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Mailed:
13 October 2006
AD

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Prestige Cosmetics

Serial No. 76614168

Request for Reconsideration

Myron Amer of Myron Amer, P.C. for Prestige Cosmetics.

Ronald E. Aikens, Trademark Examining Attorney, Law Office 103 (Michael Hamilton, Managing Attorney).

Before Hairston, Drost, and Kuhlke, Administrative Trademark Judges.

Opinion by Drost, Administrative Trademark Judge:

On June 22, 2006, the board affirmed the examining attorney's refusal to register Prestige Cosmetics' mark MULTI-TASK under Section 2(d) of the Trademark Act because of a prior registration for the mark BIOELEMENTS MULTI-TASK. 15 U.S.C. § 1052(d). Applicant now timely requests reconsideration of that decision.

Applicant has attached a copy of a Dunn & Bradstreet Report that apparently provides information about the registrant. Applicant then addresses the BIOELEMENTS part of the cited registration, which the board pointed out (slip op. at 9), "appears to be a trade name." In response to the cases cited in the opinion, applicant now argues that the "unlikelihood of this happenstance occurring, requiring that BIOELEMENTS, INC. be in the same league as HAMMERMILL [Paper Corp.], is demonstrated by the enclosed Dunn & Bradstreet Report, a public record of which it is respectfully requested that the Board take judicial notice, that as a business that not even in Chicago, would the public react to BIOELEMENTS, INC. as hypothesized by the Board." Request for Reconsideration at 1.

We decline to take judicial notice of this Dunn & Bradstreet Report on reconsideration. Furthermore, the board's point was not that the owner of the cited registration was similar in size to the owner of the registration in the Hammermill case. In re Champion International Corporation, 196 USPQ 48 (TTAB 1977). Rather, that case simply stands for the proposition that additional trade name matter in a mark does not necessarily result in no likelihood of confusion when the other elements of the marks are identical. See also Menendez v.

Holt, 128 U.S. 514, 521 (1888) (Addition of "S.O. Ryder" aggravated rather than avoided similarity); In re C.F. Hathaway Co., 190 USPQ 343 (TTAB 1976) (HATHAWAY GOLF CLASSIC for knitted sports shirts confusingly similar to GOLF CLASSIC for men's hats); and In re Apparel Ventures, Inc., 229 USPQ 225, 226 (TTAB 1986) (Board held that the mark SPARKS and design and SPARKS BY SASSAFRAS and design were similar).

Therefore, applicant's request for reconsideration is denied.