

**To:** Healthy Weight Partnership, Inc. ([eric@fgd-law.com](mailto:eric@fgd-law.com))  
**Subject:** U.S. Trademark Application Serial No. 90541020 - HEALTHY TOGETHER - 504.012US  
**Sent:** April 12, 2022 09:24:08 AM  
**Sent As:** ecom113@uspto.gov  
**Attachments:**

**United States Patent and Trademark Office (USPTO)  
Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 90541020

**Mark:** HEALTHY TOGETHER

**Correspondence Address:**

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**Applicant:** Healthy Weight Partnership, Inc.

**Reference/Docket No.** 504.012US

**Correspondence Email Address:**

[eric@fgd-law.com](mailto:eric@fgd-law.com)

**SUSPENSION NOTICE  
No Response Required**

**Issue date:** **April 12, 2022**

Pursuant to TMEP §716.01, applicant is advised of the following status of the application.

**In an Office Action issued on September 23, 2021, the following issues were outstanding with this application:**

- (1) Section 2(d) – Likelihood of Confusion Refusal
- (2) Potential Section 2(d) Refusal – One Pending Application
- (3) Identification Of Services Overly Broad And Indefinite – Amendment Required
- (4) Clarification Of The Number Of Classes For Which Registration Is Sought Required
- (5) Advisory – Multiple Class Application Requirements For Applications Based On Section 1(b)

**On March 17, 2022, applicant responded to the Office Action. In Response, applicant:**

- Argued against the Section 2(d) – Likelihood of Confusion Refusal; and
- Amended the identification of goods and services.

**The trademark examining attorney has thoroughly reviewed applicant's response and has determined the following:**

- (1) Applicant's arguments against the Section 2(d) Likelihood of Confusion Refusal are not persuasive and the Section 2(d) Likelihood of Confusion Refusal is *maintained and CONTINUED*;
- (2) Application Serial No. 90462052 is still pending, and action on the instant application is *suspended* pending final disposition of that application; and
- (3) Applicant's amended identification of goods and services are acceptable and made of record. Accordingly, the Identification and

Clarification of Number of Classes Requirements are *satisfied*.

**Preliminary Response to Applicant's Arguments**

Applicant argues that the cited marks are inherently weak and not entitled to broad protection. Additionally, applicant argues that there is no likelihood of confusion because of applicant's ownership of a prior registration for the same mark in Class 44 which co-exists with the cited registrations. Lastly, applicant asserts that the goods and services, as amended, are sufficiently unrelated such that confusion is unlikely.

First, marks deemed "weak" or merely descriptive are still entitled to protection under Section 2(d) against the registration by a subsequent user of a similar mark for closely related goods and services. Here, the marks share the identical wording HEALTHY TOGETHER, and are for use in connection with overlapping goods and services. In particular, the registrations use broad wording to describe "providing health information" and "healthcare" which presumably encompasses applicant's software for providing information related to the treatment of obesity. Moreover, healthcare providers often provide healthcare services and information through mobile applications and online software. Lastly, the goods and services in the prior registration are not identical to the goods and services in the instant application, and the prior registration has not co-existed for at least five years with the cited registrations. Thus, applicant's prior registration does not overcome the Section 2(d) refusal. Thus, the similarities in the marks and relatedness of the goods and services supports a finding that the compared marks are confusingly similar. Accordingly, applicant's arguments are unpersuasive to overcome the refusal and so the Section 2(d) Refusal is ***maintained and continued***.

**ACTION SUSPENDED**

**The application is suspended** for the reason specified below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The pending application below has an earlier filing date or effective filing date than applicant's application. If the mark in the application below registers, the USPTO may refuse registration of applicant's mark under Section 2(d) because of a likelihood of confusion with the registered mark(s). 15 U.S.C. §1052(d); *see* 37 C.F.R. §2.83; TMEP §1208.02(c). Action on this application is suspended until the prior-filed application below either registers or abandons. 37 C.F.R. §2.83(c). Information relevant to the application below was sent previously.

- U.S. Application Serial No. 90462052

**Suspension process.** The USPTO will periodically check this application to determine if it should remain suspended. *See* TMEP §716.04. As needed, the trademark examining attorney will issue a letter to applicant to inquire about the status of the reason for the suspension. TMEP §716.05.

**No response required.** Applicant may [file a response](#), but is not required to do so.

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**United States Patent and Trademark Office (USPTO)**

**USPTO OFFICIAL NOTICE**

Office Action (Official Letter) has issued  
on **April 12, 2022** for

**U.S. Trademark Application Serial No. 90541020**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You may be required to respond to this Office action. Follow the steps below.

- (1) **[Read the Office action.](#)** This email is NOT the Office action.
- (2) **Respond to the Office action, if a response is required.** Respond by the deadline using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

**GENERAL GUIDANCE**

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams.](#)** Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. And all official USPTO correspondence will only be emailed from the domain "@uspto.gov." Verify the correspondence originated from us by using your Serial Number in our database, [TSDR](#), to confirm that it appears under the "Documents" tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney.](#)** If you do not have an attorney and are not required to have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.