

# Response to Trademark Office Action

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## In the United States Patent & Trademark Office

Response Date:	April 29, 2020
Applicant:	Tula Health, Inc.
Mark:	Tula
Serial No.:	88591646
Filed:	August 24, 2019
Examiner:	Seth Willig Chadab
Atty. Docket No.:	Tula.403
Office Action Date:	November 27, 2019

### INTRODUCTION

This letter responds to the above-identified Office Action, which:

1. Provides notice of a potential conflict with a prior-filed application;
2. Requires a disclaimer; and
3. Requires the Applicant clarify the identification of the goods and services.

In this Response, Applicant:

1. Notes the potential conflict;
2. Addressed the requirement for disclaimer; and
3. Amends the identification of goods and services.

### RESPONSE

The Applicant respectfully responds to the Office Action to address the cited items and demonstrate that the application is in condition for allowance.

#### Potential Conflict

The Applicant notes the potential conflict of the present application pending the final disposition of the earlier-filed trademark application U.S. Application Serial No. 87510817. The Applicant elects to defer presenting arguments regarding the potential conflict until final disposition of the earlier-filed trademark application.

#### Disclaimer Requirement

The Office action states, “applicant must disclaim the wording ‘HEALTH’ because

it is not inherently distinctive.” (Office action, section entitled DISCLAIMER REQUIRED) However, the Applicant believes this requirement is erroneous. The applied-for mark does not include the word “Health.” Rather the applied-for mark is “Tula.” Because the applied-for mark does not include the word for which the Office action requires disclaimer, the requirement cannot be satisfied and is thus void. Accordingly, the Applicant respectfully requests the disclaimer requirement be withdrawn.

Clarifying the Description of the Mark:

The Office action rejects the descriptions of the mark as needing to be clarified. Applicant revises the description of the mark as follows to be the same as provided in the Office action:

Class 009: **Recorded** computer software and hardware for use in the acquisition, capture, processing, presentation, transmission and storage of medical and physiological data sold as a unit; Wearable non-invasive medical monitoring device **in the nature of computer hardware and recorded software sold as a unit for use with medical patient monitoring equipment, for receiving, processing, transmitting, and displaying data;** Wearable activity trackers.

Class 010: Medical device, namely, a device for measuring and monitoring glucose levels; Medical device, namely, a device for measuring and monitoring diabetes; Medical device, namely, a device for measuring and monitoring a metabolic syndrome; Medical devices, namely, medical sensors used to continuously monitor the concentration of glucose in the human body and accessories therefor, namely, receivers and sensor housings; Medical device, namely, a device for measuring and monitoring congestive heart failure; Medical device, namely, a device for measuring and monitoring hydration levels; Medical device, namely, a device for monitoring and monitoring hydration levels; Medical device, namely, a device for monitoring and monitoring chronic obstructive pulmonary disease; Medical device, namely, a device for monitoring and monitoring asthma; **Wearable non-invasive medical monitoring device in the nature of wearable monitors used to measure biometric data for medical use.**

Class 035: Data compiling, analyzing and processing services in the field of healthcare, and medical insurance; Database management, **namely, business data compiling and analyzing** in the field of healthcare.

Class 041: Educational services, namely, providing coaching programs and training in the field of management and measurement of glucose levels, and the diagnosis, management and treatment of diabetes; Educational services, namely, providing coaching programs and training in connection with the acquisition, capture, processing, presentation, transmission and storage of medical and physiological data; Developing and distributing

educational program **course** materials in connection with the aforementioned services.

Class 042 is not amended.

Class 044: Remote monitoring of data indicative of the health or condition of an individual or group of individuals for medical conditions and treatment purposes; Medical assistance services provided via telecommunication and global computer networks for individuals with health problems through the use of wearable medical devices with automated alert and monitoring capacity; Medical services, namely, providing medical information, medical data, medical counseling, medical patient and physician support, and medical consulting services in the field of blood glucose level and diabetes monitoring and treatment systems; Medical data services **in the nature of maintaining files and records concerning the medical condition of individuals** in connection with the aforementioned services.

As the Applicant has amended the description of the mark to be the same as the recitation of goods and services provided in the above-identified Office Action, Applicant respectfully requests that the rejection be withdrawn.

#### CONCLUSION

The above remarks are believed to address, and favorably resolve, all of the issues raised in the Office Action and to demonstrate that the application is in condition for allowance. The Examining Attorney is respectfully requested to telephone the undersigned attorney should any issues remain.

Respectfully submitted,

Miller IP Law

/Devin Miller/

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