

## REMARKS

### **Section 2(D) Refusal – Likelihood of Confusion**

In the Office Action issued on February 19, 2019, the Examining Attorney refused registration of the MAV mark (U.S. Application Serial No. 87821259) in class 34 because of an alleged likelihood of confusion with the MAV mark in U.S. Registration No. 4950900.

Applicant respectfully submits that U.S. Application Serial No. 87821259 owned by MAV USA LLC and U.S. Registration No. 4950900 is owned by MAD GLASS DISTRIBUTION, LLC. Because these two entities share ownership, products marketed under these marks share the source.

Applicant submits, herewith, a consent to registration of trademark MAV provided by the owner of MAD GLASS DISTRIBUTION, LLC (also the owner of MAV USA LLC). Accordingly, Applicant respectfully request withdrawal of the Section 2(D) refusal.

### **Sections 1 And 45 Refusal – Not in Lawful Use in Commerce**

In the Office Action issued on February 19, 2019, the Examining Attorney refused registration of mark Serial No. 87821259 in class 34 because the mark is not, allegedly, in lawful use in commerce. Specifically, Office Action indicated that “because the identified goods and/or services consist of or include items or activities that are prohibited under the Controlled Substances Act, the applied-for mark, as used in connection with such goods and/or services, cannot be in lawful use in commerce”.

During a telephone conversation with Examining Attorney Robert J. Struck on March 4, 2019, Examining Attorney suggested submitting a statement that the registered mark would not be used with any goods or activities that are prohibited under the Controlled Substances Act.

Applicant respectfully submits that this Application is not directed to controlled substances. Specifically, the description of goods includes: “Tobacco; Tobacco grinders; Tobacco jars; Tobacco pipe cleaners; Tobacco pipes; Tobacco pouches; Tobacco tins; Tobacco water pipes; Tobacco, cigars and cigarettes”. Because tobacco is not a controlled substance, the registered mark would not cover any goods prohibited under the Controlled Substances Act. The requested statement is provided below.

### **STATEMENT**

Applicant, MAV USA LLC, will not use the registered trademark with any items or activities that are prohibited under the Controlled Substances Act.

Thus, Applicant respectfully request withdrawal of the sections 1 and 45 refusal.

### **CONCLUSION**

Accordingly, Applicant respectfully submits that the Application is in condition for allowance and notification to that effect is earnestly requested. The Examining Attorney is invited to telephone Applicant's representative to facilitate prosecution of this Application.