

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

**Examining Attorney:** Megan Reinhart )  
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**Law Office:** 108 )  
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**Applicant(s):** Midway Dental Supply, LLC ) **RESPONSE**  
)  
**Serial No.:** 88/207,786 )  
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**Filed:** November 27, 2018 )  
)  
**Mark:** MIDWAY SELECT and Design )  
)  
**Docket No.:** 112939.00014 )  
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**Commissioner for Trademarks**  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

In response to the Office Action dated May 4, 2020, please amend the above-identified application as follows:

Please amend the identification of the goods/services as follows:

**INTERNATIONAL CLASS 003**

-- Oral rinses, namely, non-medicated dental rinses; dental paste in the nature of tooth paste; tooth whitening materials; dental stain remover, namely, non-medicated cleaning solution to remove stains from dentures, bridges, orthodontic appliances; dental cement remover, namely, non-medicated cleaning solution to remove cement from dentures, bridges, inlays, onlays, orthodontic appliances, instruments; non-medicated dental general purpose cleaner, namely, used to remove buffing, other compounds and foreign matter from dentures, bridges, crowns, instruments; plaster and stone remover, namely, nonmedicated cleaning solution to remove plaster and stone from dentures, bridges, inlays, onlays, orthodontic appliances, impression trays, spatulas; alcohol for

cleaning of instruments; dental polishing paste, namely, non-medicated prophylaxis paste used to clean and polish teeth --.

### **INTERNATIONAL CLASS 005**

-- Topical anesthetic; dental anesthetics for surgical purposes, namely, lidocaine, articaine, and mepivacaine; dental core build-up materials; dental crown and bridge provisional material; dental etching gel; hemostatic gel and solution for dental purposes; composites, namely, flowable dental resins; cotton for medical purposes; gauze; orthodontic alginate for dental impressions; vinyl polysiloxane dental impression material; materials used for dental bite registration; dental tray cleaners; dental tray adhesives; evacuation system disinfectant cleaners; sanitizing surface wipes; disinfectants and disinfecting cleaner for dental purposes in surface and liquid form; autoclave disinfectant cleaners; dental tartar remover, namely, solution to remove tartar from dentures, bridges, orthodontic appliances; enzymatic detergent and tablets for medical purposes; alcohol for disinfection of dental instruments; oral rinses, namely, dental rinses for medical purposes; dental pit and fissure sealant; dental polishing paste, namely, medicated prophylaxis paste used to clean and polish teeth; dental varnish for use by dentists; dental wax, namely, base plate wax, boxing wax, wax strips, wax ropes; bonding agents for dental purposes; dental composite materials, namely, universal composite; flowable dental composite; materials for tooth restoration, namely, glass ionomer restorative; dental cement; materials for tooth restoration, namely, intermediate restorative material; desensitizer, namely, dental material in the nature of reducing hypersensitivity both topically and under a restoration; irrigation solutions for dental use; analgesics, namely, eugenol; endodontic refrigerant spray for testing pulp vitality; alginate, namely, for dental impressions; alginate replacement, namely, alginate replacement for dental impressions; dental impression materials, namely, vinyl polysiloxane and putty; fluoride foam in the nature of anti-cavity coating preparations;

hemostatic solution for medical purposes; alcohol used as a solvent and dehydrating agent for medical purposes; solvent, namely, dental solvents for removing zinc oxide, wax, baseplate and impression material from acrylic teeth, denture bases, hands, face, and instruments and medicated dental solvents for removing dental debris from root canals; endodontic gutta percha for filling canals after pulp removed; sponges impregnated with antiseptics; bite registration, namely, dental bite registration material --.

### **INTERNATIONAL CLASS 010**

-- Needles for medical use; articulating paper; dental burs; pre-bent applicator and dispensing tips attached to a syringe and used for applying dental materials in the mouth; disposable brushes and applicators specifically for applying dental materials in the mouth; dental accessories in the nature of mixing pads and wells specifically used for preparing dental materials used in the mouth; dental crowns; dental instruments in the nature of mixing tips for dental materials; bibs for dental use; disposable syringes and tips; disposable filters for medical purposes used for filtering water that is used in dental routine procedures and surgical procedures; evacuator tips for use in dentistry; evacuator ejectors for use in dentistry; surgical aspirator tips; dental equipment, namely, intra-oral curing lights, handpieces, scalers and polishers; dental finishing and polishing points and discs used to finish dental restorations; dental syringes with needle; dental syringes without needle; dental instruments, namely, irrigation needle tips; dental instruments, namely, dental bite registration mixers and tips; dental bite impression trays; dental utility syringe; digital sensor sleeves for use as a protective germ shield barrier in the health care field for use in connection with digital sensors used for taking digital dental radiographs; fitted covers for dental patient digital imaging plates, namely, digital barrier envelopes and sleeves; dental intra-oral syringe sleeves in the nature of fitted covers for dental syringes; fitted covers for dental t-lights for use as a protective germ shield barrier in the

health care field; barrier cover films for use as a protective germ shield barrier in the health care field; barrier curing light sleeves in the nature of fitted covers for dental curing lights for use as a protective germ shield barrier in the health care field; tray barriers for dental trays in the nature of fitted covers for dental trays; x-ray covers in the nature of fitted covers for patient x-ray machine for medical and dental use; autoclave pouches in the nature of pouches specifically adapted for holding instruments and other items used in the dental operatory for sterilization for medical use; medical gloves; medical masks, namely, masks used to protect individuals from spatter, fluid, and aerosols generated during the dental procedures; magnifying glasses, for medical purposes, that fit on the user's face in the manner of eyeglasses; medical gowns and jackets; mirror defogger, namely, for use in defogging dental mirrors; holders specially adapted for use in connection with dentures and retainers, namely, denture and retainer boxes; dental instruments, namely, prophylaxis angles; medical trays for holding fluoride for use on dental patients; sutures; surgical blades; blade handles for surgical blades; disposable scalpels; dental bite rims; medical x-ray aprons and collars; dental bite wing tabs and loops; film holders specially adapted for medical x-rays; aspirating syringe for medical use; dental instruments, namely bur blocks for use in connection with dental burs; bib holders specifically adapted for use in connection with bibs for dental use; general purpose and surgical sponges; dental filters in the nature of evacuation traps used mainly to protect vacuum system when particles from the intra oral cavity are evacuated; dental filters in the nature of evacuation traps used mainly to protect vacuum system when particles from the intra oral cavity are evacuated; dental device for extracting saliva from the work area in the mouth, namely HVE tips; dental device for extracting saliva from the work area in the mouth, namely, saliva ejectors; dental instruments, namely, endodontic files; dental drills in the nature of Gates Glidden drills; dental instruments for removing pulp tissue during endodontic treatment, namely, barbed broaches; dental instruments, namely, endodontic paper points for removing moisture from canals; apex locator,

namely, a dental instrument for use in root canal procedures; endo aids, namely, surgical instruments for dental use; dental instruments in the nature of intraoral tips specifically for use in connection with attaching to the end of the mixing tips that are used to extrude dental material intraorally; dental impression trays; disposable barriers for use as a protective germ shield barrier in the health care field; disposable medical treatment apparel; CSR wrap in the nature of sterilization wrap for sterilizing medical instruments; dental instruments, namely, dental instruments for hygiene, diagnostic, surgery, periodontal, ultrasonic scaling, endodontic, restorative and orthodontic purposes all in the nature of examining, cleaning, preserving, and restoring teeth; dental mirror heads; dental mirror handles; dental instruments, namely, dappen dishes being vessels for dental purposes; dental mixing bowls specifically adapted for use in connection with mixing dental restoration compounds; medical apparatus, namely, dispensing gun for use in dispensing dental materials used in dental restorative procedures and surgery; dental posts and dental drills; dental instruments, namely, retraction cord; dental apparatus, namely, disposable bite blocks; dental film positioners; x-ray diagnostic apparatus, namely, phosphor imaging plates and sensors used for taking dental x-rays; dental instruments for removing tartar; dental instruments for removing teeth stains; dental instruments for removing dental cement, plaster and stone; dental apparatus, namely, intra-oral curing lights; dental instruments, namely, prophy cups --.

### **INTERNATIONAL CLASS 016**

-- Paper (tissue/poly blend) for use as headrest covers for dental chairs; copolymer plastic for use as headrest covers for dental chairs for use as a protective germ shield barrier in the health care field; paper for use as chair covers for dental chairs; copolymer plastic chair covers for dental chairs for use as a protective germ shield barrier in the health care field; digital barrier envelopes; dental tray covers made of paper --.

**INTERNATIONAL CLASS 021**

-- Plastic cups; swabs and sponges for cleaning medical instruments; dental floss; flossing aids, namely, toothpicks and dental floss picks; toothbrushes; drinking cups; sponges for cleaning dental instruments --.

**REMARKS**

The Examining Attorney has found the identification of goods as indefinite and must be clarified.

The identification of the goods has been amended for all International Classes to clarify the goods as similarly suggested by the Examining Attorney. It is respectfully submitted that the identification of the goods is acceptable.

The Examining Attorney has also refused registration under Trademark Act § 2(d), 15 U.S.C. § 1052(d), because of an alleged likelihood of confusion between Applicant's applied-for mark, when used on or in connection with the identified goods/services, and the mark in U.S. Registration No. 6,008,487. Applicant respectfully traverses this refusal.

The mark in the present application is owned by the owner in U.S. Registration No. 6,008,487 and the assignment of the present application has been recorded on May 12, 2020 at Reel 6936, Frame 0519. The present application is now assigned to Midway Dental Supply, LLC, the same owner as U.S. Registration No. 6,008,487. Therefore, there can be no likelihood of confusion and the refusal is now moot.

In view of the above, it is respectfully submitted that this application is believed to be in a condition to be passed to publication and favorable action toward this end is courteously requested.

Respectfully submitted,

**HOWARD & HOWARD ATTORNEYS PLLC**

Date: May 18, 2020

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