

Docket No. 874-130

TRADEMARK

**AMENDMENT**

In re Application of: Dr. Earth, Inc.

Serial No. 88/210,536

Examining Attorney: Frye

Filing Date: 11/26/2018

Law Office: 113

Mark: TOP DRESS

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

In response to Office Action dated March 4, 2019, please amend the application as follows:

**In the Application:**

Please change the description of the goods to read:

Planting soil excluding mulch, manure and fertilizer

## REMARKS

Applicant has amended the description of the goods to limit the goods to just potting soil, specifically excluding mulch, manure and fertilizer so that nothing is "on top", thereby making the mark non-descriptive of the goods.


The Examiner asked for additional information regarding the goods, Applicant replies with the submission of a potential packaging for the mark for use with potting soil which specifically points out that there is no manure, chemicals or odor, thereby removing goods that sit "on top" and therefore rendering the mark non-descriptive.

To the Examiner's specific questions, Applicant responds that the TOP DRESS goods are not intended or suitable for use in topdressing as described in the materials attached to the Office Action. Since they are not suitable for topdressing, they are used for planting seeds and other growing plants, but not for topdressing with fertilizers, manures or mulch. Applicant is unaware of competitors using the wording TOP DRESS or TOPDRESS to advertise or describe fertilizer, manure, soil additives or amendments or potting soil.

For all of the above reasons, Applicant submits that the application is in proper form. Therefore, Applicant submits that this application is now in condition for allowance, which action Applicant respectfully submits.

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Respectfully submitted,



Sandra Lee Lipkin

Reg. No. 47,617

SHAPING A BETTER TOMORROW

No manure  
No chemicals  
No odor

DR. EARTH

*Top Dress*

PREMIUM

POTTING  
SOIL

NO MANURE  
NO CHEMICALS  
NO ODOR

GREAT FOR ALL SEED JOBS  
BOTH  
LAWN & GARDEN

1 CUBIC FOOT • 28.3 LITERS • 25.7 DRY QUARTS

DR. EARTH TOP DRESS