

U.S. Trademark Application No. 88/768,528

Mark: **EMSCULPT NEO**

SKGF Ref.: 5387.0100000

In an Office Action issued April 13, 2020, the Examining Attorney (1) refused registration on the basis of a likelihood of confusion with U.S. Registration No. 5572801 for the mark EMSCULPT; (2) issued a prior-pending application advisory on the basis of U.S. Application No. 88/684,678 for the mark EMSCULPT; and (3) required amendments to the applied-for goods in Class 10 and services in Class 44. Registrant addresses these issues in turn, below.

1. Cited EMSCULPT Registration and Application

The Examining Attorney correctly inferred that the owner of the cited EMSCULPT registration and application, BTL Industries Ltd., is related to the original Applicant BTL Industries, Inc.

Applicant accordingly submits evidence showing the assignment of the present application from BTL Industries, Inc. (a Delaware corporation) to BTL Industries Ltd. (a Bulgarian joint stock company) as its successor to the relevant business, effective as of September 3, 2020 and recorded with the Assignment Services Branch on September 14, 2020. Applicant accordingly presumes that the refusal to register and prior-pending application advisory will be withdrawn, as these three marks are now all owned by BTL Industries Ltd.

2. Amendments to the Description of Goods in Class 10 and Identification of Services in Class 44

The Examining Attorney indicated that the word "of" is missing from the Class 10 description of goods, and that the wording "removal of body cellulite" in the description of services in Class 44 is indefinite and must be clarified.

Upon consideration of this request and the scope of the application, Applicant requests that the description of services be amended as follows, with the proposed additions in **bold**:

- Class 10: Medical apparatus and instruments for the treatment of cellulite; medical apparatus and instruments for body toning and body shaping; medical apparatus and instruments for the removal of fat, circumference reduction, tightening of skin, reduction of wrinkles, reduction of scars, reduction of stretch marks, rejuvenation of skin, and treatment of pigmentation spots; medical apparatus and instruments for aesthetic skin treatment procedures; medical apparatus generating electromagnetic, magnetic, electrical, mechanical or thermal energy for use in skin treatment procedures; medical apparatus particularly apparatus for pain management, elimination of muscle spasms; gynecological and urological apparatus and instruments, namely, for genital rejuvenation, treatment **of** sexual dysfunction, gynecological treatment and pelvic floor treatment
- Class 44: Medical services; medical equipment rental; cosmetic and plastic surgery; beauty salons; liposuction services; **medical services, namely**, removal of body cellulite

In view of the foregoing, Applicant respectfully requests the entry of the proposed amendments in Classes 10 and 44 and the withdrawal of the refusal to register, and asks that the application be approved for publication.