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Mailed: April 6, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Masco Cabinetry Holdings, Inc.

Serial No. 78515997

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Before Holtzman, Mermelstein and Bergsman, Administrative Trademark Judges.

Opinion by Holtzman, Administrative Trademark Judge:

An application has been filed by Masco Cabinetry Holdings, Inc. to register the mark KENTFIELD (in standard character form) for goods ultimately identified as "cabinetry, namely kitchen and bath cabinets" in Class 20.<sup>1</sup>

The trademark examining attorney has refused registration under Section 2(d) of the Trademark Act on the ground that

<sup>1</sup> Serial No. 78515997, filed November 12, 2004, based on an allegation of a bona fide intention to use the mark in commerce.

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applicant's mark, when applied to applicant's goods, so resembles the registered mark KENTFIELD (in typed form) for "wood doors" in Class 19, as to be likely to cause confusion.<sup>2</sup>

When the refusal was made final, applicant appealed. Briefs have been filed.

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue. In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any likelihood of confusion analysis, however, two key considerations are the similarities or dissimilarities between the marks and the similarities or dissimilarities between the goods. See Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24 (CCPA 1976).

Applicant's mark KENTFIELD is identical to the mark in the cited registration. The fact that the respective marks are identical "weighs heavily against applicant." In re Martin's Famous Pastry Shoppe, Inc., 748 F.2d 1565, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

We note that when marks are identical it is only necessary that there be a viable relationship between the goods in order to support a holding of likelihood of confusion. See In re

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<sup>2</sup> Registration No. 2098197; issued September 16, 1997; Sections 8 and 15 affidavit accepted and acknowledged.

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Concordia International Forwarding Corp., 222 USPQ 355 (TTAB 1983). Here, however, there is more than a viable relationship between the respective goods. Applicant's goods are kitchen and bath cabinets. Registrant's goods are "wood doors." Applicant characterizes registrant's "wood doors" as "entry" doors and maintains that these doors are "different" from kitchen and bath cabinets. However, because there is no restriction in the identification of goods, we must assume that the identification "wood doors" encompasses wood doors of all types including wood cabinetry doors. See *J & J Snack Foods Corp. v. McDonald's Corp.*, 932 F.2d 1460, 18 USPQ2d 1889 (Fed. Cir. 1991); and *Octocom Systems Inc. v. Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990) (registrability is based on the identification of goods "regardless of what the record may reveal as to as to the particular nature of an applicant's goods...").<sup>3</sup>

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<sup>3</sup> It is not clear whether applicant's contention that registrant's goods are entry doors was made on the basis of actual knowledge about the nature of registrant's goods, or because of the class assigned to registrant's goods. Either way, the argument fails because the goods, as identified, are not limited to a particular type of door. With regard to classification, we note that registrant's goods are in Class 19 ("non-metallic building materials") whereas applicant's goods have been classified in Class 20 ("furniture and articles not otherwise classified"). However, "it is well recognized that the system of dividing goods into classes is purely a manner of convenience and that a determination on the question of likelihood of confusion cannot be restricted by the artificial boundary created by classification." In *re Vic Boff Health and Fitness Aides, Inc.*, 189 USPQ 357, 358 (TTAB 1975). Furthermore, the classification of goods can change. See *In re*

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Applicant's kitchen and bathroom cabinets and registrant's cabinet doors are by their nature inherently related goods. Cabinet doors may be purchased as replacement parts for existing kitchen and bathroom cabinet units. Even if we assume that registrant's goods are entry doors, which as applicant points out are specifically different from cabinets, the two types of products are nevertheless related and complementary in the sense that both products could be purchased as part of the same home improvement or remodeling project. See *Recot Inc. v. M.C. Becton*, 214 F.3d 1332, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (although products may be distinctly different in kind, "the same goods can be related in the mind of the consuming public as to the origin of the goods. It is this sense of relatedness that matters in the likelihood of confusion analysis"). In addition, the examining attorney has submitted several use-based, third-party registrations showing, in each instance, a mark which is registered for cabinets on the one hand, as well as doors or cabinet doors on the other. For example, Registration No. 2572416 for the mark BUILD YOUR OWN FURNITURE SYSTEMS lists "cabinets" and "doors for furniture"; Registration No. 2993165 for the mark PENTCO lists "kitchen cabinet doors" and "cabinets"; Registration No. 2801808 for the mark SCIC lists "kitchen

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*Kayser-Roth Corp.*, 29 USPQ2d 1379, 1382 (TTAB 1993) ("the Office classification system is not static").

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cabinets" and "kitchen doors"; Registration No. 2888691 for the mark BERTCH lists "non-metallic doors" and "kitchen cabinets, bathroom cabinets"; and Registration No. 2915299 for the mark ARCHITECTURAL TRADITIONS covers the custom manufacture of both doors and cabinets. These third-party registrations, although not evidence of use of the marks in commerce, serve to suggest that the respective goods are of a type which may emanate from the same source. See *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783 (TTAB 1993) and *In re Mucky Duck Mustard Co. Inc.*, 6 USPQ2d 1467 (TTAB 1988). It can also be seen from this evidence that cabinet doors are available as separate components, apart from the cabinet itself.

Applicant's arguments concerning the different production requirements for the respective products and the different machinery used to manufacture the products are unsupported, and in any event, unpersuasive. To the extent that there are any such differences, consumers would not be expected to know about them, or for that matter care about them. Applicant's arguments regarding the asserted differences in time and expense involved in remodeling or replacing kitchen and bathroom cabinets as opposed to replacing a door are similarly unsupported and unpersuasive. These considerations, assuming they are true, may affect a consumer's decision about whether or when to purchase the products, or the decision to buy one product over the other,

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but they would not necessarily affect a consumer's perception that the two products are related. See *Recot Inc. v. M.C. Becton*, supra.

Furthermore, absent any restriction in the application or registration, we must presume that the goods move through all the normal trade channels and that they are sold to all the usual purchasers. See *Octocom Systems Inc. v. Houston Computers Services Inc.*, supra. The normal channels of trade for cabinetry and doors, whether entry doors or cabinet doors, include home improvement stores or similar types of retail outlets. The normal purchasers of such goods would include ordinary consumers such as homeowners and do-it-yourself remodelers. We note that the examining attorney has submitted several third-party registrations showing marks that have been registered for retail stores or other retail outlets that sell both cabinets as well as doors or cabinet doors. See, for example, Registration No. 22760245 for the mark ESW ENCLOSURE SYSTEMS WORLDWIDE (cabinets and cabinet doors); Registration No. 2968672 for the mark REJUVE (cabinets and doors); and Registration No. 2964169 FINDING THE PRODUCT IS SIMPLE, IT'S OUR SERVICE THAT MAKES THE DIFFERENCE! (cabinets and doors).

Applicant's contention that cabinets and doors are sold in different "venues or departments" of the stores, even if true, is not significant. Both types of products might very well be

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encountered by the same purchasers in the same retail outlets, regardless of the specific location of each product in a particular store. Furthermore, the products may not even be purchased at the same time. Consumers who had previously purchased applicant's KENTFIELD kitchen or bathroom cabinets may later decide to replace a door to the cabinet, or an entry door to the room. Those same consumers, who then encounter registrant's cabinet doors or entry doors, under the identical KENTFIELD mark, regardless of where or when they found them in the store, are likely to believe the doors come from or are in some way connected with the same company that produced the cabinets.

It is reasonable to assume that an entry door or cabinet door is not an impulse purchase, as applicant claims, but instead that the purchase of both applicant's and registrant's types of products would involve a certain amount of time and expense. It is also reasonable to assume that the purchasers of cabinets and doors would to some extent be knowledgeable about such products and would exercise some degree of care in their purchasing decisions. However, even knowledgeable and careful purchasers of more expensive goods can be confused as to source under circumstances where, as here, identical marks are used on closely related goods. See *In re Research Trading Corp.*, 793 F.2d 1276, 230 USPQ 49, 50 (Fed. Cir. 1986) citing *Carlisle Chemical*

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Works, Inc. v. Hardman & Holden Ltd., 434 F.2d 1403, 168 USPQ 110, 112 (CCPA 1970) ("Human memories even of discriminating purchasers...are not infallible.").

In view of the foregoing, and because identical marks are used in connection with closely related goods, we find that confusion is likely.

**Decision:** The refusal to register under Section 2(d) of the Trademark Act is affirmed.