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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91287537
Party	Defendant AltruBio Inc.
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Submission	Motion to Amend Application
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Signature	/John C. Cain/
Date	03/21/2024
Attachments	Applicant Response to Bd Order Bioverativ with exhibits.pdf(3622060 bytes)

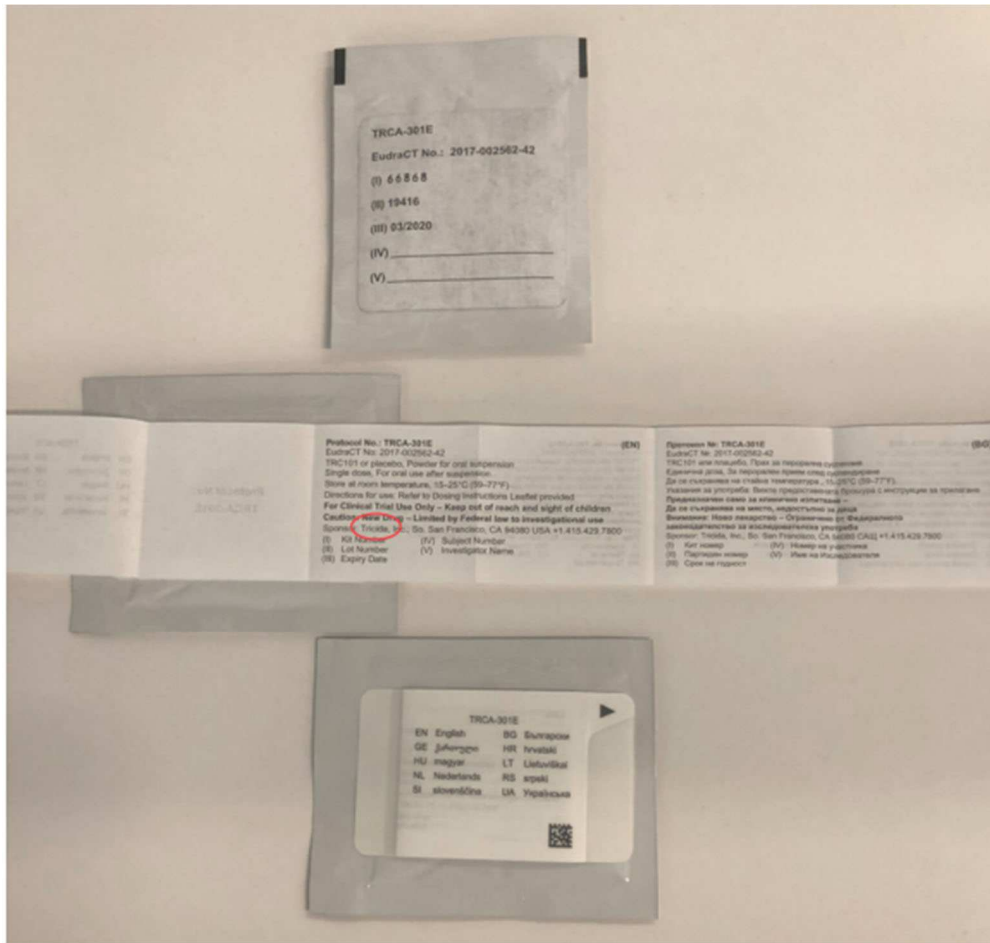
suspended the opposition proceeding for thirty days, during which time period Applicant and Opposer were invited to file a revised motion to amend.

Applicant respectfully asserts that the Proposed Amendment was in fact proper under USPTO rules and precedent. In support of this position, Applicant presents the below arguments and attaches additional evidence of house mark usage for Applicant's Mark.

**APPLICANT'S RESPONSE TO BOARD'S ORDER ON MOTION ON CONSENT TO
AMEND APPLICATION**

The USPTO will register a mark as a house mark when there is sufficient evidence of the mark being used as a house mark. TMEP 1402.03(b). This is a common practice in the pharmaceutical industry, with at least 200 marks currently registered on the Principal Register in Class 5 for pharmaceutical goods with "house mark" language in various forms. *See*, Exhibit 1. Many of these records include instances where the owner originally applied for a listing of goods in Class 5, then later amended the application to include "house mark" language. *See, e.g.*, U.S. Trademark Registration Nos. 4493244, 4615527, 5682519, 5851798, 5614467, 6253614, and 6653958 (copies of the TSDR for these registrations are attached as Exhibits 2 to 8).

Indeed, the record for U.S. Trademark Registration No. 6653958 for the mark TRICIDA by Tricida, Inc., attached as Exhibit 8, is particularly instructive in this instance. The company originally filed under Class 5 for various pharmaceutical preparations, the application as published, and a Notice of Allowance issued for these goods. *Id.* However, before a Statement of Use was filed, Tricida, Inc. entered into an agreement with a third party under which Tricida, Inc. agreed to amend the Class 5 goods to include "a house mark for" language. *See* Exhibit 9, Petition to Director for Application No. 87931649. The Petition to the Director was granted, and Tricida, Inc. later filed the below specimen with its Statement of Use, which was accepted. Exhibit 8.



These records demonstrate that this type of amendment is routinely allowed during the prosecution of an application and found to not broaden the scope of the goods or require republication of the subject application. Thus, the Proposed Amendment is proper and should be allowed in this instance.

The below specimens are currently on record with the Application, demonstrating use of the ALTRUBIO mark as a house mark on at least two of Applicant's pharmaceutical products:



Applicant respectfully asserts that these photographs demonstrate house mark usage for Applicant's Mark. However, additional evidence of Applicant's use of the ALTRUBIO mark as a house mark is attached as Exhibit 10. With this additional evidence, Applicant believes that there is sufficient evidence to show broad use of the ALTRUBIO mark as a house mark, as required under 37 C.F.R. §2.61(b).

RENEWED MOTION

Applicant therefore renews its motion, with the consent of Opposer Bioerativ Therapeutics Inc. ("Opposer"), to amend the Class 5 description of goods in the Application as originally submitted. Because the proposed amendment is in the nature of a limitation, no republication should be required, and the amendment therefore should be permissible.

The parties also jointly renew their motion to suspend the above-captioned opposition proceeding pending review by the Board of the proposed amendment to the Application. The parties further consent that upon the approval and entry of the proposed amendment to the Application, the opposition proceeding and all claims asserted therein shall be dismissed.

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