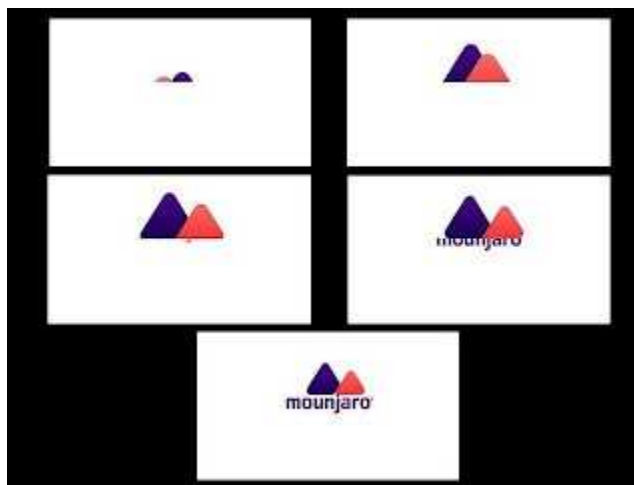


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



**TRADEMARK:**

**SERIAL NO.:** 97/596856

**FILING DATE:** September 19, 2022

**APPLICANT:** Eli Lilly and Company

**EXAMINING ATTORNEY:** Keri-Marie Cantone

**LAW OFFICE:** 104

**RESPONSE TO OFFICE ACTION**

Applicant Eli Lilly and Company submits this response to the Office Action issued on October 13, 2023, concerning the above-referenced application.

**I. Description Amendment**

Applicant respectfully submits that the amendment submitted to the description of its mark does not constitute a material alteration of the mark. As noted in TMEP § 808.03(e), it is a “rare” case for an amendment to a description of a mark to constitute a material alteration.

TMEP § 807.09 states that “the applicant should generally submit the musical score sheet music to supplement or clarify the description of the mark.” Applicant here has submitted musical score sheet music upon filing its application which clarified the description of its

mark. The amended description of the sound portion of the mark submitted by Applicant merely matches the description of the sound originally found in the sheet music. There is nothing new added to the description of the mark that would require republication. The sheet music has always indicated what the sound element of the mark consisted of. The amendment simply brings greater clarity to the description of the sound portion of the mark that already existed. There is no material alteration to the description of the sound component of the mark as there was no change.

Furthermore, the written changes to the description of the sound component of the mark are one part of the overall description of this multimedia mark. This is not a sound recording mark but one that has many facets, including sound. Indeed, the mark consists of motion, color and images, and a clarification of one part of the sound component is not a material alteration to the mark as a whole.

## **II. Detailed Description**

Applicant submitted a detailed description of its mark. Applicant's mark is a multimedia mark with sound as only one characteristic. It is not a sound mark. It consists of visual, motion and sound elements. All of these features are described.

Notwithstanding the foregoing, Applicant has no objection to adding the wording "in purple" to the description of the mark, in relation to the word element MOUNJARO, as suggested by the Examining Attorney.

## **III. Sound File**

The Examining Attorney cites to the requirements for a sound mark, but Applicant has submitted a multimedia mark. Applicant has submitted the requisite information for a multimedia mark.

**IV. Sheet Music**

Applicant already submitted sheet music upon filing its application to register. The Examining Attorney has not indicated why that submission is not sufficient.

**V. Conclusion**

Based on the foregoing, Applicant respectfully requests that the Examining Attorney withdraw the grounds for refusal and approve the mark for publication, including the amended description submitted on January 23, 2023.

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,  
HILLIARD & GERALDSON LLP

Dated: December 21, 2023

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