

TRADEMARK
514599-8477

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

Applicant : Trevira GmbH
U.S. Serial No. : 76/294,340
Mark : **BIOACTIVE and Design**
Int'l Class : 25
Filing Date : August 2, 2001
Examining Attorney : Scott Oslick
Law Office : 108

TTAB

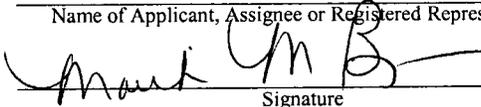
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Marilyn Matthes Brogan, Reg. No. 31,223

Name of Applicant, Assignee or Registered Representative



Signature

June 30, 2004

Date of Signature

REPLY BRIEF

Box TTAB – NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Sir:

In accordance with 37 C.F.R. §2.142(b), and in response to the Examining Attorney's Appeal Brief mailed June 10, 2004, Applicant submits herewith a Reply Brief in the appeal of application Serial No. 76/294,340.



07-06-2004

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

00202457

I. INTRODUCTION

Applicant agrees with the Examining Attorney's statement of the procedural history and statement of the issue on appeal, (see pp. 1-2 of the Examining Attorney's Brief). Specifically, the sole issue which remains in this application is whether the Applicant's mark **BIOACTIVE and Design**, when used on or in connection with the various clothing items recited in this application, is likely to be confused with the mark in the pre-existing registration, U.S. Registration No. 1,227,997, for **BIO ACTIVE (Stylized)**, for hosiery.

II. ARGUMENT

The undersigned wishes to bring to the attention of the Board and the Examining Attorney, the fact that cited registration No. 1,227,997, has been cancelled due to registrant's failure to file a Section 8 Declaration. A copy of the USPTO database print-out confirming the status of this registration, as cancelled, is attached.

Therefore, since the only issue in this appeal, i.e. alleged likelihood of confusion with the mark in U.S. Registration No. 1,227,997, has been rendered moot by the cancellation of said registration, it is respectfully requested that this appeal be terminated in applicant's favor and that the instant application file be returned to the Examining Attorney for action consistent therewith, and that the instant mark be passed to publication.

It is believed that no other issue remains in the instant application. However, if the Board and/or the Examining Attorney determines that any other issue remains, applicant respectfully requests that an appropriate time period be provided in which to address any such issue.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant

By: 
Marilyn Matthes Brogan
Reg. No. 31,223
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Serial Number: 73328702 Assignment Information

Registration Number: 1229977 Assignment Information

Mark

BioActive

(words only): BIO ACTIVE

Standard Character claim: No

Current Status: Registration canceled under Section 8.

Date of Status: 2003-12-13

Filing Date: 1981-09-18

Transformed into a National Application: No

Registration Date: 1983-03-08

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 1989-07-05

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BIO-DOR PRODUCTS, LTD.

Address:
BIO-DOR PRODUCTS, LTD.
1590 FAIRFIELD AVENUE

BRIDGEPORT, CT 06605

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Connecticut

GOODS AND/OR SERVICES

Hosiery

International Class: 025

First Use Date: 1981-04-06

First Use in Commerce Date: 1981-05-04

Basis: 1(a)

ADDITIONAL INFORMATION

Prior Registration Number(s):

1186273

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-12-13 - Canceled Section 8 (10-year)/Expired Section 9

1989-06-15 - Section 8 (6-year) accepted & Section 15 acknowledged

1989-02-14 - Section 8 (6-year) and Section 15 Filed

1983-03-08 - Registered - Principal Register

1982-12-14 - Published for opposition

1982-11-02 - Notice of publication

1982-10-06 - Approved for Pub - Principal Register (Initial exam)

1982-05-13 - Non-final action mailed

1982-04-11 - Case file assigned to examining attorney

CONTACT INFORMATION

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