

To: Elizabeth Oliner(liz@olinerlaw.com)
Subject: U.S. Trademark Application Serial No. 97118858 - VEGI-COLL
Sent: August 23, 2022 06:13:11 AM EDT
Sent As: tmng.notices@uspto.gov

Attachments

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

U.S. Application Serial No. 97118858

Mark: VEGI-COLL

Correspondence Address:

ELIZABETH OLINER
OLINER LAW
345 GROVE STREET, 2ND FLOOR
SAN FRANCISCO CA 94102 UNITED STATES

Applicant: Ingredients Plus Pty. Limited

Reference/Docket No. N/A

Correspondence Email Address: liz@olinerlaw.com

NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be [abandoned](#). Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Issue date: August 23, 2022

Introduction:

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:

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

SUMMARY OF ISSUES:

- Teas Plus
- Foreign Registration
- Identification of Goods

Teas Plus:

Processing fee required. Applicant must submit an additional processing fee of \$100 per class because the application as originally filed did not meet the TEAS Plus application filing requirements. *See* 37 C.F.R. §2.22(c); TMEP §§819.01-.01(q), 819.03. Specifically, applicant failed to meet the following requirement(s): the goods were not correctly classified because a fill-in-the-blank element in the identification included wording that is clearly inappropriate or unrelated to the selected goods and some of the fill in the blanks were not correctly filled in.

The additional processing fee is required regardless of whether applicant satisfies these application requirements.

Accordingly, the application will no longer be treated as TEAS Plus; it is now considered a TEAS Standard application. *See* 37 C.F.R. §2.22(c); TMEP §819.03.

Foreign Registration:

In response to the Office's inquiry regarding the status of applicant's pending foreign application, applicant indicated that the foreign registration has issued but no copy of the foreign registration was submitted. Instead, applicant requested suspension of its application. An examining attorney may suspend action on a U.S. application pending issuance of a foreign registration in a Trademark Act Section 44(d) application, or pending renewal of a foreign registration in a Section 44(e) application. TMEP §716.02(b). However, once the registration issues in a Section 44(d) application, the examining attorney will suspend the application only if the applicant establishes that it cannot obtain a copy of the foreign registration due to extraordinary circumstances (e.g., war or natural disaster). *Id.* No such circumstances were alleged in applicant's response.

Therefore, the request to suspend is denied and applicant is required to submit a true copy, a photocopy, a certification, or a certified copy of the registration in the country of origin of applicant. 15 U.S.C. §1126(e); 37 C.F.R. §2.34(a)(3)(ii). If the foreign certificate of registration is not written in English, applicant must also provide an English translation. 37 C.F.R. §2.34(a)(3)(ii); TMEP §1004.01(a)-(b). The translation should be signed by the translator. TMEP §1004.01(b).

A copy of a foreign registration must consist of a document issued to an applicant by or certified by the intellectual property office in the applicant's country of origin. TMEP §1004.01. If an applicant's country of origin does not issue registrations or Madrid Protocol certificates of extension of protection,

the applicant may submit a copy of the Madrid Protocol international registration that shows that protection of the international registration has been extended to the applicant's country of origin. TMEP §1016.

If applicant is unable to provide a copy of the foreign registration, applicant must more particularly describe the current status of the foreign application/registration, so that the examining attorney can take appropriate action. *See* 37 C.F.R. §2.61(b).

Identification of Goods:

The wording "food supplements for foodstuffs for human consumption and pharmaceutical preparations for foodstuffs for human consumption" is indefinite. Nutritional/food supplements are in International Class 5. The wording as submitted is indefinite as the nature of the goods is unclear as worded. Vitamins for manufacturing use are classified in Class 1. Is the applicant coming in for the foods stuff, those goods can be in a variety of classes. Are the food supplements and pharmaceutical preparations used in the manufacturing of an end product and therefore the goods could be in Int. class 1. The goods are unclear. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Applicant must clarify the wording "dietary supplements in the form of cosmetics" in the identification of goods in International Class(es) 3 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because dietary supplements in the form of must indicate specific form, e.g., capsules, liquid, powder, etc.}. Further, this conflated wording could identify goods in more than one international class. For example, cosmetics are in International Class 3 and dietary supplements are in International Class 5.

Applicant is advised to delete or modify the duplicate entry in the identification of goods in International Class 5 for "nutritional supplements for medical use." *See generally* TMEP §§1402.01, 1402.01(a). If applicant does not respond to this issue, be advised that the USPTO will remove duplicate entries from the identification prior to registration.

If modifying one of the duplicate entries, applicant may amend it to clarify or limit the goods, but not to broaden or expand the goods beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Also, generally, any deleted goods may not later be reinserted. TMEP §1402.07(e).

Applicant may substitute the following wording, if accurate:

International Class 5:

Biological preparations for the treatment of medical conditions {specify disease or physical condition, e.g., cancer, etc.}; Collagen for medical purposes; Dietary food supplements; Dietary supplements; Dietary supplements also containing collagen; Dietary supplements also containing mineral supplements; Dietary supplements also containing plant extracts for medicinal purposes; Dietary supplements also containing plant compounds, namely, plant extracts for medicinal purpose; Dietary supplements consisting primarily of antioxidants food supplements; Dietary and nutritional supplements; Food supplements; Food supplements for medical use; Food supplements for medical purposes; Food supplements for foodstuffs for human consumption (indefinite and misclassified); Mineral food supplements; Mineral supplements; Nutritional supplements; Nutritional supplements for medical use; Pharmaceutical preparations for {specify disease or condition to be prevented or treated or the health goal to be achieved} containing amino acids for medical

~~purposes; Pharmaceutical preparations for foodstuffs for human consumption; (indefinite and misclassified); Plant extracts for pharmaceutical purposes; Protein dietary supplements; Protein supplements; Vitamin preparations; Vitamin supplements; Vitamin and mineral preparations for medical use; Vitamin and mineral supplements; Vitamin and mineral supplements for mixing with foodstuffs, namely, with {specify purpose, e.g., dog food, cereal, yogurt, etc.} for human consumption; Vitamins and vitamin preparations; Amino acid preparations for medical purposes; Dietary supplements in the form of cosmetics of {indicate specific form, e.g., capsules, liquid, powder, etc.}; Dietary and nutritional supplements containing trace elements of {specify ingredient, e.g., nut oil, fish oil, etc.}; Dietary and nutritional supplements containing plant extracts for medicinal purposes; Health food supplements; Mineral nutritional supplements; Nutritional supplements consisting primarily of collagen; Nutritional supplements consisting primarily of amino acids for or nutritional and medical purposes; Nutritional supplements for medical use (duplicate wording).~~

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.

Recitation and Identification Amendment Advisory:

Applicant's goods and/or services may be clarified or limited, but may not be expanded beyond those originally itemized in the U.S. application or as acceptably amended. See 37 C.F.R. §2.71(a); TMEP §1402.06. 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 in or encompassed by those in the original U.S. application or as acceptably amended. 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 U.S. applications filed under Trademark Act Section 44(e), the scope of the identification for purposes of permissible amendments may not exceed the scope of the goods and/or services identified in the foreign registration. 37 C.F.R. §2.32(a)(6); *Marmark, Ltd. v. Nutrexp, S.A.*, 12 USPQ2d 1843, 1845 (TTAB 1989) (citing *In re Löwenbräu München*, 175 USPQ 178, 181 (TTAB 1972)); TMEP §§1012, 1402.01(b).

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 44:

- (1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.
- (2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the [USPTO's current fee schedule](#)). The application identifies goods and/or services that are classified in at least two classes; however, applicant submitted a fee(s) sufficient for only one class(es). Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 44 multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the [Multiple-class Application webpage](#).

Questions:

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. See TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. [Click to file a response to this nonfinal Office action.](#)

/Lourdes Ayala/
Lourdes Ayala
Trademark Examining Attorney
Law Office 106
(571) 272-9316
lourdes.ayala@uspto.gov

RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance 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.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on August 23, 2022 for
U.S. Trademark Application Serial No. 97118858

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action in order to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be **[abandoned](#)**. See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO **[website](#)**, the application process, the status of your application, and whether there are outstanding deadlines to the **[Trademark Assistance Center \(TAC\)](#)**.

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the **[Trademark Status & Document Retrieval \(TSDR\)](#)** database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. And all official USPTO correspondence will only be emailed from the domain “@uspto.gov.” Verify the correspondence originated from us by using your Serial Number in our database, **[TSDR](#)**, to confirm that it appears under the “Documents” tab, or contact the **[Trademark Assistance Center](#)**.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.