

TRADEMARK APPLICATION
Docket No.: 032402.004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK EXAMINING DIVISION

Applicant: Aries USA, Inc.
Serial No.: 90263282
Filed: Oct. 19, 2020
Mark: "ARIES (design)"

Examining Attorney: Kaelie Elizabeth Kung

Goods and Services:

IC 003: Multi-purpose cleaning preparation with deodorizing properties; Pre-moistened disposable wipes impregnated with a cleaning preparation; Air filter for breathing machines and respiratory equipment; Air purifiers and filters for use in medical devices

IC 005: Sanitizing and disinfecting preparations for household and commercial use; Disinfecting wipes; Medical diagnostic reagents and assays for testing of body fluids; Sanitizing wipes; Antibacterial alcohol skin sanitizer gel; Disposable sanitizing wipes; Disposable wipes impregnated with disinfecting chemicals or compounds therefor for use in hospital and labs; Sponges, dressing, and wipes

IC 009: Respiratory protection products, namely, air purifying respirators and rescue breathing apparatus; Protection masks; Protective face masks not for medical purposes; Self-contained breathing apparatus for use by first responders; Eye and face protection apparatus, namely, goggles, protective eyewear, protective glasses, and face shields; Protective work gloves; gloves for laboratory use; Protective clothing and headgear, namely, caps, gowns, and masks, lab coats, knit face masks, veils, hoods, face veils, coveralls, hoods, boots, glove liners, and bouffant caps used to cover the hair for industrial use, disposable shoe covers not for surgical or medical use, protective clothing in the nature of disposable sleeves

IC 010: Sanitary masks for medical purposes; Surgical masks; Masks for use by medical personnel; Gloves for medical use; Face masks for use by dental care providers; Face masks for use by health care providers; Fashion masks being sanitary masks for protection against viral infection; Medical gowns; Patient examination gowns; Personal protective equipment (PPE), namely, masks for use by medical personnel; Surgical gowns; Surgical shoe covers; Surgical scrub hats; Surgical scrub hats featuring fashion prints; Medical apparel in the nature of hooded protective wear, body suits for use in medical examination and treatment; Personal protective equipment (PPE), namely, face shields for use in the medical and dental fields; Personal protective equipment (PPE), namely, masks for use by medical personnel; Protective gloves

for medical use; Sanitary masks for dental use; Sanitary masks for dust isolation for medical purposes; Sanitary masks for dust prevention for medical purposes; Sanitary masks for medical purposes; Sanitary masks for medical wellness purposes; Sanitary masks for protection against viral infection; Sanitary masks for virus isolation purposes; Sanitary masks made of cloth for protection against viral infection; face covers for protective purposes; protective face masks not for medical purposes; face-protection shields; eye covers for protective purposes; protection masks; Lab coats; Drapes, wraps, and packs; Bed linen; Underpads; Procedure packs and sterilization wraps; incubator mattresses; cold/heat packs

IC 011: Air filters for residential, commercial, and industrial uses; Filters and fibrous filtering media for industrial and commercial use in the purification of air and in the removal of dust and particulate matter from air

Remarks

This Response to Office Action is related to the Office Action issued by the Examining Attorney in connection with the subject Application. Applicant hereby timely responds to the Office Action as follows:

I. Section 2(d) Refusal – Likelihood of Confusion

Applicant has reviewed the following cited and prior-pending marks raised in the Office Action:

Aerus Concepts, L.P.'s cited marks:

- AERUS (design) Reg: 5936669
- AERUS (design) Reg: 3142468, and
- AERUS Reg: 3142464

Aeris Cleantec AG's cited mark:

- AERIS (design) Reg: 4887347

Aerus Concepts, L.P.'s referenced prior-pending marks:

- AERUS MEDICAL Serial No.: 90031049
- AERUS ACTIVECLEAN Serial No.: 88903470
- AERUS HEALTH SCIENCES Serial No.: 88788510
- AERUS CLEAN REDEFINED Serial No.: 90064074
- AERUS PURE & CLEAN Serial No.: 90031050

Applicant respectfully submits that, when examined more carefully, the extent of the differences between the cited and referenced marks themselves in terms of appearance, sound and connotation and in the identified goods and with respect to purposes, nature, channels of trade and intended purchasers, as well as the sophistication and care surrounding the purchasing decision of Applicant's goods and Registrants' goods, all are such that confusion is highly unlikely.

While Applicant does not agree with the Examiner's reasoning for the initial refusal, Applicant for business reasons amends the subject Application—as set out below and elsewhere in the response, to remove Classes 011, 005, and 003, which Applicant submits further attenuates any likelihood of confusion.

II. Amendment to Goods

The Applicant respectfully requests entry of the amendments to the goods as set out below:

~~**REMOVE Class 003** - Multi purpose cleaning preparation with deodorizing properties; Pre-moistened disposable wipes impregnated with a cleaning preparation; Air filter for breathing machines and respiratory equipment; Air purifiers and filters for use in medical devices~~

~~**REMOVE Class 005** - Sanitizing and disinfecting preparations for household and commercial use; Disinfecting wipes; Medical diagnostic reagents and assays for testing of body fluids; Sanitizing wipes; Antibacterial alcohol skin sanitizer gel; Disposable sanitizing wipes; Disposable wipes impregnated with disinfecting chemicals or compounds therefor for use in hospital and labs; Sponges, dressing, and wipes~~

UPDATED Class 009 - Protective industrial respirators, namely, air purifying respirators and self-rescue breathing apparatus **in the nature of oxygen breathing units; Protective face masks for the prevention of accident or injury; Protective industrial face masks**; Self-contained breathing apparatus for use by first responders; Eye and face protection apparatus, namely, **safety** goggles, protective eyewear, protective glasses, and **industrial** face shields; Protective work gloves; gloves for laboratory use; Protective clothing and headgear **against accidents**, namely, caps, gowns, and masks, lab coats, knit face masks, veils, hoods, face veils, coveralls, boots, glove liners, and bouffant caps used to cover the hair for industrial use, disposable shoe covers not for surgical or medical use, protective clothing in the nature of disposable sleeves; **eye covers for protective purposes**;

UPDATED Class 010 - Sanitary masks for medical purposes; Surgical masks; Masks for use by medical personnel; Gloves for medical use; Face masks for use by dental care providers; Face masks for use by health care providers; Fashion masks being sanitary masks for protection against viral infection; Medical gowns; Patient examination gowns; Personal protective equipment (PPE), namely, masks for use by medical personnel; Surgical gowns; Surgical shoe covers; Surgical scrub hats; Surgical scrub hats featuring fashion prints; Medical apparel in the nature of hooded protective wear, body suits for use in medical examination and treatment; Personal protective equipment (PPE), namely, face shields for use in the medical and dental fields; Personal protective equipment (PPE), namely, masks for use by medical personnel; Protective gloves for medical use; Sanitary masks for dental use; Sanitary masks for dust isolation for medical purposes; Sanitary masks for dust prevention for medical purposes; Sanitary masks for medical purposes; Sanitary masks for medical wellness purposes; Sanitary masks for protection against viral infection; Sanitary masks for virus isolation purposes; Sanitary masks made of cloth for protection against viral infection; face covers **in the nature of sanitary masks for protective purposes, namely, for protection against viral infection**; sanitary masks for protection against viral infection; medical drapes; **Therapeutic compression wraps; Therapeutic hot therapy packs; Orthopedic cushions and padding; mattresses specially adapted for use with incubators for medical purposes; Therapeutic hot and cold therapy packs**;

~~**REMOVE Class 011** - Air filters for residential, commercial, and industrial uses; Filters and fibrous filtering media for industrial and commercial use in the purification of air and in the removal of dust and particulate matter from air~~

III. Conclusion

In light of the differences in the marks themselves and in the amended goods, and given the expected sophistication and care in purchasing decisions, Applicant submits that there is no likelihood of confusion between the Applicant's Mark and the cited marks or the prior-pending marks. Applicant respectfully requests that the Application be allowed to pass to publication.