

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 79271973

Mark:

Correspondence Address:

ZHIRONGDA INTELLECT; PROPERTY AGENCY (BE
ROOM207, BUILDING 4,
No. 26 YUETAN SOUTH STREET
100825 BEIJING
CHINA

Applicant: BEIJING DANK BIOLOGICAL TECHNOLOGY CO.,
ETC.

Reference/Docket No. N/A

Correspondence Email Address:

NONFINAL OFFICE ACTION

International Registration No. 1498287

Notice of Provisional Full Refusal

Deadline for responding. The USPTO must receive applicant's response within six months of the "date on which the notification was sent to WIPO (mailing date)" located on the WIPO coverletter, or the U.S. application will be abandoned. To confirm the mailing date, go to the USPTO's Trademark Status and Document Retrieval (TSDR) database select "US Serial, Registration, or Reference No.," enter the U.S. application serial number in the blank text box, and click on "Documents." The mailing date used to calculate the response deadline is the "Create/Mail Date" of the "1B-1st Refusal Note."

Respond to this Office action using the USPTO's Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Discussion of provisional full refusal. This is a provisional full refusal of the request for extension of protection to the United States of the international registration, known in the United States as a U.S. application based on Trademark Act Section 66(a). See 15 U.S.C. §§1141(f), 1141h(c).

INTRODUCTION & SEARCH RESULTS

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SEARCH OF OFFICE'S DATABASE OF MARKS

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; see 15 U.S.C. §1052(d).

DETAILS OF ISSUES

SUMMARY OF ISSUES:

- Identification of Goods – Amendment Required
- Translation Statement Format Amendment – Advisory
- U.S. Counsel Required

IDENTIFICATION OF GOODS – AMENDMENT REQUIRED

Applicant's applied-for goods consist of the following:

Class 005: Vitamin preparations; **pharmaceutical preparations**; diagnostic preparations for medical purposes; diagnostic biomarker reagents for medical purposes; dietetic foods adapted for medical purposes; **depuratives**; sanitizing wipes; chemical reagents for medical or veterinary purposes; pre-filled douche bags containing medicated cleaning preparations; dental lacquer

The wording highlighted in **bold** above, is indefinite and must be further clarified because they type or use of preparation or depurative must be clarified. See 37 C.F.R. §2.32(a)(6); TMEP §1402.01. For example, the use of the preparations could include "pharmaceutical preparations for treating diabetes", "pharmaceutical preparations for treating skin disorders", "pharmaceutical preparations for treating chemical imbalances" etc.

Applicant may adopt the following suggestions in **bold**, with additional examining notes appearing in *italics* and within {curly} brackets, if accurate:

Class 005: Vitamin preparations; pharmaceutical preparations **for the treatment of** ____ *{SPECIFY use or disease to be treated of pharmaceutical preparations e.g., diabetes, skin disorders, chemical imbalances}*; diagnostic preparations for medical purposes; diagnostic biomarker reagents for medical purposes; dietetic foods adapted for medical purposes; depuratives **for the body**; sanitizing wipes; chemical reagents for medical or veterinary purposes; pre-filled douche bags containing medicated cleaning preparations; dental lacquer

Applicant's goods and/or services may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably narrowed. See 37 C.F.R. §2.71(a); TMEP §§1402.06, 1904.02(c)(iv). Applicant may clarify or limit the identification by inserting qualifying language or deleting items to result in a more specific identification; however, applicant may not substitute different goods and/or services or add goods and/or services not found or encompassed by those in the original application or as acceptably narrowed. See TMEP §1402.06(a)-(b). The scope of the goods and/or services sets the outer limit for any changes to the identification and is generally determined by the ordinary meaning of the wording in the identification. TMEP §§1402.06(b), 1402.07(a)-(b). Any acceptable changes to the goods and/or services will further limit scope, and once goods and/or services are deleted, they are not permitted to be reinserted. TMEP §1402.07(e). Additionally, for applications filed under Trademark Act Section 66(a), the scope of the identification for purposes of permissible amendments is limited by the international class assigned by the International Bureau of the World Intellectual Property Organization (International Bureau); and the classification of goods and/or services may not be changed from that assigned by the International Bureau. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Further, in a multiple-class Section 66(a) application, classes may not be added or goods and/or services transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual*. See TMEP §1402.04.

TRANSLATION STATEMENT FORMAT AMENDMENT – ADVISORY

Applicant provided all necessary translation information in the application; however, the format of the statement must be amended. See 37 C.F.R. §§2.32(a)(9)-(a)(10), 2.61(b); TMEP §809.

Thus, applicant is advised that the translation statement will be amended and formatted as follows, if accurate:

The non-Latin characters in the mark transliterate to “DE NENG AN KANG” and this means “VIRTUE ABILITY PEAK HEALTH” or “People with morals can obtain happiness and health” in English.

TMEP §809.03. ,

Applicant does not have to respond to this issue, as the formatted statement will be entered into the record by the examining attorney. Applicant should respond to this advisory if the above translation statement is inaccurate.

U.S. COUNSEL REQUIRED

Applicant must be represented by a U.S.-licensed attorney at the USPTO to respond to or appeal the provisional refusal. An applicant whose domicile is located outside of the United States or its territories is foreign-domiciled and must be represented at the USPTO by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state or territory. 37 C.F.R. §§2.11(a), 11.14; *Requirement of U.S.-Licensed Attorney for Foreign-Domiciled Trademark Applicants & Registrants*, Examination Guide 4-19, at I.A. (Rev. Sept. 2019). An individual applicant's domicile is the place a person resides and intends to be the person's principal home. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. A juristic entity's domicile is the principal place of business; i.e., headquarters, where a juristic entity applicant's senior executives or officers ordinarily direct and control the entity's activities. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. Because applicant is foreign-domiciled, applicant must appoint such a U.S.-licensed attorney qualified to practice under 37 C.F.R. §11.14 as its representative before the application may proceed to registration. 37 C.F.R. §2.11(a). See Hiring a U.S.-licensed trademark attorney for more information.

To appoint or designate a U.S.-licensed attorney. To appoint an attorney, applicant should submit a completed Trademark Electronic Application System (TEAS) Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative form. The newly-appointed attorney must submit a TEAS Response to Examining Attorney Office Action form indicating that an appointment of attorney has been made and address all other refusals or requirements in this action, if any. Alternatively, if applicant retains an attorney before filing the response, the attorney can respond to this Office action by using the appropriate TEAS response form and provide his or her attorney information in the form and sign it as applicant's attorney. See 37 C.F.R. §2.17(b)(1)(ii).

How to respond. Click to file a response to this nonfinal Office action.

/Courtney M. Caliendo/
Courtney M. Caliendo
Trademark Examining Attorney
Law Office 121 - USPTO

RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to abandon.** A response or notice of appeal must be received by the USPTO before ~~midnight~~**Eastern Time** of the last day of the response period. TEAS and ESTTAmaintenance or unforeseen circumstances could affect an applicant's ability to timely respond.
- Responses signed by an unauthorized party are not accepted and can **cause the application to abandon**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find** contact information for the supervisor of the office or unit listed in the signature block.