

**REMARKS**

The following remarks are responsive to the Office Action dated September 3, 2019. In the Office Action, registration was refused because Applicant does not have a bona fide intent to lawfully use the mark in commerce as the mark must comply with all applicable federal laws, in particular, the Controlled Substances Act (CSA) and the Federal Food, Drug, and Cosmetic Act (FDCA). The Examining Attorney noted that the Applicant may request to change the filing date to December 20, 2018 to overcome the refusal under the CSA. The Examining Attorney required clarification of the identification of goods to be more definite, and required the update of Counsel's state bar information under 37 C.F.R. Part II. Additionally, the Examining Attorney indicated that registration may be refused based on an earlier filed application, i.e., U.S. Trademark Serial No. 87/638,797 for Rival Brewing Company as applied to *Beer; Craft beers* (Class 032).

**Amendment to the Identification of Goods**

Please amend the goods in Class 032 as shown below:

**Class 032:** sports drinks containing **only naturally occurring amounts of** cannabidiol (CBD); sports drinks; energy drinks containing **only naturally occurring amounts of** cannabidiol (CBD); energy drinks; non-alcoholic carbonated soft drinks containing **only naturally occurring amounts of** cannabidiol (CBD); non-alcoholic carbonated soft drinks; drinking water containing **only naturally occurring amounts of** cannabidiol (CBD); drinking water; drinking water containing vitamins and minerals; drinking water containing electrolytes; flavored drinking water; **all of the foregoing solely derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis**

**Earlier Filed Trademark Application**

U.S. Trademark Serial No. 87/638,797 for Rival Brewing Company as applied to *beer; craft beers* (Class 032) was filed on October 9, 2017 and received the Notice of Allowance on October 9, 2018. As of February 2020, a Request for a Second Extension of Time to file a Statement of Use was approved. Given that the '797 application is still pending, Applicant respectfully requests that the present application be suspended until the outcome of the '797

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application is known. Moreover, Applicant reserves its right to contest the applicability of the mark of '797 application with respect to the refusal to register Applicant's mark.

**Amendment to the Filing Date**

Applicant respectfully requests that the filing date be amended to December 20, 2018, to conform to the new changes to the federal Controlled Substances Act (CSA) and the amended definition to the Agricultural Marketing Act of 1946.

**Refusal Pursuant to the Federal Food, Drug, and Cosmetic Act (FDCA)**

Applicant contends that only that the portion of the goods description in International Class 032 that includes CBD would be subject to the FDCA. Applicant respectfully requests clarification of this point and reserves its rights to further amend the description of goods.

In view of the foregoing remarks, Applicant respectfully requests that the stated grounds to refusing registration be withdrawn and that the mark be passed to prompt publication. If any additional fee is required, please charge Deposit Account Number 502304.