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Subject: U.S. TRADEMARK APPLICATION NO. 79087045 - GLYDE - 1050-068.001
- EXAMINER BRIEF

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

APPLICATION SERIAL NO. 79087045

MARK: GLYDE



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GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

TTAB INFORMATION:

<http://www.uspto.gov/web/offices/dcom/ttab/index.html>

APPLICANT: Parnell Technologies Pty Ltd

CORRESPONDENT'S REFERENCE/DOCKET NO:

1050-068.001

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EXAMINING ATTORNEY'S APPEAL BRIEF

INTERNATIONAL REGISTRATION NO. 1050296

Applicant Parnell Technologies Pty Ltd, has appealed the trademark examining attorney's final refusal to register the trademark GLYDE for "veterinary preparations and pharmaceuticals, namely, preparations for horses and dogs that sustain cartilage synthesis and reduce inflammation, none of the aforementioned being lubricant; veterinary foods which have a health giving property, namely, preparations for horses and dogs that sustain cartilage synthesis and reduce inflammation" on the grounds that the mark, under section 2(d), 15 U.S.C. Section 1052(d), is likely to be confused with the mark GLIDE PHARMA, U.S. Registration No. 3779916.

FACTS

On 10/07/2010 the applicant filed an application to register the trademark GLYDE for veterinary preparations, pharmaceuticals, none of the aforementioned being lubricant; veterinary foods which have a health giving property.

On December 14, 2010 the trademark examining attorney refused the application in question under Trademark Act Section 2(d) based on a likelihood of confusion with the mark GLIDE PHARMA, U.S. Registration No. 3779916 for “pharmaceutical and veterinary preparations and substances for the diagnosis of, treatment of or protection against infectious diseases, pain, inflammation and obesity; pharmaceutical and veterinary preparations and substances for the diagnosis of, treatment of or protection against viral, metabolic, musculoskeletal, central nervous system, endocrinological, immunological, oncological, neurological, hormonal, dermatological and psychiatric related diseases and disorders; pharmaceutical and veterinary preparations and substances for skin and tissue repair; prophylactic pharmaceutical and veterinary preparations and substances; vaccines, prophylactic vaccines, therapeutic vaccines; contraceptive preparations and substances; all the aforesaid being in solid dosage form, for needleless medical device for delivering pharmaceuticals in solid doses under the skin; needleless drug delivery devices; biological sampling apparatus including fluid and tissue collectors and samplers, and parts and fittings therefor; actuator devices for use in drug delivery devices; drug cassettes for use in drug delivery devices to contain pharmaceutical preparations and substances for therapeutic, prophylactic and diagnostic use all being in the form of solid doses; parts and fittings for all the aforesaid goods. And for services in

the design, development and formulation of pharmaceuticals into a solid dosage format; research and development services in relation to the delivery of pharmaceuticals in a solid dosage format.” The examining attorney also cited pending Application Serial No. 77580907 and requested that the applicant amend its identification of goods to read with greater specificity.

On June 15, 2011, the applicant responded to the examining attorney’s non-final action arguing against a likelihood of confusion refusal. At the same time the applicant amended its identification of goods to read as follows: “Veterinary preparations and pharmaceuticals, namely, preparations for horses and dogs that sustain cartilage synthesis and reduce inflammation, none of the aforementioned being lubricant; veterinary foods which have a health giving property, namely, preparations for horses and dogs that sustain cartilage synthesis and reduce inflammation.”

On July 07, 2011 the application was suspended pending the outcome of Application Serial No. 77580907 and the 2(d) refusal based on U.S. Registration No. 3779916.

On January 27, 2012 the examining attorney withdrew from consideration application serial no. 7580907 and continued and made FINAL the section 2(d) refusal based of U.S. Registration No. 3779916.

On July 20, 2012 the applicant submitted a request for reconsideration to the examining attorney's office action dated January 27/2012 arguing against the likelihood of confusion.

On 08/09/2012 the examining attorney mailed a notice denying applicant's request for reconsideration. The appeal follows the trademarks examining attorney's final refusal under Trademark Act Section 2(d) and the denial of applicant's request for reconsideration.

ISSUE ON APPEAL

The only issue on appeal is whether there is a likelihood of confusion of the proposed mark GLYDE with the mark GLYDE PHARMA in U.S. Registration No. 3779916.

ARGUMENT

THE MARKS OF APPLICANT AND REGISTRANT ARE SUFFICIENTLY SIMILAR AND THE GOODS ARE IN PART IDENTICAL AND OTHERWISE CLOSELY

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