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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Haraeus Kulzer GmbH & Co. KG

Serial No. 76298884

Nathaniel D. Kramer of Kirschstein, Ottinger, Israel &  
Schiffmiller, P.C. for Haraeus Kulzer GmbH & Co. KG.

Toni Y. Hickey, Trademark Examining Attorney, Law Office  
115 (Tomas V. Vlcek, Managing Attorney).

Before Quinn, Hairston and Chapman, Administrative  
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

An application has been filed by Haraeus Kulzer GmbH &  
Co. KG (a German corporation) to register the mark shown  
below,

**CRONO**

for "dental impression materials and dental alginates."<sup>1</sup>

The trademark examining attorney has refused registration under Section 2(d) of the Trademark Act on the ground that applicant's mark, when applied to its goods, so resembles the previously registered mark KRONOS (typed drawing) for "dental instruments, namely, drills and burrs,"<sup>2</sup> as to be likely to cause confusion.

When the refusal was made final, applicant appealed. Applicant and the examining attorney have filed briefs on the case. No oral hearing was requested.

The examining attorney maintains that applicant's mark and the cited mark are confusingly similar in terms of overall commercial impression. Further, with respect to applicant's and registrant's goods, the examining attorney argues that they are closely related inasmuch as they are dental products that travel in the same channels of trade to the same purchasers, namely dentists and their assistants. In this regard, the examining attorney submitted copies of four use-based third-party registrations for marks that cover dental impression

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<sup>1</sup> Application Serial No. 76298884, filed August 14, 2001, based on an allegation of a bona fide intention to use the mark in commerce. Applicant asserted a second basis for filing, namely a right of priority under Section 44 of the Act based on a German application that eventually matured into German Registration No. 30112837.

<sup>2</sup> Registration No. 1,240,152 issued May 31, 1983; renewed.

materials, on the one hand, and dental instruments, on the other hand. Also, the examining attorney submitted a printout of a web page from the Sullivan-Schein dental supply company which shows that dental impression materials and dental instruments are among the dental products the company offers for sale.

Applicant, in urging reversal of the refusal to register, argues that its mark and the cited mark are dissimilar in their entireties and that the cited mark is weak and entitled to only a limited scope of protection. With its request for reconsideration, applicant submitted a list of third-party registrations of marks consisting of KRONOS as well as copies of nine individual third-party registrations of KRONOS marks. Further, applicant argues that the respective marks have different connotations, that is, applicant's mark is a coined term "whose spelling and design conjure up time and timepieces," whereas registrant's mark is the name of a Greek god in mythology.<sup>3</sup> (Brief, p. 3). Further, applicant argues that the respective marks differ in sound and appearance. Lastly, applicant argues that purchasers of applicant's and

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<sup>3</sup> Applicant submitted the following two excerpts from the online version of The Random House Dictionary:

*Kronos*: Cronus

*Cronus*: a Titan, son of Uranus and Gaea, who was dethroned by his son Zeus. Cf. Saturn.

registrant's goods are sophisticated, and thus are not likely to be confused.

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the likelihood of confusion factors set forth in *In re E. I. du Pont de Nemours and Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). However, as indicated in *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976), in any likelihood of confusion analysis, two key considerations are the similarity of the goods and the similarity of the marks.

With respect to the marks, when we consider the marks in their entireties, as we are obliged to do, we find that there are specific differences in the marks. In particular, applicant's mark begins with the letter "C," ends in "O" and includes a prominent cross hairs design within the first "O." The cited mark, on the other hand, begins with the letter "K" and ends in "S" and contains no design feature. This results in a mark that, when considered in its entirety, is different in overall commercial impression from applicant's mark.

In reaching our decision, we have accorded little weight to applicant's argument that the cited mark is weak and entitled to only a limited scope of protection. As

previously indicated, applicant submitted a list of third-party registrations of KRONOS marks. As the examining attorney correctly noted, a mere list of third-party registrations is insufficient to make such registrations of record. Also, applicant submitted copies of nine third-party registrations for KRONOS marks which cover goods and services in the medical and health fields. None of these third-party registrations, however, covers dental products or services.<sup>4</sup> Moreover, seven of the registrations are owned by a single entity. In short, the evidence submitted by applicant does not establish that the cited mark is weak in the dental products field.

Further, with respect to the alleged connotations of the marks, there is no evidence that a significant number of purchasers of dental products are acquainted with Greek mythology and the god Kronos such that they would associate registrant's mark with this Greek god. Also, we are not persuaded on this record that purchasers will view applicant's mark as connoting "time." Rather, we believe that purchasers would view both marks simply as coined terms.

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<sup>4</sup> For example, Registration No. 2,773,058 for the mark KRONOS COMPOUNDING PHARMACY covers retail pharmacy services; Registration No. 2,226,344 for the mark KRONOS SKINCARE covers the services of providing skin care treatments; and Registration No. 2,774,493 for the mark KRONOS cover latex condoms.

Insofar as the goods are concerned, while they are clearly commercially related in that they are dental products, there are, nonetheless, specific differences between dental drills and burrs, on the one hand, and dental impression materials and dental alginates, on the other hand. Dental drills and burrs are instruments whereas dental impression materials and dental alginates are chemical compositions. Moreover, neither applicant's nor registrant's goods are impulse products, but rather these are the kinds of goods that are marketed to and bought by sophisticated purchasers, namely, dentists and their assistants or office personnel. Such purchasers would typically be knowledgeable and discriminating consumers who would exercise care in the selection of applicant's and registrant's goods.

Based on the ex parte record before us, and in view of the cumulative differences between the involved marks and the respective goods, and the care exercised by purchasers of such goods, we find that there is no likelihood of confusion in this case.

**Decision:** The refusal to register under Section 2(d) is reversed.