of goods **is not unlawful**, except that it would need approval by the FDA. Thus, the enactment of the amendments to the AMA on December 20, 2018 effectively made CBD as eligible for FDA approval just like other pharmaceuticals that are not unlawful themselves. Therefore, at the amending filing date, Applicant had bona fide intent to use the mark associated with goods then lawful under the updated AMA. The FDCA requires that a drug product can only be marketed after FDA approval, but there is no requirement that at filing date of a trademark application for a drug product based on "intent-to-use" the drug product has already been approved or that documents for the drug product for FDA approval have already been prepared or submitted to the FDA.

It is noted that for pharmaceutical companies typically file intent-to-use trademark applications to reserve trademarks for their drugs for future market launch (after FDA approval). For example, trademark applications for some of the best-selling biological drugs shown below were all initially filed under the intent-to-use basis, and none of these applications received refusals from the Trademark Office relating to filer's bona-fide intent under the FDCA:

Humira, Ser. No. 78082476
Revlimid, Ser. No. 78290583
Opdivo, Ser. No. 85764349
Prevnar 13, Ser. No. 77018369
Avastin, Ser. No. 76278294
Herceptin, Ser. No. 78894574
Soliris, Ser. No. 78978719
Tecfidera, Ser. No. 85671265
Orkambi, Ser. No. 86179790

At the amended filing date, Applicant had the bona-fide intent to seek FDA approval for the goods under the applied-for mark, and Applicant would market these goods only after obtaining the FDA approval. Applicant has been sourcing raw materials for manufacturing these goods and conducting analytical tests with an eye toward compiling necessary data and documentation to submit to the FDA for approval of the products.

Respectfully submitted,

Date: October 19, 2020

/Yong Chen/

Yong Chen
Attorney for Applicant
Liu, Chen & Hoffman LLP
1 Penn Plz, Ste 2508
New York, NY 10119
Tel: 212-547-6694