

MAGNA office action response (88/410.822)

Applicant Mafco Worldwide LLC (“Applicant”) seeks to register the mark MAGNA for “dietary and nutritional supplements” in Class 5 and “flavor masking agents” in Class 30.

The examining attorney has accepted the Class 5 identification, but has indicated that the Class 30 identification is vague and likely indicates goods in Class 1, and has suggested the following as an alternate identification:

- Class 1: *Flavor masking agents in the nature of chemical products for use in the manufacture of {specify, e.g. foods, beverages, pharmaceuticals}*
- Class 30: *Flavorings, other than essential oils, and flavor enhancers for food and beverage products*

The suggested Class 30 identification is accurate, but Applicant does not believe that the suggested Class 1 identification is accurate. Applicant notes that “chemical additives for the manufacture of food” are classified in Class 1, but the *U.S. Acceptable Identification of Goods and Services Manual* (the “ID Manual”) does not classify “flavor masking agents” or any other goods including the term “flavor” in Class 1. Other than essential oils, the ID Manual classifies all other flavorings in Class 30. Although the ID Manual does not specifically include an entry for “flavor masking agents”, those goods appear in registrations in Class 30 – for example, Virginia Dare Extract Co. Inc.’s registrations of VIRGINIA DARE (RN 3,062,392 and 3,075,770) and logo design (RN 3,081,754 and 3,075,771).

For the foregoing reasons, Applicant respectfully seeks to amend its identification of goods to read as follows, and requests that the examining attorney approve the application for publication:

- Class 30: *Flavorings (other than essential oils), flavor masking agents, and flavor enhancers, all for food and beverage*