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

Ex parte appeal no.	87448330
Appellant	CGTN C.V.
Applied for mark	AGE IQ
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Submission	Appeal brief
Attachments	Appeal Brief - AGE IQ - 638095-3051.pdf(1260779 bytes) Exhibit 1.pdf(182404 bytes) Exhibit 2.pdf(144365 bytes) Exhibit 3.pdf(1371879 bytes) Exhibit 4.pdf(1862253 bytes)
Appealed class	Class 005. First Use: Sep 25, 2017 First Use In Commerce: May 15, 2018 All goods and services in the class are appealed, namely: Cosmetic products, namely, medicated skin care preparations, namely, skin creams, facial creams, night creams, anti-aging creams, anti-wrinkle creams; medicated skin moisturizers, medicated skin emollients; medicated face and body lotions for distribution through independent sales representatives
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Date	03/21/2022

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

In re Application of: CGTN C.V.
Serial Number: 87/448330
International Class: 5
Filed: May 12, 2017
Examining Attorney: Tasneem Hussain
Examining Attorney
Law Office 118
Mark: AGE IQ

APPLICANT'S *EX PARTE* APPEAL BRIEF

Filed Via ESTTA

Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Respectfully submitted,

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TABLE OF AUTHORITIES

15 U.S.C. 1051..... 1
In Re Int'l Salt Co., 166 U.S.P.Q. (BNA) ¶ 215 (T.T.A.B. June 11, 1970) 2
Jean Patou, Inc. v. Theon, Inc., 9 F.3d 971, 975 (Fed. Cir. 1993). 3

I. INTRODUCTION

Pursuant to its Notice of Appeal filed December 4, 2019, CGTN C.V., (“*Applicant*”) has appealed the Trademark Examining Attorney’s refusal to register Applicant’s trademark “AGE IQ” (the “*Mark*”) for “*cosmetic products, namely, medicated skin care preparations, namely, skin creams, facial creams, night creams, anti-aging creams, anti-wrinkle creams; medicated skin moisturizers, medicated skin emollients; medicated face and body lotions for distribution through independent sales representatives*” under Trademark Act Section 1, 15 U.S.C. 1051 (use of the mark in interstate commerce).

II. FACTS

In the initial Office Action dated November 26, 2018, and the second Office Action dated June 4, 2019 (made final), the Examining Attorney has refused registration of the Mark on the basis of Section 1 (use of the mark in interstate commerce). Applicant argued in its Response to Office Action dated May 28, 2019 and its Request for Reconsideration After Final dated December 4, 2019, that the specimens submitted does show use of the mark in commerce in connection with the applied-for goods and should be accepted. Thus, Applicant has been forced to appeal the Examiner’s refusals.

III. ISSUE

The issue in this appeal is whether Applicant's specimen shows the use of the Mark in interstate commerce in connection with Class 5. The answer is yes, Applicant's specimen¹ does show use of the mark in interstate commerce in connection with Class 5.

Based on the arguments and evidence of record, the Trademark Act, and the reasons presented herein, Applicant submits that the refusal to register under Section 1 is improper, as Applicant's specimen is proper. Therefore, Applicant respectfully requests that the final refusal of the Examining Attorney be reversed.

IV. ARGUMENT

a. *The Same Specimen May Be Used in Multiple Classes*

The same specimen may be used for goods that may be categorized in different classes. *In Re Int'l Salt Co.*, 166 U.S.P.Q. (BNA) ¶ 215 (T.T.A.B. June 11, 1970) (“the owner of a trademark has a right to register the trademark for a particular product in a plurality of classes covering the different purposes or uses of the article that happen to fall within two or more classification classes instead of the usual single class”); see also, TMEP § 904.01 (if a single specimen supports multiple classes, the applicant should indicate which classes are supported by the specimen). In support of the Examiner's position, the Examiner cites the inconsequential fact that the Applicant submitted the same specimen, for the same mark, in a co-pending application for Class 3 goods.

The Federal Circuit has previously held that a specimen can support classification for both Class 3 and Class 5. *Jean Patou, Inc. v. Theon, Inc.*, 9 F.3d 971, 975 (Fed. Cir. 1993).

¹ Applicant's submitted specimens are attached hereto as Exhibit 1.

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