

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

U.S. APPLICATION SERIAL NO. 79129790

MARK: FITNESSCATALYST

79129790

CORRESPONDENT ADDRESS:

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

APPLICANT: Obschestvo s ogranichennoy otvetstvenno
ETC.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

INTERNATIONAL REGISTRATION NO. 1159342

STRICT DEADLINE TO RESPOND TO THIS NOTIFICATION: TO AVOID PARTIAL ABANDONMENT OF THE REQUEST FOR EXTENSION OF PROTECTION OF THE INTERNATIONAL REGISTRATION, THE USPTO MUST RECEIVE A COMPLETE RESPONSE TO THIS PROVISIONAL PARTIAL REFUSAL NOTIFICATION WITHIN 6 MONTHS OF THE "DATE ON WHICH THE NOTIFICATION WAS SENT TO WIPO (MAILING DATE)" LOCATED ON THE WIPO COVER LETTER ACCOMPANYING THIS NOTIFICATION.

In addition to the Mailing Date appearing on the WIPO cover letter, a holder (hereafter "applicant") may confirm this Mailing Date using the USPTO's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. To do so, enter the U.S. application serial number for this application and then select "Documents." The Mailing Date used to calculate the response deadline for this provisional partial refusal is the "Create/Mail Date" of the "IB-1st Refusal Note."

This is a **PROVISIONAL PARTIAL REFUSAL** of the request for extension of protection of the mark in the above-referenced U.S. application that **applies to only the following goods in the application: biological preparations for medical purposes; dietetic beverages adapted for medical use; dietetic foods adapted for medical use; dietetic substances adapted for medical use; medicinal infusions; medicinal mud; nervines; preparations of trace elements for human and animal use; remedies for perspiration; serums; styptic preparations; therapeutic preparations for the bath; tonic medicines.** See 15 U.S.C. §1141h(c). See below in this notification (hereafter "Office action") for details regarding the provisional partial refusal.

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.

No Similar Marks Found

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).

Applicant must respond to the requirement(s) set forth below.

Identification of Goods

The wording in the identification of goods and/or services is indefinite and must be clarified because it is too broad and could include goods and/or services in other international classes. See TMEP §§1402.01, 1402.03.

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 in International Class 005, the classification specified in the application for these goods.

The following substitute wording is suggested, if appropriate:

Class 005: Albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; antiseptics; 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.}; dietetic beverages, namely, {indicate beverages, e.g. herbal teas}, adapted for medical use; diabetic bread adapted for medical use; dietetic foods, namely, {indicate types of food, e.g. pasta, crackers, etc.} adapted for medical use; dietetic substances, namely, {indicate particular substances/foods} adapted for medical use; digestives for pharmaceutical purposes; disinfectants for hygiene purposes; ferments for pharmaceutical purposes; fumigating sticks; germicides; herbal teas for medicinal purposes; liniments;**

lotions for pharmaceutical purposes; medicinal herbs; **medicinal infusions for treating {specify diseases or conditions}; medicinal mud, namely, herbal mud packs for therapeutic purposes;** medicinal oils; medicinal roots;

mineral food supplements; mouthwashes for medical purposes; **nervines, namely, medicinal preparations for the nervous system;** opotherapy preparations; pharmaceutical preparations for treating dandruff; pharmaceutical preparations for skin care; **preparations of trace elements for human and animal use, namely, {please clarify with common commercial name, e.g. dietary supplements}; remedies for perspiration, namely, {indicate Class 005 goods by common commercial name, e.g. medicines for treatment of perspiration};** sea water for medicinal bathing; Medicated serums for treatment of {indicate nature of serums, e.g., hair, skin, lips}; **styptic preparations, namely, styptic pencils; Therapeutic medicated bath preparations;** tissues impregnated with pharmaceutical lotions; **tonic medicines, namely, {please clarify, e.g. medicinal herb extracts};** vitamin preparations

Identifications of goods can be amended only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

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/netahtml/tidm.html>. *See* TMEP §1402.04.

Partial Abandonment Advisory

The portion of the identification that was the subject of the refusal(s) and/or requirement(s) will be deleted from the application. *See* 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a); TMEP §718.02(a). The application will proceed with the following identification:

Albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; antiseptics; bacterial preparations for medical and veterinary use; balms for medical purposes; biocides; diabetic bread adapted for medical use; digestives for pharmaceutical purposes; disinfectants for hygiene purposes; ferments for pharmaceutical purposes; fumigating sticks; germicides; herbal teas for medicinal purposes; liniments;

lotions for pharmaceutical purposes; medicinal herbs; medicinal oils; medicinal roots; mineral food supplements; mouthwashes for medical purposes; opotherapy preparations; pharmaceutical preparations for treating dandruff; pharmaceutical preparations for skin care; sea water for medicinal bathing; tissues impregnated with pharmaceutical lotions; vitamin preparations

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL PARTIAL REFUSAL: Any response to this provisional refusal must be personally signed by an individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant (e.g., a corporate officer or general partner). 37 C.F.R. §§2.62(b), 2.193(e)(2)(ii); TMEP §712.01. If applicant hires a qualified U.S. attorney to respond on his or her behalf, then the attorney must sign the response. 37 C.F.R. §§2.193(e)(2)(i), 11.18(a); TMEP §§611.03(b), 712.01. Qualified U.S. attorneys include those 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. *See* 37 C.F.R. §§2.17(a), 2.62(b), 11.1, 11.14(a); TMEP §§602, 712.01. Additionally, for all responses, the proper signatory must personally sign the document or personally enter his or her electronic signature on the electronic filing. *See* 37 C.F.R. §2.193(a); TMEP §§611.01(b), 611.02. The name of the signatory must also be printed or typed immediately below or adjacent to the signature, or identified elsewhere in the filing. 37 C.F.R. §2.193(d); TMEP §611.01(b).

In general, foreign attorneys are not permitted to represent applicants before the USPTO (e.g., file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal). *See* 37 C.F.R. §11.14(c), (e); TMEP §§602.03-.03(b), 608.01.

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

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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/mailling date before using the Trademark Electronic Application System (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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or 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/trademarks/teas/correspondence.jsp>.