

Date: 06-21-2020

Attention:

Howard Smiga

Trademark Examining Attorney

Law Office 102

Howard.smiga@uspto.gov

571-272-9220

Dear Examiner Smiga,

The applicant's response to the examiner's Office Action, dated April 14, 2020, application serial #88269944; HEMP and stylized design™, is as follows:

NOTE: The applicant did attach his domiciled info in the 4/14/20 response.

NOTE

“The Refusal under Trademark Act Sections 1 and 45 - FDCA Refusal is maintained and continued. Applicant's arguments have been considered but found unpersuasive and unsupported by evidence or existing case law. Inasmuch as the identification of goods which include goods that are consumable and contain CBD, the FDCA Refusal is not overcome. CBD from any source is not allowed under the FDCA when the goods are consumable or used for medical purposes.”

Applicant's response:

In the applicant's last response, he missed the examiners continued refusal concerning the FDCA in his Office Action dated 4-14-20. It is the bottom of the Office Action.

* The applicant's line of Industrial Hemp products is fully legal and are NOT in any violation of any Federal laws.

* The applicant's mark, and associated goods, are fully legal in the USA and are in compliance with the FDA, FDCA and CSA.

* Just for the record the FDA overrides the FDCA. The 2 quotes were snipped from Google searches.

*“The United States Federal Food, Drug, and Cosmetic Act (abbreviated as **FFDCA**, **FDCA**, or **FD&C**), is a set of laws passed by Congress in 1938 giving authority to the U.S. Food and Drug Administration (**FDA**) to **oversee** the safety of food, drugs, medical devices, and cosmetics.”*

*“The **FDA** was empowered by the United States Congress to **enforce** the Federal Food, Drug, and Cosmetic Act, which serves as the primary focus for the Agency; the **FDA** also **enforces** other **laws**, notably Section 361 of the Public Health Service Act and associated **regulations**, many of which are not directly related to food ...”*

* The applicant's goods are made of ALL-NATURAL healthy Industrial Hemp Seed Oil.

* In the applicant's present mark specimens there is absolutely NO CBD or THC.

My **Hemp**™ (stylized mark) product does NOT contain any illegal ingredients. The specimen submitted is industrial **Hemp Seed Oil**. Please review the label and the hang tag closely. It reads hemp oil. Which is fully legal, and has been for a long time.

The applicant has been buying and selling Hemp Seed Oil for years, from Nutiva® and eBay. Presently, one-gallon costs \$58.90. This includes priority USPS shipping. About \$0.46 an oz.

The applicant has personally been taken hemp seed oil for years. My 2 Golden Retrievers get hemp oil mixed into their dog food twice a day.

Please review the original specimen hang-tag and the label, closely. Just the price of \$9.99 for 9.5 oz indicates hemp oil. CBD oil is expensive and CBDa oil is very expensive. Quality CBD oil retails for around \$100.00 for 1 oz.

Hemp seed oil is fully legal.

There is NO mention of CBD on the hang-tag, the label or the snipped specimen from the applicant's website.

NOTE:

The applicant has several registered marks that use the same Hemp Seed Oil ingredient. Examples are:

1> **ORxGANIC**® registration #6,025,839. This is a recent registration: 03/31/2020.

2> **HiHemp**™ pending #88355997. It was published of 4/21/20 and will be registered on the principal register.

Both #1 and #2 contain the same fully legal Hemp seed oil as in the present application.

NOTE

The applicant does NOT like the examiners verbiage that has been entered in the product description.

“Dietary and nutritional supplements containing industrial hemp; 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”

The verbiage insinuates that all Hemp Seed Oil has a measurable amount of THC. This is NOT true. Hemp seed oil only is extract > “cold pressed” from the SEEDS. There are NO stems, stock, leaves or flowers in Hemp Seed Oil.

The only way to test this possibility is with Third-party lab results.

NOTE: below are 2 cited ULR's from eBay:

https://www.ebay.com/sch/i.html?_from=R40&_trksid=p2334524.m570.l1313.TR11.TRC2.A0.H0.Xcbd.TRS1&_nkw=cdb&_sa_cat=0&LH_TitleDesc=0&_osacat=0&_odkw=hemp

https://www.ebay.com/sch/i.html?_from=R40&_trksid=p2047675.m570.l1313.TR11.TRC2.A0.H1.Xhemp.TRS1&_nkw=hemp&_sacat=0

The applicant believes he has responded to all of the examiner's points. Therefore, the present application should be approved for registered on the Principal register.

Thanks for your help with my application.

Kindest regards,

John D. Blue / applicant-owner

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