

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86306794
LAW OFFICE ASSIGNED	LAW OFFICE 117
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86306794/large
LITERAL ELEMENT	VITALPRO
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>RESPONSE TO FINAL OFFICE ACTION This is in response to the Final Office Action dated June 3, 2015. AMENDMENT TO THE DESCRIPTION OF GOODS Applicant herewith submits its Request for Reconsideration After Final and requests that all of the goods in Class 5 be deleted. After such deletion, the Applicant is desirous that the application proceed for the following goods: "Proteins for use in the manufacture of food products and food supplements for humans and animals" in Class 1.</p> <p>LIKELIHOOD OF CONFUSION The Examiner has issued a refusal based on a likelihood of confusion with Registration Numbers 4537053, 3382774, and 2787265 pertaining to the goods in Class 5. Given that Applicant has deleted Class 5 from the application, Applicant requests that the examiner withdraw the refusal to register on that basis. REMARKS In light of the above amendment, it is believed that this application is now in condition for publication. Should the Examining Attorney have any questions which remain after consideration of the foregoing, he is encouraged to contact applicant's attorney at 1-800-445-3460. Any additional fees necessitated by this submission may be charged to Deposit Account 19-0522. Respectfully submitted, Cheryl L. Burbach Hovey Williams LLP Attorneys for Applicant</p>	
GOODS AND/OR SERVICES SECTION (001)(no change)	
GOODS AND/OR SERVICES SECTION (005)(class deleted)	
CORRESPONDENCE SECTION	
ORIGINAL ADDRESS	CHERYL L. BURBACH HOVEY WILLIAMS LLP 10801 MASTIN ST STE 1000 OVERLAND PARK

	Kansas (KS) US 66210-1697
NEW CORRESPONDENCE SECTION	
NAME	CHERYL L. BURBACH
FIRM NAME	HOVEY WILLIAMS LLP
DOCKET/REFERENCE NUMBER	46474/6492.00003
STREET	10801 MASTIN BLVD., STE 1000
CITY	OVERLAND PARK
STATE	Kansas
ZIP/POSTAL CODE	66210-1697
COUNTRY	United States
PHONE	913 647 9050
FAX	913 647 9057
EMAIL	tmdocketing.burbach@hovewilliams.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Cheryl L. Burbach/
SIGNATORY'S NAME	Cheryl L. Burbach
SIGNATORY'S POSITION	Attorney of Record, Kansas and Missouri bar member
SIGNATORY'S PHONE NUMBER	913-647-9050
DATE SIGNED	12/03/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Dec 03 14:37:15 EST 2015
TEAS STAMP	USPTO/RFR-XX.XX.XXX.XXX-2 0151203143715209201-86306 794-540dc2d6d592aaf30c2c2 739b2164c0fc6f5634752b92f 498eebfdfeca6bce41-N/A-N /A-20151203140953394466

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **86306794** VITALPRO(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86306794/large>) has been amended as follows:

ARGUMENT(S)

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

RESPONSE TO FINAL OFFICE ACTION This is in response to the Final Office Action dated June 3, 2015. AMENDMENT TO THE DESCRIPTION OF GOODS Applicant herewith submits its Request for Reconsideration After Final and requests that all of the goods in Class 5 be deleted. After such deletion, the Applicant is desirous that the application proceed for the following goods: "Proteins for use in the manufacture of food products and food supplements for humans and animals" in Class 1. LIKELIHOOD OF CONFUSION The Examiner has issued a refusal based on a likelihood of confusion with Registration Numbers 4537053, 3382774, and 2787265 pertaining to the goods in Class 5. Given that Applicant has deleted Class 5 from the application, Applicant requests that the examiner withdraw the refusal to register on that basis. REMARKS In light of the above amendment, it is believed that this application is now in condition for publication. Should the Examining Attorney have any questions which remain after consideration of the foregoing, he is encouraged to contact applicant's attorney at 1-800-445-3460. Any additional fees necessitated by this submission may be charged to Deposit Account 19-0522. Respectfully submitted, Cheryl L. Burbach Hovey Williams LLP Attorneys for Applicant

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant hereby deletes the following class of goods/services from the application.

Class 005 for Animal feed supplements; Dietary and nutritional supplements; Dietary and nutritional supplements containing bovine plasma; Food supplements for humans; Protein dietary supplements; Protein supplements; Protein supplements for animals

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current:

CHERYL L. BURBACH
HOVEY WILLIAMS LLP
10801 MASTIN ST STE 1000
OVERLAND PARK
Kansas (KS)
US
66210-1697

Proposed:

CHERYL L. BURBACH of HOVEY WILLIAMS LLP, having an address of
10801 MASTIN BLVD., STE 1000 OVERLAND PARK, Kansas 66210-1697
United States

tmdocketing.burbach@hoveywilliams.com
913 647 9050
913 647 9057
The docket/reference number is 46474/6492.00003 .

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Cheryl L. Burbach/ Date: 12/03/2015

Signatory's Name: Cheryl L. Burbach

Signatory's Position: Attorney of Record, Kansas and Missouri bar member

Signatory's Phone Number: 913-647-9050

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: CHERYL L. BURBACH
HOVEY WILLIAMS LLP
10801 MASTIN BLVD., STE 1000
OVERLAND PARK, Kansas 66210-1697

Serial Number: 86306794

Internet Transmission Date: Thu Dec 03 14:37:15 EST 2015

TEAS Stamp: USPTO/RFR-XX.XX.XXX.XXX-2015120314371520

9201-86306794-540dc2d6d592aaf30c2c2739b2

164c0fc6f5634752b92f498eebdfeca6bce41-

N/A-N/A-20151203140953394466