

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

U.S. APPLICATION SERIAL NO. 79146116

MARK: AGEVITALS

79146116

CORRESPONDENT ADDRESS:

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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. 1200834

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; decoctions for pharmaceutical purposes; dietary fiber; dietetic beverages adapted for medical purposes; dietetic foods adapted for medical purposes; dietetic substances adapted for medical use; hematogen; medicinal infusions; nerviness; syrups for pharmaceutical purposes.* 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.

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).

IDENTIFICATION REQUIRES AMENDMENT

The identification of goods must be clarified because it contains wording that is either too broad or indefinite. See TMEP §§1402.01, 1402.03.

Applicant must amend the identification to specify the common commercial name of the goods. If there is no common commercial name, applicant must describe the product and its intended uses. See *id.*

The following substitute wording is suggested, if accurate [address where italicized and/or bolded]:

Class 5: Albumin dietary supplements; alginate dietary supplements; albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; aloe vera preparations for pharmaceutical purposes; antioxidant pills; appetite suppressant pills; balms for medical purposes; bath preparations, medicated; biocides; *biological preparations for medical purposes, namely [specify the disease or condition treated]*; by-products of the processing of cereals for dietetic or medical purposes; casein dietary supplements; *decoctions for pharmaceutical purposes, namely, for [specify disease or condition to be prevented or treated or the health goal to be achieved]*; diabetic bread adapted for medical use; *dietary fiber to aid digestion; dietetic beverages adapted for medical purposes, namely [specify the beverages, e.g., malted milk beverages, herbal teas]; dietetic foods adapted for medical purposes, namely, [indicate types of food, e.g., pasta, crackers, vitamin enriched bread]; dietetic substances adapted for medical use, namely [indicate the dietetic substances, e.g., pasta, crackers, vitamin enriched bread, herbal teas]*; digestives for pharmaceutical purposes; enzyme dietary supplements; enzyme preparations for medical purposes; flaxseed dietary supplements; flaxseed oil dietary supplements; flour for pharmaceutical purposes; food for babies; glucose dietary supplements; *hematogen, namely, nutritional and dietary supplements formed and packaged as bars*; herbal teas for medicinal purposes; lacteal flour for babies; lecithin dietary supplements; liniments; lotions for pharmaceutical purposes; malted milk beverages for medical purposes; *medicinal infusions for [specify the disease or condition treated]*; medicinal herbs; medicinal oils; medicinal roots; medicinal tea; milk ferments for pharmaceutical purposes; mineral food supplements; *nerviness, namely, medicinal preparations for the treatment of the nervous system*; nutritional supplements; pharmaceutical preparations for skin care; pollen dietary supplements; preparations of trace elements for human and animal use; propolis dietary supplements; protein dietary supplements; royal jelly dietary supplements; royal jelly for pharmaceutical purposes; slimming pills; *syrups for pharmaceutical purposes for the treatment of [specify the disease or condition treated]*; vitamin preparations; wheat germ dietary supplements; yeast dietary supplements; yeast for pharmaceutical purposes.

TMEP §1402.01.

PLEASE NOTE: An applicant may amend an identification of goods and/or services only to clarify or limit the goods and/or services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §1904.02(c)(iv). In an application 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). 37 C.F.R. §2.85(f); TMEP §§1402.07(a), 1904.02(c). If an applicant amends the identification to a class other than that assigned by the International Bureau, the amendment will not be accepted because it will exceed the scope and those goods and/or services will no longer have a basis for registration under U.S. law. TMEP §§1402.01(c), 1904.02(c).

In addition, in a Section 66(a) application, an applicant may not change the classification of goods and/or services from that assigned by the International Bureau in the corresponding international registration. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1402.01(c). Further, in a multiple-class Section 66(a) application, an applicant may not transfer goods and/or services from one existing international class to another. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1402.01(c).

For assistance with identifying 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>.

FAILURE TO RESPOND – ABANDONMENT OF SPECIFIC GOODS

If applicant does not respond to this Office action within the six-month period for response, the following goods in International Class 5 will be deleted from the application: *biological preparations for medical purposes; decoctions for pharmaceutical purposes; dietary fiber; dietetic beverages adapted for medical purposes; dietetic foods adapted for medical purposes; dietetic substances adapted for medical use; hematogen; medicinal infusions; nerviness; syrups for pharmaceutical purposes.*

The application will then proceed with the following goods in International Class 5 only: *Albumin dietary supplements; alginate dietary supplements; albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; aloe vera preparations for pharmaceutical purposes; antioxidant pills; appetite suppressant pills; balms for medical purposes; bath preparations, medicated; biocides; by-products of the processing of cereals for dietetic or medical purposes; casein dietary supplements; diabetic bread adapted for medical use; digestives for pharmaceutical purposes; enzyme dietary supplements; enzyme preparations for medical purposes; flaxseed dietary supplements; flaxseed oil dietary supplements; flour for pharmaceutical purposes; food for babies; glucose dietary supplements; herbal teas for medicinal purposes; lacteal flour for babies; lecithin dietary supplements; liniments; lotions for pharmaceutical purposes; malted milk beverages for medical purposes; medicinal herbs; medicinal oils; medicinal roots; medicinal tea; milk ferments for pharmaceutical purposes; mineral food supplements; nutritional supplements; pharmaceutical preparations for skin care; pollen dietary supplements; preparations of trace elements for human and animal use; propolis dietary supplements; protein dietary supplements; royal jelly dietary supplements; royal jelly for pharmaceutical purposes; slimming pills; vitamin preparations; wheat germ dietary supplements; yeast dietary supplements; yeast for pharmaceutical purposes.* *See* 37 C.F.R. §2.65(a); TMEP §718.02(a).

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 §§304.01-.02, 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>.