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

Proceeding	79142478
Applicant	iRezQ AB
Applied for Mark	IREZQ
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re iRezQ AB,

Applicant

Application Serial No. 79142478

APPLICANT'S EX PARTE
APPEAL BRIEF

I. INTRODUCTION

Applicant iRezQ AB ("applicant") hereby appeals the decision of the Trademark Office refusing registration of its trademark, IREZQ.

TABLE OF AUTHORITIES

	<u>Page</u>
FEDERAL CASES	
<i>Association of Co-Operative Members, Inc. v. Farmland Industries, Inc.</i> , 684 F.2d 1134 (5th Cir. 1982)	6
<i>CBS, Inc. v. Morrow</i> , 708 F.2d 1579 (Fed. Cir. 1983)	7
<i>Giant Food, Inc. v. Nation's Foodservice, Inc.</i> , 710 F.2d 1565 (Fed. Cir. 1983).....	7
<i>In re Computer Communications, Inc.</i> , 485 F.2d 1392 (CCPA 1973)	6
<i>In re Elbaum</i> , 211 U.S.P.Q. 639 (T.T.A.B. 1981)	5
<i>In re Viterra Inc.</i> , 671 F.3d 1358 (Fed. Cir. 2012)	7
OTHER	
3 J. Thomas McCarthy, <i>McCarthy on Trademarks and Unfair Competition</i> , § 23:47 (4 th ed. 2006).....	6
Richard L. Kirkpatrick, <i>Likelihood of Confusion In Trademark Law</i> , § 4:9.2 (2006)	6

II. APPLICANT'S MARK

Applicant has applied to register the mark IREZQ for “Computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for use in the fields of safety, and prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, and prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors” in International Class 9.

III. THE EXAMINING ATTORNEY'S REFUSAL

The Examining Attorney refuses registration under Section 2(d) of the Trademark Act on the basis of a likelihood of confusion with the mark IREZ and Design in U.S. Registration No. 3526573 as shown below for “Video cameras; Webcams; Computer programs for driving, operating and interfacing video cameras with computers; Computer peripherals.”



IV. Marks Themselves Are Not Sufficiently Similar to Find a Likelihood of Confusion

Applicant’s mark is the five-letter word, IREZQ. The registered mark is the four-letter word IREZ. The registered mark has two syllables (“i-rez”) while applicant’s mark has three (“i-rez-q”). Overall, the marks do not look alike or sound alike due to the presence of the letter Q in the applicant’s mark.

During prosecution, applicant presented quantitative evidence of the relative rareness of marks having word(s) ending with the letter Q. Specifically, applicant submitted the results of a TESS search for live applications/registrations for marks containing words ending in Q which have goods in class 9. The search returned 1395 live marks (see Exhibit A to 8/25/14 Response to Office Action). To compare the relative frequency of marks in class 9 having word(s) that end in Q with marks in class 9 that end in other letters, we conducted searches for a sampling of marks ending in other letters. For this sample, we chose the first five letters of the alphabet, A, B, C, D and E, and the letter Z because it also appeared to be a less-commonly used last letter. These searches returned the following:

Last Letter of Word(s) in Mark	Number of Marks Returned	Comparison with Number of Marks Returned With Word(s) Ending in Q	Exhibit Number in Response to Office Action
A	21053	15.09 There are 1509% more marks that end in A than there are marks that end in Q.	Exhibit B
B	3825	2.74 There are 274% more marks that end in B than there are marks that end in Q.	Exhibit C

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