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OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77240514
LAW OFFICE ASSIGNED	LAW OFFICE 114
MARK SECTION (no change)	
ARGUMENT(S)	

Likelihood of Confusion

The Examining Attorney has preliminarily refused registration of Applicant's mark under Trademark Act Section

2(d), 15 U.S.C. Section 1052(d), because of a potential for confusion with U.S. Registration Nos. 2,096,499

and 2,910,354 (Prior Registered Marks) due to (1) similarities between the marks and (2) the related nature of

the goods. Applicant respectfully disagrees and requests withdrawal and reconsideration of the refusal.

Applicant's mark is dissimilar from Prior Registered Marks

The marks in question differ significantly in sight, sound, and overall commercial impression. The Prior

Registered Marks consists of the single term CHASE, which immediately conveys a different commercial

impression than Applicant's C. CHASE mark. The Trademark Manual of Examining Procedure ("TMEP")

§ 1213.05(e) indicates that the wording of a mark, because of the sound patterns created by the combination of

the wording, can create a unitary expression, separate and apart from the individual components of the mark.

Here, Applicant submits that its C. CHASE mark creates a distinctive commercial impression due, in part, to its

use of alliteration and the individual terms. Applicant submits that consumers thus recognize the entire mark —

and not merely one word of it — as the source-identifier.

The Examining Attorney has disregarded the distinctive matter in Applicant's mark, and the impact of that matter

on the overall commercial impression it presents to the public. The addition of the term "C." to Applicant's mark

creates a wholly different sound, appearance, commercial impression, and mental reaction within the consuming

public than CHASE alone. Champagne Louis Roederer S.A. v. Delicato Vineyards 148 F.3d 1373 (Fed. Cir.

1998) (the marks "evoked very different images in the minds of relevant consumers": while CRISTAL suggests

the clarity of the wine in the bottle or the glass of the bottle, CRYSTAL CREEK suggests a clear, remote

stream). Similarly, in this instance, Applicant's C. CHASE mark will also induce imagery that is very dissimilar

than the Prior Registered Marks.

It is a fundamental rule that the Examining Attorney must consider the marks in their entireties when determining

whether a likelihood of confusion exists. Franklin Mint Corp. v. Master Manufacturing Co., 667 F.2d 1005,

1007, 212 USPQ 233 (CCPA 1981) ("It is axiomatic that a mark should not be dissected and considered

piecemeal; rather it must be considered as a whole in determining likelihood of confusion."); Massey Junior

College, Inc. v. Fashion Institute of Technology, 492 F.2d 1399, 181 USPQ 272 (CCPA 1974). Additionally,

one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight

must be given to that dominant feature in determining whether there is a likelihood of confusion. *In re National*

Data Corp., 224 USPQ 749 (Fed. Cir. 1985); Tektronix, Inc. v. Daktronics, Inc., 534 F.2d 915, 189 USPQ

693 (CCPA 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). Applying this standard, it is

clear that Applicant's C. CHASE mark is distinct from the Prior Registered Marks. When compared, the marks

create uniquely different commercial impressions.

The Trademark Office must consider and focus on the differences in the marks when assessing likelihood of

confusion. In this instance, the presence of the additional word in Applicant's mark, in contrast to the Prior

Registered Marks (comprised of a single term) must not be dismissed. As discussed above, Applicant's mark

creates a unique commercial impression, distinct from the Prior Registered Marks, such that consumers are not

likely to be confused as the source of the parties' respective goods.

"CHASE" widely used for similar goods

A review of the Principal Register discloses numerous, coexisting registrations which incorporate the term

"CHASE" for goods in Class 28. From the evidence below, it is clear the Trademark Office holds that the

goods are sufficiently distinct for coexistence to occur *without* the potential for confusion (registrations

attached). Likewise, Applicant sees their placement on the Register as warranted. Third-party registrations can

be used as evidence of the registrability of a mark where they are submitted to show "that differences in other

portions of the marks may be sufficient to render the marks as a whole distinguishable." Spoons Restaurants Inc.

v. Morrison Inc., 23 USPQ2d 1735, 1740 (TTAB 1991).

MARK	GOODS	SER./REG. NO.
CHASE H.Q.	video output game machines and printed circuit boards thereof	1548466
CHASE-IT	Dog exerciser toy	3230596
CHASER	paintball guns, and accessories therefor in the nature of barrels, grip frames, frame covers, grips, expansion chambers, sight rails, trigger assemblies and barrel plugs	77430018

As indicated by the above list of marks, the use of the term "CHASE" in connection with toys and playthings is

relatively commonplace. Thus, the consuming public is conditioned to focus on the differences in the marks, as

well as the specific goods, rather than the similarities, and thus discern that the goods come from different

sources. Moreover, none of the above-cited marks have apparently been opposed or canceled by any other

party, despite the fact that each of these marks adopts the term "CHASE" and are used in connection with goods

in the same class. *In re Hamilton Bank*, 222 USPQ 174 (TTAB 1984) (no likelihood of confusion found

between KEY for banking services and other marks for banking containing the word "Key"; common word

"Key" is weak as widely used in the financial field and suggestive of a desirable quality of banking).

Thus, given that these marks have been allowed to coexist, Applicant's mark should be allowed to register,

particularly as it is dissimilar in appearance from the Prior Registered Marks and any of other registration or

application.

In sum, Applicant submits that the marks are not alike in sound, appearance, meaning or commercial impression,

and consumers would not mistakenly believe Applicant's C. CHASE goods emanate from the same source as

those sold under the Prior Registered Marks. Accordingly, Applicant submits that the Examining Attorney should

reconsider and withdraw the refusal under Section 2(d).	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	http://tgate/PDF/RFR/2008/11/19/20081119151450330641-77240514-001_001/evi_65246216100-151103981_._PTO_RECORDS_for_C._CHASE_CLASS_28.pdf
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT4\IMAGEOUT4\772\405\77240514\xml1\RFR0002.JPG
	\\TICRS\EXPORT4\IMAGEOUT4\772\405\77240514\xml1\RFR0003.JPG
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GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	028
DESCRIPTION	Toys and playthings of all types
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
STANDARD CHARACTERS OR EQUIVALENT	NO
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	028
DESCRIPTION	
Toys and playthings, namely, dolls, plush toys, toy cars, puzzles, arts and crafts, toys, games	
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Jonathan D. Reichman/
SIGNATORY'S NAME	Jonathan D. Reichman, Esq.

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