

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Johnson

Mailed: May 28, 2002
Opposition No. 122,793
Magna International, Inc.
v.
Tru-Tec Services, Inc.

Jyll S. Taylor, Attorney:

On April 15, 2002, applicant submitted a proposed amendment to application Serial No. 75/601,010, with opposer's consent.

By the amendment, applicant seeks to add the following to the recitation of services: "the applicant expressly excludes provision of the above services to the automotive industry."

Under 37 CFR § 2.71(b), an applicant may "clarify" an identification of goods or services that is indefinite or overly broad. In this case, although it appears that applicant, by its proposed amendment, primarily seeks to narrow its original identification to exclude a certain class of consumer, part of the identification is

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unacceptable. Specifically, the term "applicant" is not acceptable inasmuch as once the application matures into a registration, there will no longer be an "applicant" such that the language is confusing.

In view thereof, and despite opposer's consent thereto, the Board denies entry of the proposed amendment.¹

It appears that the parties are desirous of settling this matter and are accordingly allowed until THIRTY DAYS from the mailing date of this order to further negotiate towards a settlement, failing which proceedings herein will resume.

These proceedings are otherwise suspended.²

¹ The Board would be inclined to accept the following recitation, if accurate: "specialized technical inspection services, namely providing non-destructive technical inspection for assessing anomalies or other defects such as pitting, corrosion, cracking and other like damages in industrial plates, pipes and other materials, excluding the provision of the above services to the automotive industry."

² Applicant's consented motion (filed April 4, 2002) to extend its time to answer is granted and applicant motion (filed May 6, 2002) to extend is granted to the extent that applicant's time to answer will be reset if these proceedings resume.

Applicant's counsel's change of firm is noted. The proceeding records have been updated accordingly.