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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Richard Ferris

Trademark: TEE-MAIL

Serial No: 75-589448

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05-11-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

A MATTER ON APPEAL
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

APPELLANT'S REPLY TO THE APPEAL BRIEF OF THE EXAMINING ATTORNEY

Refutation of ARGUMENTS in the Appeal Brief of the Examining Attorney

In re Universal Oil Products Co., (tee-mail is nowhere described nor identified as the product marketed in the specimen); In re A La Vieille Russie, Inc., (tee-mail is not inconspicuous on the web site/specimen; comprises the domain name web site/specimen address and is the e-mail to which prospective customers are directed. In short tee-mail is not " informational matter" but a marketing vehicle for a new and proprietary golf product); In re Moody's Investor Services Inc., (tee-mail is a marketing instrument for golf products not its online distributorship); In re McDonalds Corp., (tee-mail is prominent on the site/specimen as the entity introducing *to the market* (" Tee-Mail introduces") a new golf grip, the only product on the site); In re Signal Companies, Inc., (this reference is not applicable to the instant matter as tee-mail is prominent in

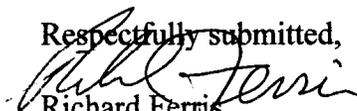
introducing a new product to the public and is incorporated into the name of the web site itself); In re Republic of Austria Spanische Reitschule , (again, not applicable; specimen (web site) indicates that tee-mail is the entity “introducing” information about a new golf product, further the public is encouraged to contact tee-mail as the source for more information not addressed in the web site); Intermed Communications, Inc., (no relevance to instant matter as tee-mail is the service mark on an online distributorship marketing golf products); In Restonic Corp., (again not relevant as tee-mail is identifiable as an online distributorship by its marketing actions and by its web site domain name); In re Reichhold Chemicals, Inc., (dissimilar to the instant matter as tee-mail shows use of service mark for online distributorship by marketing a product online and has no other function); In re Adair, (different from tee-mail as tee-mail has not failed to show itself as an online distributorship marketing a new golf product); In re Johnson Controls, Inc., (again, unlike the actions of tee-mail as it appears in the web site/specimen functioning only as a marketing entity for a golf product); In re Duratech Industries, Inc., (again, the specimen shows use by the marketing functions stated and inferred of tee-mail on the web site); In re Riddle, (tee-mail references its service as a distributorship by its online marketing activity introducing the public to a new golf product); In re Whataburger Systems, Inc., (Tee-mail’s web site, domain name and online marketing activity, effectively identifies it as an online distributorship).

CONCLUSION

The specimen showing the use of the subject mark in commerce which was initially submitted to the Examining Attorney is the internet site of www.teemail.com. This site was published on the World Wide Web to market a golf product heretofore unavailable to the public. This web site not only functions as an online distributorship, it is in fact a *distributorship*, as that word is

defined by competent and reliable authority. Contrary to assertions of the Examining Attorney, the internet site is perceived as such by the public. The web site (specimen) exists and functions only to market, that is, to introduce, describe and assist the public in the acquisition of a new and proprietary type of golf grip. A part of the web site (specimen) specifically offers to provide further information to those who might be interested in the product by inviting contact through a teemail e-mail address. The proposition of the Examining Attorney that information offered to prospective customers through handle@teemail.com could not be inferred to include particulars on sales, availability, pricing, acquisition etc. is in direct conflict with the plain meaning of *inference* as that meaning is expressed by the authority cited in the appellant's appeal brief. Therefore, it is respectfully requested that this Honorable Board affirm that the specimen as submitted does reflect the use in commerce of the mark tee-mail in a manner sufficient to allow registration.

Respectfully submitted,



Richard Ferris

May 7, 2004