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Date April 4, 2019 By /Quyen Nguyen/ (Quyen Nguyen)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 88/099,902
Filing Date: June 15, 2018
Mark: Dynablator
Applicant: Relign Corporation
Goods/Services: Class 010
Examining Attorney: Mark S. Tratos
Law Office 113

RESPONSE TO OFFICE ACTION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

This is in response to the non-final Office Action dated October 10, 2018 (the “Office Action”) for which a response is due on April 10, 2019. Accordingly, this response is timely filed.

AMENDMENT OF THE IDENTIFICATION OF GOODS REQUIRED

Applicant filed the mark Dynablator in class 10 with a description of goods as follows:

Electrosurgical arthroscopic devices, electrosurgical energy controller with fluid delivery, arthroscopic handpieces with motor drives; arthroscopic blades; arthroscopic cutting probes with Radio Frequency electrodes.

The Office action asserts that the description is indefinite and requires amendment. Namely, the Office action asserts that “electrosurgical energy controller with fluid delivery”, “arthroscopic handpieces with motor drives”, “arthroscopic blades”, and “arthroscopic

cutting probes with Radio Frequency electrodes” are indefinite and require amendment. Applicant disagrees and provides the following discussion.

RE: “electrosurgical energy controller with fluid delivery”

The Office action asserted that “the wording “electrosurgical energy controller with fluid delivery” in the identification of goods is indefinite and must be clarified because the nature of the device is not clear. See 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Applicant must amend this wording to specify the common commercial or generic name of the goods. . . .

An electrosurgical energy controller (or electrosurgical generator) is commonly known as the power supply that controls delivery of energy to an electrosurgical device. See e.g.:

<https://www.medtronic.com/covidien/en-us/products/electrosurgical-hardware/generators-and-monitors.html>

<https://en.wikipedia.org/wiki/Electrosurgery> “RF electrosurgery is performed using a RF electrosurgical generator (also referred to as an electrosurgical unit or ESU) and a handpiece including one or two electrodes—a monopolar or bipolar instrument. All RF electrosurgery is bipolar so the difference between monopolar and bipolar instruments is that monopolar instruments comprise only one electrode while bipolar instruments include both electrodes in their design.

Applicant refers to the attached brochure discussing the Tricera device, which clearly shows the Tricera system including an arthroscopic system having an electrosurgical controller/generator with a fluid supply system.

Applicant believes that no amendment is necessary, but to advance the application, Applicant is willing to amend the description from “electrosurgical energy controller with fluid delivery” to “electrosurgical generator energy controller with a fluid delivery system”.

RE: “arthroscopic handpieces with motor drives”, “arthroscopic blades”, and “arthroscopic cutting probes with Radio Frequency electrodes”

The Office action argues that the term “arthroscopic” is indefinite and asserts that the Applicant “must clarify if the handpieces being offered are, infact, [arthroscopic] surgical devices themselves” and must clarify that the blades are surgery blades”.

Applicant disagrees. The term “arthroscopic” is a minimally invasive **surgical procedure** on a joint in which an examination and sometimes treatment of damage is performed using an arthroscope, an endoscope that is inserted into the joint through a small incision. (See <https://en.wikipedia.org/wiki/Arthroscopy>). Requiring the term “surgical” to accompany “arthroscopic” is simply redundant. As noted above, an arthroscopic procedure is a surgical procedure. Therefore, “arthroscopic handpieces with motor drives”, “arthroscopic blades”, and “arthroscopic cutting probes with Radio Frequency electrodes” are inherently devices surgical in nature.

In view of the arguments above, Applicant respectfully request that the Examining Attorney withdraw this refusal and allow the Applicant’s trademark application to proceed for publication in the Official Gazette.

CONCLUSIONS

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to **Deposit Account No. 50-3973** referencing Attorney Reference No. **RLGNTZ00200.**

Respectfully submitted,

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