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

Proceeding	85074999
Applicant	Pedifix, Inc.
Applied for Mark	DEXTERITY
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In Re: Trademark Application of Pedifix, Inc.
Ser. No.: 85-074,999
Filing Dt.: June 30, 2010
Trademark: DEXTERITY
TM Atty.: Sara N. Benjamin, Law Office 110

BRIEF ON APPEAL

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STATEMENT OF THE CASE

Applicant, Pedifix, Inc. has appealed the refusal to register its mark DEXTERITY BY PEDIFIX. Said refusal was made under Section 2(d) of the Trademark Act. It is the Examining Attorney's position that the use of the mark DEXTERITY BY PEDIFIX by applicant on its goods is likely to cause confusion as to source with the use of the marks of cited Registration Nos. 3,994,623 for the mark DEXTERITY and 4,273,785 for DEXTERITE on said registrants' goods.

In the final refusal issued on September 17, 2013, the Examining Attorney reiterated her previous refusals under Section 2(d) and objected to the identification of goods. When applicant filed its Notice of Appeal, it included an amended identification of goods which reads as follows:

Silicone gel sheeting for the treatment of scars; support bandages, namely, wearable pads for the hands for use in cushioning and protecting the metacarpal heads and to protect the thumb and other digits from forceful trauma, pressure, shock and shear; support bandages used to cushion the base of the thumb and reduce tenderness over palmar incisions, finger support bandages, finger guards for medical purposes; exercise articles for rehabilitation and therapeutic purposes, namely, polymer gel spheres for muscular rehabilitation; pads for preventing pressure sores; compression sleeve for treating swelling and circulatory disorders, anti-inflammatory gel pad for treating sports injuries and tissue trauma; gel-based joint protector sleeves for the hands, thumb and wrists for medical purposes; carpal tunnel relief sleeves, terrycloth gloves and mittens with gel inserts for use in heat therapy for the hands

The Board treated this as a Request for Reconsideration and returned the file to the Examining Attorney for further action. She, in turn, denied the Request for Consideration, repeating her rejection under Section 2(d). Inasmuch as no comment was made with respect to the newly submitted identification of goods, it is believed that it has been accepted and, in fact, applicant's

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