

**Serial No.: 88/131,718**  
**Mark: CANARY MEDICAL**  
**Docket No. 191166.205**

## **REMARKS**

In the Office Action dated January 14, 2019 (the "Office Action"), the Examining Attorney raises several issues: (i) a Section 2(d) refusal; (ii) a potential conflict between Applicant's mark and the mark in prior filed U.S. Application Nos. 87/902,087 and 87/902,094; (iii) a requirement for a disclaimer of the word "MEDICAL"; and (iv) clarification of the goods identifications. Each of these issues is addressed in turn below.

### **i. Section 2(d) Refusal**

The Examining Attorney asserts a likelihood of confusion with a prior registration, U.S. Registration No. 5,262,286 for the mark CANARYBOX, registered for "Patient medical monitors for monitoring oxygen saturation, heart rate, noninvasive blood pressure" in Class 10.

Applicant believes that CANARY MEDICAL may be sufficiently different in appearance, sound and meaning with respect to the mark CANARYBOX to prevent any likelihood of confusion when the two marks are analyzed in their entireties in connection with the corresponding goods. As such, applicant respectfully requests that the examining attorney reconsider and withdraw the pending refusal under Section 2(d).

### **ii. Prior Applications**

The Examining Attorney identifies two prior-filed applications to register CANARYQ (i.e., U.S. Application No. 87/902,087 and U.S. Application No. 87/902,094) as potentially being relevant to prosecution of the present application. Applicant will address these applications, if necessary, at a later date.

### **iii. Disclaimer**

The Examining Attorney requires applicant to disclaim the word "MEDICAL". Applicant herein enters the required disclaimer.

### **iv. Clarifications of Goods**

The Examiner required further clarification of the goods description. Applicant herein amends the goods description to provide additional clarification and further specificity.

## **Conclusion**

Applicant respectfully submits that that its application is now in condition for publication. If questions remain, the Examining Attorney is invited to contact Applicant's counsel, Kevin S. Costanza, by email at [USTM.docketing@seedip.com](mailto:USTM.docketing@seedip.com) or by telephone at 206-622-4900.