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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78538396
Applicant	Retriever Brands LLC
Applied for Mark	LITTON
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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In re Retriever Brands LLC, )  
Serial No.: 78538396 )  
Mark: LITTON )  
Appeal Filed: November 30, 2006 )

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## I. INTRODUCTION

Applicant appealed from the Examining Attorney's refusal to register the mark LITTON of Application No. 78/538,396 for use with "household appliances, namely, microwave ovens for cooking, electric toasters, electric coffee makers" in Class 11, on the grounds that the mark is primarily merely a surname under Section 2(e)(4) of the Trademark Act of 1946 (as amended), 15 U.S.C. § 1052(e)(4). The LITTON mark, when used with the goods of the present application, would not be perceived by consumers as *primarily* merely a surname given the rarity of LITTON as a surname and the notoriety of the LITTON when used in connection with electronic kitchen appliances, and particularly microwave ovens. Accordingly, the Examining Attorney's refusal to register the LITTON mark should be reversed.

Applicant alternatively amended its application to the Supplemental Register in the event that the Examining Attorney, and now the Board, does not conclude the LITTON mark is entitled to registration on the Principal Register. The Examining Attorney did not assert the mark is incapable identifying and distinguishing Applicant's goods. Accordingly, in the event the Board does not reverse the Examining Attorney's refusal to register the LITTON mark on the Principal Register, the Board should remand the matter to the Examining Attorney for implementation of the alternative amendment of the application to the Supplemental Register.

## II. FACTS

Applicant Retriever Brands LLC applied for registration of the LITTON mark on the Principal Register on December 26, 2004 for "Electronic equipment and accessories, namely, cables; surge protectors; extension cords. Household appliances, namely,

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