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

Proceeding	85075017
Applicant	Pedifix, Inc.
Applied for Mark	DEXTERITY BY PEDIFIX
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In Re: Trademark Application of Pedifix, Inc.
Ser. No.: 85-075,017
Filing Dt.: June 30, 2010
Trademark: DEXTERITY BY PEDIFIX
TM Atty.: Sara N. Benjamin, Law Office 110

BRIEF ON APPEAL

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TABLE OF CONTENTS

	<u>Page</u>
STATEMENT OF THE CASE	4
ISSUE	5
ARGUMENT	6
<u>Point 1</u> - Comparison of Applicant's Goods as listed to Those of Reg. No. 4,273,785 - DEXTERITE	6
<u>Point 2</u> - Comparison of Applicant's Goods as listed to Those of Reg. No. 3,994,623 - DEXTERITY	8
<u>Point 3</u> - The Applicable Law Supports Applicant's Position that Confusion is Not Likely	9
<u>Point 4</u> - All Three Marks Involved in This Case Have a Suggestive Aspect	11
<u>Point 5</u> - The Inclusion of the Phrase "BY PEDIFIX" Does Not Add to the Likelihood of Confusion	11
CONCLUSION	12
Appendix A	

TABLE OF CASES

	<u>Page</u>
<u>Astra Pharmaceutical Products, Inc. v. Beckman Instruments, Inc.,</u> 718 F.2d 1201, 110 USPQ 786 (1 st Cir. 1983)	7
<u>Bongrain International (American) Corp. v. Delice de France, Inc.,</u> 811 F.2d 1479, 1 USPQ2d 1775, 1779 (Fed. Cir. 1987)	9
<u>Electronic Design and Sales Inc. v. Electronic Data Systems,</u> 954 F.2d 713, 21 USPQ2d 1388, 1392-93 (Fed. Cir. 1992)	9
<u>General Electric Company v. Graham Magnetics Corporation,</u> 197 USPQ 690 (TTAB 1997)	10
<u>Harvey Hubbell Incorporated v. Tokyo Seimitsu Co., Ltd.</u> 188 USPQ 517 (TTAB 197)	10
<u>In re Cotter,</u> 179 USPQ 828 (TTAB 1973)	10
<u>In re Dennison Mfg. Co.,</u> 229 USPQ 141, 144 (TTAB 1986)	11
<u>In re E.I. duPont de Nemours & Co.,</u> 476 F.2d 1357, 177 USPQ 563 (CCPA 1973)	10
<u>Key West Fragrance & Cosmetic Factory, Inc. v. Mennen Co.,</u> 216 USPQ 168, 170 (TTAB 1982)	11

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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