

RESPONSE TO OFFICE ACTION

Responsive to the Office Action dated January 23, 2019, the period for responding set to expire July 23, 2019, Applicant responds as follows:

REMARKS

Applicant is pleased to note that the Examining Attorney's search of the Office records uncovered no similar registered or pending marks which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). However, the Examining Attorney has raised various informalities which Applicant addresses below. Accordingly, Applicant believes that the Application is now in a position to proceed to publication.

Requirement - Specimen

The Examining Attorney has refused registration because the provided specimen does not show the applied-for mark in use in commerce in connection with the goods specified in International Class 3 in the application.

Consistent with Office requirements, Applicant has submitted substitute specimens that (a) were in actual use in commerce at least as early as the filing date of the application and (b) show the mark in actual use in commerce for the goods identified in the application. Applicant has also submitted a signed declaration under 37 C.F.R. §2.20.

Requirement – Identification

The Examining Attorney has also taken the position that all identifications must be precise and identify the goods with particularity using common or commercial names for the goods. Specifically, the Examining Attorney has taken the position that “cosmetics” is too broad, as the provided specimen indicates that the cosmetics may be provided only as an ingredient or component of a cosmetic delivery device consisting of microneedles.

This is not the case. As can be seen in the substitute specimens, Applicant uses its mark in connection with a wide scope of cosmetics, including, but not limited to, “non-medicated skin care preparations”; “cosmetic preparations for skin care”; “skin cleansers”; “skin lotion”; “body lotion”; and “facial lotion.”

Accordingly, by amendment herein, Applicant has adopted the following identification:

“Cosmetics, *namely, non-medicated skin care preparations, cosmetic preparations for skin care, skin cleansers, skin cream, eye cream, facial cream, body cream, skin lotion, facial lotion, and body lotion; cosmetics sold in combination with microneedle cosmetic delivery devices as components of the devices*” in International Class 3.

Requirement – Information

To permit proper examination of the application, the Examining Attorney has requested that Applicant submit additional information about its goods.

Applicant has submitted two (2) advertisements showing use of its mark in connection with “non-medicated skin care preparations”; “cosmetic preparations for skin care”; “skin cleansers”; “skin lotion”; “body lotion”; and “facial lotion.” These advertisements clearly show that the mark is used in connection with “cosmetics” that are *not* provided as an ingredient or component of a cosmetic delivery device consisting of microneedles.

In addition, Applicant has submitted a Product Manual that provides details regarding the cosmetics sold in combination with microneedle cosmetic delivery devices as components of the devices. Specifically, the Product Manual indicates that the relevant product can be (1) a micro-needling device sold filled with cosmetics, namely, lotion; or (2) cosmetics, namely, lotion, and micro-needling devices, sold as a kit.

It is therefore submitted that the present application is fully in condition for publication. Further and favorable action passing the present mark to publication for opposition purposes is earnestly solicited.

The Commissioner is expressly authorized to charge any fee deficiency, or credit any overpayment, in connection with this matter to Deposit Account No. 14-0112. Should the Examining Attorney have any further questions, please contact the undersigned at 703-548-6284.