

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86222506
LAW OFFICE ASSIGNED	LAW OFFICE 119
MARK SECTION	
MARK	http://tsdr.uspto.gov/img/86222506/large
LITERAL ELEMENT	ANTI-INFLAMMATORY VAC
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>The registered mark V.A.C. owned by KCI is for a medical device namely a pump unit that promotes healing by collecting wound drainage while the BioElectronics device is a "Low frequency electromagnetic therapy apparatus." For the medical professionals to whom these products are marketed there can be no confusion between a simple vacuum pump and a shortwave radio device that promotes healing by stimulating blood flow and reducing inflammation. These are completely different categories of healing devices. Physically and operationally the products are so different there is no likelihood of confusion. BioElectronics explains: In the medical field, "Anti-Inflammatory" is not merely descriptive but defines a complete category of pharmaceuticals and devices designed to reduce inflammation. Since this product is for sale to medical professionals, not the general public it is unlikely that we would be any confusion by the purchasers.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\862\225\86222506\xml5\ ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT 16\862\225\86222506\xml5\ ROA0003.JPG
DESCRIPTION OF EVIDENCE FILE	Photos of the products under discussion showing the physical difference in the products - one is a pressure pump with tubing, the other is an electronic transmitter.
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	010
DESCRIPTION	Low frequency electromagnetic therapy apparatus
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	010
TRACKED TEXT DESCRIPTION	
Low frequency electromagnetic therapy apparatus ; Class 10: Low frequency electromagnetic therapy apparatus for reducing or suppressing inflammation	
FINAL DESCRIPTION	
Class 10: Low frequency electromagnetic therapy apparatus for reducing or suppressing inflammation	
FILING BASIS	Section 1(b)

DISCLAIMER	No claim is made to the exclusive right to use ANTI-INFLAMMATORY apart from the mark as shown.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Mary K. Whelan/
SIGNATORY'S NAME	Mary K. Whelan
SIGNATORY'S POSITION	Director
SIGNATORY'S PHONE NUMBER	973-228-8676
DATE SIGNED	01/08/2015
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Jan 08 09:21:49 EST 2015
TEAS STAMP	USPTO/ROA-XX.XXX.XX.XXX-2 0150108092149215084-86222 506-5004c6e231587b37af052 8421c64eb1bf1accb939ac669 64f5ce17c993eade266-N/A-N /A-20150108085546025858

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 07/31/2017)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **86222506** ANTI-INFLAMMATORY VAC(Standard Characters, see <http://tsdr.uspto.gov/img/86222506/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The registered mark V.A.C. owned by KCI is for a medical device namely a pump unit that promotes healing by collecting wound drainage while the BioElectronics device is a "Low frequency electromagnetic therapy apparatus.?" For the medical professionals to whom these products are marketed there can be no confusion between a simple vacuum pump and a shortwave radio device that promotes healing by stimulating blood flow and reducing inflammation. These are completely different categories of healing devices. Physically and operationally the products are so different there is no likelihood of confusion. BioElectronics explains: In the medical field, "Anti-Inflammatory" is not merely descriptive but defines a complete category of pharmaceuticals and devices designed to reduce inflammation. Since this product is for sale to medical professionals, not the general public it is unlikelyt that weould be any confusion by the purchasers.

EVIDENCE

Evidence in the nature of Photos of the products under discussion showing the physical difference in the products - one is a pressure pump with tubing, the other is an electronic transmitter. has been attached. [Evidence-1](#)
[Evidence-2](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 010 for Low frequency electromagnetic therapy apparatus

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a

bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Low frequency electromagnetic therapy apparatus~~; [Class 10: Low frequency electromagnetic therapy apparatus for reducing or suppressing inflammation](#)

Class 010 for Class 10: Low frequency electromagnetic therapy apparatus for reducing or suppressing inflammation

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use ANTI-INFLAMMATORY apart from the mark as shown.

SIGNATURE(S)

Response Signature

Signature: /Mary K. Whelan/ Date: 01/08/2015

Signatory's Name: Mary K. Whelan

Signatory's Position: Director

Signatory's Phone Number: 973-228-8676

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

Serial Number: 86222506

Internet Transmission Date: Thu Jan 08 09:21:49 EST 2015

TEAS Stamp: USPTO/ROA-XX.XXX.XX.XXX-2015010809214921

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N/A-N/A-20150108085546025858



