

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

APPLICATION SERIAL NO. 79102120

MARK: SYNCHROVITALS

79102120

CORRESPONDENT ADDRESS:

O.V. Shterz
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CLICK HERE TO RESPOND TO THIS LETTER:
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Obchtchestvo s
ogranichennoi otvetstven ETC.

**CORRESPONDENT'S
REFERENCE/DOCKET NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE:

INTERNATIONAL REGISTRATION NO. 1089601

This is a **PROVISIONAL FULL REFUSAL** of the trademark and/or service mark in the above-referenced U.S. application. *See* 15 U.S.C. §1141h(c).

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:

Applicant may respond directly to this provisional refusal Office action if applicant is not represented by an authorized attorney. *See* 37 C.F.R. §2.193(e)(2)(ii). Otherwise, applicant's authorized attorney must respond on applicant's behalf. *See* 37 C.F.R. §2.193(e)(2)(i). However, **the only attorneys who are authorized to sign responses and practice before the USPTO** in trademark matters are as follows:

- (1) **Attorneys in good standing with a bar of the highest court of any U.S. state**, the District of Columbia, Puerto Rico, and other federal territories and possessions of the United States; and
- (2) **Canadian agents/attorneys** who represent applicants located in Canada and (a) are registered with the USPTO and in good standing as patent agents or (b) have been granted reciprocal recognition by the USPTO.

See 37 C.F.R. §§2.17(e), 2.62(b), 11.1, 11.5(b)(2), 11.14(a), (c); TMEP §§602, 712.03.

Foreign attorneys, other than authorized Canadian attorneys, are not permitted to represent applicants before the USPTO. *See* 37 C.F.R. §§2.17(e), 11.14(c), (e); TMEP §602.03-.03(b). That is, foreign attorneys may not file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal, among other things. *See* 37 C.F.R. §11.5(b)

(2); TMEP §§602.03(c), 608.01. If applicant is represented by such a foreign attorney, applicant must respond directly to this provisional refusal Office action. *See* 37 C.F.R. §2.193(e)(2)(ii).

DESIGNATION OF DOMESTIC REPRESENTATIVE:

The USPTO encourages applicants who do not reside in the U.S. to designate a domestic representative upon whom notices or process may be served. 15 U.S.C. §§1051(e), 1141h(d); 37 C.F.R. §2.24(a)(1)-(2); *see* TMEP §610. Such designations may be filed online at <http://www.uspto.gov/teas/index.html>.

THE APPLICATION HAS BEEN PROVISIONALLY REFUSED AS FOLLOWS:

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, 2.65(a); TMEP §§711, 718.03.

SEARCH OF OFFICE'S DATABASE OF MARKS

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

PROCEDURAL ISSUES

Identification of Goods Requirement

International Class 005: Applicant has identified the goods and/or services as “Albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; antiseptics; antiparasitic preparations; bacterial preparations for medical and veterinary use; balms for medical purposes; biocides; biological preparations for medical purposes; diabetic bread; dietetic beverages adapted for medical purposes; dietetic foods adapted for medical purposes; dietetic substances adapted for medical use; digestives for pharmaceutical purposes; elixirs [pharmaceutical preparations]; ferments for pharmaceutical purposes; food for babies; germicides; haematogen; herbs teas for medicinal purposes; lacteal flour for babies; liniments; lotions for pharmaceutical purposes; medicinal herbs; medicinal infusions; medicinal oils; medicinal roots; mineral food-supplements; nervines; nutritional additives for medical purposes; opotherapy preparations; preparations of trace elements for human use; sea water for medicinal bathing; serums; styptic preparations; therapeutic preparations for the bath; tonics [medicines]; vitamin preparations.”

First, the identification of goods and/or services contains brackets. Generally, parentheses and brackets should not be used in identifications. Parenthetical information is permitted in identifications only if it serves to explain or translate the matter immediately preceding the parenthetical phrase in such a way that it does not affect the clarity of the identification, e.g., “obi (Japanese sash).” TMEP §1402.12.

Therefore, applicant must remove the parentheses from the identification of goods and/or services and incorporate the bracketed/parenthetical information into the description.

Further, the identification of goods and/or services is indefinite and must be clarified because various elements in the wording are excessively broad and may include goods/services in multiple international classes. The examining attorney notes below in bold where additional specification/clarification is needed. *See* TMEP §§1402.01, 1402.03(a).

Applicant may amend the identification to list only those items that are within the scope of the goods and/or services set forth in the application or within the scope of a previously accepted amendment to the identification. *See* 37 C.F.R. §2.71(a); TMEP §§1402.06 *et seq.*, 1402.07.

The international classification of goods and/or services in applications filed under Trademark Act

Section 66(a) cannot be changed from the classification the International Bureau assigned to the goods and/or services in the corresponding international registration. TMEP §§1401.03(d), 1904.02 (b).

Therefore, any modification to this wording must identify goods and/or services that are within the scope of the goods and/or services set forth in the present identification.

The following substitute wording is suggested, if appropriate:

- Class 005: Albuminous foodstuffs for medical purposes; albuminous **{specify type, e.g., foodstuff}** preparations for medical purposes; antiseptics; antiparasitic preparations; bacterial preparations for medical and veterinary use; balms for medical purposes; biocides; biological preparations for medical purposes **for the treatment of {specify disease or physical condition, e.g., cancer, etc.}**; diabetic bread; dietetic beverages adapted for medical purposes; dietetic foods adapted for medical purposes; dietetic substances adapted for medical use, **namely, {specify type, e.g., dietetic surgar for medical use, dietetic sugar substitutes for medical use, etc.}**; digestives for pharmaceutical purposes; **Pharmaceutical preparations, namely, elixirs for the treatment of {specify disease to be treated}**; ferments for pharmaceutical purposes; food for babies; germicides; haematogen; herbs teas for medicinal purposes; lacteal flour for babies; liniments; **{specify use, e.g., skin}** lotions for pharmaceutical purposes; medicinal herbs; medicinal infusions **for treating {specify diseases or conditions}**; medicinal oils; medicinal roots; mineral **food supplements**; nerviness, **namely, {specify type, e.g., central nervous systems stimulants, pharmaceutical preparations acting on the central nervous system, etc.}**; nutritional additives for medical purposes **for use in {specify what the additives are being used in, e.g., foods and dietary supplements for human consumption}**; ophotherapy preparations, **namely, {specify type by common commercial name and the illness or disease being treated, e.g., pharmaceutical preparations for the treatment of arthritis}**; preparations of trace elements for human use, **namely, {specify type, e.g., vitamins and mineral supplements, etc.}**; sea water for medicinal bathing; **Medicated** serums **for treatment of {indicate nature of serums, e.g., hair, skin, lips}**; styptic preparations, **namely, {specify type, e.g., styptic pencils}**; therapeutic preparations for the bath; medicated tonics, **namely, {specify type by common commercial name in Class 005, e.g., acme treatment preparations, antibiotic preparations, etc.}**; vitamin preparations.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable Manual of Acceptable Identifications of Goods and Services at <http://tess2.uspto.gov/netathtml/tidm.html>. See TMEP §1402.04.

Explanation of Mark's Significance Required

Applicant must specify whether the wording "SYNCHROVITALS" has any significance in the medical, biological, or therapeutic trade or industry or as applied to the goods/services described in the application. See 37 C.F.R. §2.61(b); TMEP §§808.01(c), 814.

RESPONSE GUIDELINES

There is no required format or form for responding to an Office action. The Office recommends applicants use the Trademark Electronic Application System (TEAS) to respond to Office actions online at <http://www.uspto.gov/teas/index.html>. If applicant responds on paper via regular mail, the response should include the title "Response to Office Action" and the following information: (1) the name and law office number of the examining attorney, (2) the serial number and filing date of the application, (3) the date of issuance of this Office action, (4) applicant's name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03 (a).

In the response, applicant should explicitly address each refusal and/or requirement raised in the Office action. If a refusal has issued, applicant may wish to argue against the refusal, i.e., submit

arguments and/or evidence as to why the refusal should be withdrawn and why the mark should register. To respond to requirements, applicant should set forth in writing the required changes or statements.

The response must be signed by applicant or someone with legal authority to bind applicant (i.e., a corporate officer of a corporate applicant, the equivalent of an officer for unincorporated organizations or limited liability company applicants, a general partner of a partnership applicant, each applicant for applications with multiple individual applicants). TMEP §§605.02, 712. The signer must personally sign and date the response or manually enter their electronic signature in the signature block. TMEP §605.02

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TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp.

Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.