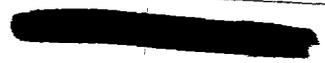


TTAB

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

Applicant: BATH UNLIMITED, INC.
f/k/a/Melard Manufacturing Corp.



02-19-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #30

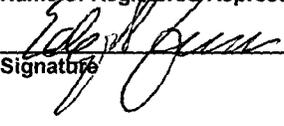
Serial No.: 75/918,891
Filed: February 14, 2000
Mark: ALEXANDRIA

DOCKETS
TRADEMARKS
Law Office 116
Ex. Atty: Dalier, L.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Trademarks, Box TTAB - Fee, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on February 14, 2003.

Edgar A. Zarins, Reg. No. 30,986
Name of Registered Representative


Signature

February 14, 2003
Date of Signature

APPEAL BRIEF

Assistant Commissioner for Trademarks
2900 Crystal Drive
Box TTAB - Fee
Arlington, VA 22202-3513

Sir:

Applicant has appealed the final refusal of the Examining Attorney to register applicant's mark ALEXANDRIA in connection with metal bathroom accessories. Applicant respectfully requests reversal of the refusal to register.

The Examining Attorney refused registration of applicant's mark asserting a likelihood of confusion with the mark of U.S.

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Trademark Registration No. 2,057,500 for the mark ALEXANDRIA. Although the marks are identical, the goods associated with each mark and their respective channels of trade are distinct eliminating any likelihood of confusion. Applicant's metal bathroom accessories are substantially permanent fixtures sold through hardware departments of retail outlets such as home centers. In contrast, the goods of the cited registration are housewares sold in department stores. Towels and substantially disposable products relegated to the rag bin once worn out. Applicant's hardware is a relatively expensive purchase considered carefully because of the permanent attachment to the bathroom walls. These products are not only sold through different types of retail establishments but also are purchased for entirely different reasons. Consumers would make no association between the products when purchasing either the hardware or the soft goods.

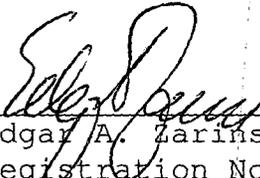
The Examining Attorney's refusal to register ignores the realities of the marketplace. Linens and similar soft goods are simply not sold through the same channels of trade as fixed metal hardware. It is the likelihood of the consumer being confused when confronted with similar products in the same channels of trade. However, these products do not travel

through the same channels. In the large home centers, where consumers are likely to purchase applicant's goods, soft goods such as towels, are not even offered. Even in the largest bed and bath superstores, towels would not be found in the same department as metal hardware. In the real world, these products simply do not cross paths. Accordingly, consumers would not be confused between competing products since such a side-by-side comparison does not exist.

In view of the foregoing, applicant respectfully requests reversal of the Examining Attorney's refusal to register applicant's mark ALEXANDRIA.

This brief is being submitted in triplicate. The Commissioner is authorized to charge the \$320.00 fee to Deposit Account No. 13-1981.

Respectfully submitted,



Edgar A. Zarins
Registration No. 30,986
Attorney for Applicant

Date: February 14, 2003
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