

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Trademark Application of: INBOLD, INC.	USPTO Trademark Examining Attorney: DANTZLER, Lauren A.
Mark: LASSEN	Law Office: 122
U.S. SERIAL NUMBER: 88329043	
Filed: 03/07/2019	

APPLICANT'S RESPONSE TO OFFICE ACTION

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Commissioner for Trademarks
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Law Office 122
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Dear Attorney Dantzler:

This Applicant's Response is submitted in response to the Nonfinal Office Action of November 22, 2019 (hereinafter, "the Office Action") regarding U.S. Trademark Serial No. **88329043** (hereinafter, "the Application") for the word mark **LASSEN** (hereinafter, "the Mark") regarding the Application.

INCLUDED HEREWITH:

- Fee for adding THREE (3) additional International Classes
- Documentation in response to Request For Information, namely ONE (1) PDF document comprising SEVENTEEN (17) pages and containing SEVEN (7) Certificate of Analysis reports dated May 8, 2019 through May 20, 2020

APPLICANT'S RESPONSE TO THE OFFICE ACTION

Amendment of Goods & Services Listing

In view of the requirements and directives of the Office Action, Applicant respectfully requests that the Goods & Services listing for the Application be amended as follows:

NEW IC 003: Topical non-medicated lotions containing CBD; Topical non-medicated lotions containing cannabinoid specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

AMENDED IC 005: Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a portion of Cannabidiol (~~a.k.a~~ CBD); Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a cannabinoid specifically CBD; Topical medicated lotions containing CBD; Topical medicated lotions containing cannabinoid specifically CBD; Dietary supplement containing CBD; Dietary supplement containing cannabinoid specifically CBD; Medicinal food supplement containing CBD; Medicinal food supplement containing cannabinoid specifically CBD; Herbal dietary and nutritional supplements containing CBD; Herbal dietary and nutritional supplements containing cannabinoid specifically CBD; Wellness beverages, namely, nutritionally fortified beverages containing CBD for medical purposes; Wellness beverages, namely, nutritionally fortified beverages containing cannabinoid specifically CBD for medical purposes; Tinctures of CBD dissolved in an alcoholic solvent as a dietary supplement; Tinctures ~~of at least one~~ containing cannabinoid specifically CBD dissolved in an alcoholic solvent as a dietary supplement; Beverages containing CBD for use as a nutritional supplements; and Herbal dietary beverage supplements for human consumption in liquid and dry mix form for therapeutic and medical

purposes—and otherwise, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

NEW IC 030: Wellness beverages, namely, herbal beverages containing CBD; Wellness beverages, namely, herbal food beverages containing cannabinoid, specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

NEW IC 032: Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing CBD; Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing cannabinoid specifically CBD; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

CBD-Related Goods – No Bona Fide Intent to Lawfully Use in Commerce

The Office Action refuses registration of the Mark as lacking a bona fide intention to lawfully use the Mark in commerce, as the Goods & Services listing previously filed could be reasonably interpreted as broad enough in scope to include goods that are unlawful to offer for sale.

Applicant respectfully notes that the Goods & Services listing of the Application is currently amended to address this and other concerns, and recites as follows:

IC 003: Topical non-medicated lotions containing CBD; Topical non-medicated lotions containing cannabinoid specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 005: Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a portion of Cannabidiol (CBD); Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a cannabinoid specifically CBD; Topical medicated lotions containing CBD; Topical medicated lotions containing cannabinoid specifically CBD; Dietary supplement containing CBD; Dietary supplement containing cannabinoid specifically CBD; Medicinal food supplement containing CBD; Medicinal food supplement containing cannabinoid specifically CBD; Herbal dietary and nutritional supplements containing CBD; Herbal dietary and nutritional supplements containing cannabinoid specifically CBD; Wellness beverages, namely, nutritionally fortified beverages containing CBD for medical purposes; Wellness beverages, namely, nutritionally fortified beverages containing cannabinoid specifically CBD for medical purposes; Tinctures of CBD dissolved in an alcoholic solvent as a dietary supplement; Tinctures containing cannabinoid specifically CBD dissolved in an alcoholic solvent as a dietary supplement; Beverages containing CBD for use as a nutritional supplement; and Herbal dietary beverage supplements for human consumption in liquid and dry mix form for therapeutic and medical purposes, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 030: Wellness beverages, namely, herbal beverages containing CBD; Wellness beverages, namely, herbal food beverages containing cannabinoid, specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 032: Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing CBD; Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing cannabinoid specifically CBD; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

Applicant respectfully refers to enclosed Certificates of Analysis confirming chemical composition of Applicant's products.

Applicant respectfully offers that the Goods & Services listing as currently amended herein clarifies which items, out of a large category of goods that contains some prohibited types, are actually offered and specifically excludes all unlawful forms of cannabis-based products as current laws apply.

Applicant respectfully attests that no unlawful embodiments were ever intended, none have ever been produced or sold in connection with the Mark, and the previously-filed Goods & Services listing should be viewed as only an insufficiently precise categorization.

Applicant respectfully submits that the current amendment specifically excluding prohibited categories of cannabis-related products, as well as the statements given below in response to the questions of the Office Action, unambiguously reflect the Applicant's genuine intent to use the Mark lawfully in commerce, and that the grounds for refusal of registration of the Application are traversed.

FDCA Refusal – No Bona Fide Intent to Lawfully Use in Commerce

The Office Action refuses registration of the Mark as lacking a bona fide intention to lawfully use the Mark in commerce, as the Goods & Services listing previously filed could be reasonably interpreted as broad enough in scope to include goods that are unlawful to offer for sale.

Applicant respectfully notes that the Goods & Services listing of the Application is currently amended to address this and other concerns, and recites as follows:

IC 003: Topical non-medicated lotions containing CBD; Topical non-medicated lotions containing cannabinoid specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 005: Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a portion of Cannabidiol (CBD); Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a cannabinoid specifically CBD; Topical medicated lotions containing CBD; Topical medicated lotions containing cannabinoid specifically CBD; Dietary supplement containing CBD; Dietary supplement containing cannabinoid specifically CBD; Medicinal food supplement containing CBD; Medicinal food supplement containing cannabinoid specifically CBD; Herbal dietary and nutritional supplements containing CBD; Herbal dietary and nutritional supplements containing cannabinoid specifically CBD; Wellness beverages, namely, nutritionally fortified beverages containing CBD for medical purposes; Wellness beverages, namely, nutritionally fortified beverages containing cannabinoid specifically CBD for medical purposes; Tinctures of CBD dissolved in an alcoholic solvent as a dietary supplement; Tinctures containing cannabinoid specifically CBD dissolved in an alcoholic solvent as a dietary supplement; Beverages containing CBD for use as a nutritional supplement; and Herbal dietary beverage supplements for human consumption in liquid and dry mix form for therapeutic and medical purposes, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 030: Wellness beverages, namely, herbal beverages containing CBD; Wellness beverages, namely, herbal food beverages containing cannabinoid, specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 032: Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing CBD; Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing cannabinoid specifically CBD; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

Applicant respectfully refers to enclosed Certificates of Analysis confirming chemical composition of Applicant's products.

Applicant respectfully offers that the Goods & Services listing as currently amended herein clarifies which items, out of a large category of goods that contains some prohibited types, are actually offered and specifically excludes all unlawful forms of cannabis-based products as current laws apply.

Applicant respectfully attests that no unlawful embodiments were ever intended, none have ever been produced or sold in connection with the Mark, and the previously-filed Goods & Services listing should be viewed as only an insufficiently precise categorization.

Applicant respectfully submits that the current amendment specifically excluding prohibited categories of cannabis-related products, as well as the statements given below in response to the questions of the Office Action, unambiguously reflect the Applicant's genuine intent to use the Mark lawfully in commerce, and that the grounds for refusal of registration of the Application are traversed.

Identification of Goods – Amendment Required

Applicant respectfully acknowledges the assertion of the Office Action that the previously filed Goods & Services listing is too broad and indefinite.

Applicant respectfully submits that the Goods & Services listing of the Application is currently amended to address this and other concerns, and currently recites as follows:

IC 003: Topical non-medicated lotions containing CBD; Topical non-medicated lotions containing cannabinoid specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 005: Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a portion of Cannabidiol (CBD); Medicinal skincare products, namely, medicated lotions, creams, gels, and salves containing a

cannabinoid specifically CBD; Topical medicated lotions containing CBD; Topical medicated lotions containing cannabinoid specifically CBD; Dietary supplement containing CBD; Dietary supplement containing cannabinoid specifically CBD; Medicinal food supplement containing CBD; Medicinal food supplement containing cannabinoid specifically CBD; Herbal dietary and nutritional supplements containing CBD; Herbal dietary and nutritional supplements containing cannabinoid specifically CBD; Wellness beverages, namely, nutritionally fortified beverages containing CBD for medical purposes; Wellness beverages, namely, nutritionally fortified beverages containing cannabinoid specifically CBD for medical purposes; Tinctures of CBD dissolved in an alcoholic solvent as a dietary supplement; Tinctures containing cannabinoid specifically CBD dissolved in an alcoholic solvent as a dietary supplement; Beverages containing CBD for use as a nutritional supplement; and Herbal dietary beverage supplements for human consumption in liquid and dry mix form for therapeutic and medical purposes, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 030: Wellness beverages, namely, herbal beverages containing CBD; Wellness beverages, namely, herbal food beverages containing cannabinoid, specifically CBD, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

IC 032: Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing CBD; Wellness beverages, namely, fruit juices and energy drinks containing nutritional supplements containing cannabinoid specifically CBD; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements, wherein all of the foregoing includes THC concentration of not more than 0.3% on a dry weight basis.

Applicant respectfully refers to enclosed Certificates of Analysis confirming chemical composition of Applicant's products.

Applicant respectfully asserts that the Goods & Services listing as currently amended constitutes a full and appropriate response to the request of the Office Action as stated, and that the Application is in suitable condition for allowance.

Multiple-Class Application Requirements

Applicant respectfully acknowledges the assertion of the Office Action that the Goods & Services listing of the Application as previously filed identified goods in International Classes besides those already listed for which filing fees had been previously paid, and therefore if additional International Classes were being included, these must be clearly listed and corresponding filing fees paid for them.

Applicant respectfully hereby adds International Classes 003, 030, and 032 to the Goods & Services listing of this Application, and submits herewith the appropriate additional fees.

English Translation Requirement

Applicant respectfully submits the following translation statement in accordance with the requirement of the Office Action:

The English translation of “LASSEN” in the Mark is “let or leave”.

Information About Goods Requirement

In accordance with the requirement of the Office Action for information, Applicant respectfully offers in response the attached documents as listed, the answers to the Office Action questions as given below, and the following written statement regarding compliance with the Controlled Substances Act (CSA), 21 USC §§ 801-971:

Applicant respectfully states and affirms that all goods and services identified in the Application are in full compliance with the Controlled Substances Act

(CSA), 21 USC §§ 801-971, and all United States laws regarding controlled substances such as drugs.

In accordance with the requirement of the Office Action, Applicant respectfully offers the following written statements in answer to the questions posed by the Office Action:

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

Yes, the goods do and will include cannabidiol (CBD).

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, there will be more than a trace amount (50 PPM) of CBD in the goods.

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.

Please find attached herewith the following documentation regarding the content of Lassen products: Documentation in response to Request For Information, namely ONE (1) PDF document comprising SEVENTEEN (17) pages and containing SEVEN (7) Certificate of Analysis reports dated May 8, 2019 through May 20, 2020, produced by routine Quality Assurance testing and analysis of the chemical composition of Lassen products by multiple laboratories including Folium Biosciences of Colorado Springs, CO; Botanacor of Boulder, CO; and SCLabs of Santa Cruz, CA.

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

Yes, at least some of applicant's identified goods include or contain hemp seed oil.

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

The parts of the hemp plant used in obtaining the oils, extracts, ingredients, and derivatives comprise the leaves, bud, and stem.

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, the Applicant's identified goods presently and will contain only CBD derived from *Cannabis sativa L*.

7. What other cannabinoid are included or contained in the applicant's goods?

All current and intended products include or will include broad spectrum CBD, which can include various levels of other cannabinoids. All products undergo rigorous testing and extract all traces of THC and illegal derivatives.

8. Do or will any of applicant's identified goods have therapeutic or medical benefits that affect the structure or function of the body?

Yes, to the extent that there is a volume of peer-reviewed medical literature holding that CBD has medical benefits, and CBD is in this product. There are presently commercially-available FDA-approved CBD products that have been shown to have medical benefits.

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

No, applicant is not currently seeking FDA approval of the marketing of the goods identified in the application.

10. If the answer to Question 9 is “yes,” please provide a copy of such application.

N/A.

11. Applicant must provide a written statement explaining whether the goods will be manufactured, packaged, shipped from, sold in or will have any other connection with the geographic location named in the mark, specifically Lassen, California.

No, the Application’s manufacture, packaging, shipping, marketing of goods, and any other business activities under the Mark have no connection with Lassen, California.

CONCLUSION AND ALLOWABILITY

Applicant respectfully submits that the grounds for refusal of registration of the Application are traversed by at least the material offered herein. Applicant therefore respectfully prays for allowance of the Application.

If any matters can be resolved by telephone, Applicant requests that the Examiner call the Applicant’s attorney at the telephone number listed below.

Respectfully submitted,

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