

U.S. Trademark Application Serial No. 88/020832 for BOUQUET

Office Action Response

I. CSA Unlawful Use Refusal

Applicant agrees to amend the filing date for U.S. Trademark Application Serial No. 88/020832 for BOUQUET (hereinafter, "Applicant's Mark") to December 20, 2018. The change to the filing date is being authorized and is based on a Section 1(b) filing basis. Accordingly, Applicant requests this refusal to be removed.

II. FDCA Unlawful Use Refusal

Applicant has amended the goods and services associated with Applicant's Mark, as set forth below, so as not to run afoul of the FDCA laws. Accordingly, Applicant requests this refusal to be removed.

III. Amendment to the Goods and Services Description

Applicant has amended its description of goods and services as follows:

~~Class 05: Dietary and nutritional supplements comprised of hemp with naturally occurring cannabidiol (CBD); hemp protein powder with naturally occurring cannabidiol (CBD) for use as a nutritional supplement; hemp protein with naturally occurring cannabidiol (CBD) for use as a nutritional supplement in various powdered and ready-to-drink beverages; meal replacement powders comprised of hemp for medical purposes; meal replacement bars comprised of hemp for medical purposes; meal replacement drink mixes comprised of hemp for medical purposes; hemp-based dietary supplement drink mixes with naturally occurring cannabidiol (CBD); hemp-based nutraceuticals with naturally occurring cannabidiol (CBD) for use as a dietary supplement; hemp-based topical creams, gels, salves, sprays, balms and ointments for analgesic purposes with naturally occurring cannabidiol (CBD) **derived solely from cannabis with a THC concentration of not more than 0.3% on a dry weight basis**; nutrition supplements comprised of hemp with naturally occurring cannabidiol (CBD) in drop form, capsule form, patch form, and in liquid form; edible hemp oil with naturally occurring cannabidiol (CBD) for use as a dietary supplement; hemp oil with naturally occurring cannabidiol (CBD) as a nutritional supplement~~

~~Class 35: Online retail store services in the field of hemp-based products, namely, **non-consumable** hemp-based personal care products, anti-aging products, dietary and nutritional supplements, beverages, edible oils, meal replacement powders and bars, candles, candies, chocolate, coffee, confectionery, and vaporizers, **all derived solely from cannabis with a THC concentration of not more than 0.3% on a dry weight basis**~~

IV. 2(d) Likelihood of Confusion Refusal

The Examining Attorney has refused registration of Applicant's Mark based on the following prior registered mark: U.S. Registration No. 5553548 is BOUQUET COFFEE ROASTERS for "Coffee; Coffee beans" in Class 30 owned by The Mill Sole Proprietorship (hereinafter, the "Cited Registration").

The Examining Attorney based the refusal on the shared term “BOUQUET” and the inclusion of coffee in the description of goods and services in both the Cited Registration and Applicant’s Mark. As discussed in Section III above, the goods and services now associated with Applicant’s Mark are limited to hemp-based personal care and skincare products in cream, gel, salve, spray, balm and ointment form. Clearly, there is no similarity between these aforementioned products and coffee/coffee beans nor are these disparate goods likely to emanate for the same source. Applicant respectfully requests that this refusal be removed as the Applicant has amended its description of goods and services to remove coffee.