


UNITED STATES PATENT AND TRADEMARK OFFICE



MARK:
SERIAL NO: 88537082
APPLICANT: Bayer HealthCare Pharmaceuticals Inc.
TRADEMARK EXAMINING
ATTORNEY: Christopher M. Nunley
LAW OFFICE: 104

Response

Applicant has applied to register the design mark  in International Class 036.

In an Office Action dated August 22, 2019, the Examining Attorney requested that the Applicant address a disclaimer requirement.

I. Disclaimer Requirement

The Examining Attorney has refused registration of the applied-for mark and has required that Applicant disclaim the words “access services” and “darolutamide user drug” because he is of the opinion that such wording is not inherently distinctive and are merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant’s services. *See* 15 U.S.C. §1052(e)(1); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

The Examining Attorney has suggested a disclaimer be used. Applicant, upon a full reservation of right, accedes to the requirement and will disclaim the terms. Please amend the application as follows:

No claim is made to the exclusive right to use “ACCESS SERVICES” and “DAROLUTAMIDE USER” and “DRUG” apart from the mark as shown.

II. Conclusion

Applicant has addressed the Examining Attorney’s concern regarding this Application and believes it has overcome the Examining Attorney’s objections. It is respectfully submitted that this Application is now in condition to be approved for Registration and moved forward to Publication.