

RESPONSE TO OFFICE ACTION

Applicant hereby respond to the Office Action issued January 23, 2019.

AMENDMENT OF GOODS:

Applicant hereby amend the goods in Class 3 as follows:

Class 3: Non-medicated Facial, hair and body care preparations, namely, washes, lotions, creams, concealers, moisturizers, oils, serums, emulsions, masks, scrubs, cosmetics, cleansers, cleansing milks, beauty masks, powders, skin conditioners, deodorants and dentifrices; lip repair and healing preparations; cosmetic eye care preparations; soaps, namely cleansing bars; perfumery, essential oils, hair lotions; skin creams, powders, serums and liquids to enhance the skin; dentifrices; deodorants for personal use; all the foregoing comprised in whole or significant part of organic ingredients.

AMENDMENT TO SUPPLEMENTAL REGISTER:

Concurrently with and on the same day as the filing of this Response, Applicant has filed an Amendment to Allege Use. Applicant hereby amends this Application 88142735 to seek registration on the Supplemental Register.

LIKELIHOOD OF CONFUSION:

The filing date of pending U.S. Application Serial No. 88128408 precedes applicant's filing date. Therefore, per the Examiner's suggestion, Applicant hereby requests that its own application be suspended pending final disposition of the earlier-filed referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues. In light of this suspension of the application, and in the interest of economy, Applicant likewise will wait until the application is removed from suspension before responding substantively to the additional citation to U.S. Registration No. 4631179.

DESCRIPTIVENESS:

Concurrently with and on the same day as the filing of this Response, Applicant has filed an Amendment to Allege Use. Applicant has also amended this App. No. 88142735 to the Supplemental Register. Applicant submits that this moots the descriptiveness refusal issue.

FOREIGN REGISTRATION CERTIFICATE:

Since the application will be placed in suspension, Applicant will address the foreign registration issue when the application is off suspension. Applicant notes that the foreign registration has not issued yet. Applicant will provide a copy of the foreign registration from Applicant's country of origin when it becomes available.

INFORMATION REQUEST AND ADVISORY:

Applicant has advised its counsel that the product ingredients are all organic, using generic equivalents of certified products. The requested sample of materials was submitted and included with the Amendment to Allege Use now on file. With respect to the nature and purpose of the goods and the details of trade channels, the product ingredients are all organic, using generic equivalents of certified products. Applicant further submits that the Amended Identification of Goods moots the Deceptiveness

Refusal. It is now clearly stated that the goods are “comprised in whole or significant part of organic ingredients.”

MARK DESCRIPTION:

Applicant amends the description of the mark to the following: The mark consists of the stylized wording “ORGANIC & BOTANIC” wherein the term “BOTANIC” appears on a shaded rectangle, and “ORGANIC” appears above “BOTANIC”.