

DDINT-TP02

Application No. 88309458

Mark: CBD AIR

Applicant has received the Office Action refusing mark registration dated October 11, 2019 and responds as follows.

## ARGUMENT

### I. RESPONSE TO INFORMATION ABOUT GOODS REQUIRED

In the Office Action, Examining Attorney requests a written statement and/or additional documentation indicating whether all the goods and/or services identified in the application comply with the Controlled Substance Act (CSA). Applicant contends that its goods comply with the CSA, and responds as follows.

Applicant intends to use the CBD AIR mark with a paper tube product pre-filled with whole flower hemp plant containing naturally-occurring hemp-derived CBD. Applicant does not intend to use with the mark any oils, extracts, ingredients, or derivatives of whole flower hemp that involves refining or processing such plants.

Applicant has submitted the attached documentation as part of the response to the Office Action. These documents include:

1. A statement from Applicant declaring compliance with the CSA [1-MikeSimpson\_StatementofUse];
2. A product brochure that overviews the system under which Applicant's goods will be used under [2-OMURA\_Brochure];
3. A product overview of LIBERTINE CBD [3-LIBERTINE\_ProductOverview], which is similar to the present goods in its use of whole flower hemp. Note that the Applied-for Mark is currently on an intent-to-use filing basis and no marketing materials are yet available.

Applicant submits that these documents represent fact sheets, brochures, and marketing/promotional materials of Applicant's goods, and also similar documentation for goods of the same type. These documents show that these goods are derived from whole flower hemp containing not more than 0.3% THC and that any CBD contained in these goods are not derived from any other source.

Regarding the questions identified by Examining Attorney, Applicant answers as follows:

1. Do or will the goods include cannabidiol (CBD)?

Yes, some goods listed in the Application will contain CBD within its contents, which is whole flower hemp.

2. If so, will there be more than a trace amount of CBD in the goods, e.g., more than 50 parts per million (PPM)?

Yes.

3. If applicant has any documentation relative to the CBD content of the oils, extracts or derivatives used or to be used in the goods, please submit them with the response.

Applicant does not intend to use the mark with any oils, extracts, or derivatives. Only whole flower hemp will be used.

4. Do or will any of applicant's identified goods include or contain hemp seed oil?

No.

5. Which part or parts of the hemp plant are used in obtaining the oils, extracts, ingredients or derivatives?

Applicant does not intend to sell or market any goods using the mark that involves processing any hemp plant into oils, extracts, ingredients, or derivatives.

6. Do or will applicant's identified goods include CBD which is derived from, oils, extracts or ingredients from plants other than Cannabis sativa L (also known as hemp, marijuana or cannabis)?

No.

7. Is applicant currently seeking FDA approval of the marketing of its goods identified in the application?

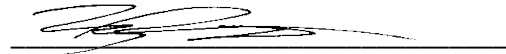
No.

8. If the answer to Question 7 is "yes," please provide a copy of such application.

Not applicable.

Because of the foregoing, the Application should be in shape for allowance. Should Examining Attorney have any additional questions or concerns, please contact Attorney for Applicant at the contact information below.

Regards,



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