

TTAB

P-3716-20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: ELEGANT HEADWEAR CO., INC. BEFORE THE
MARK: STRETCH in Special Form TRADEMARK TRIAL
SERIAL NO.: 76/605,639 AND
FILED: August 4, 2004 APPEAL BOARD
EXAMINER Rebecca L. Gilbert, Examining ON APPEAL
Attorney, Law Office 104

REPLY TO EXAMINING ATTORNEY'S APPEAL BRIEF

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

The issue on appeal is whether applicant must disclaim the word STRETCH as applied to "children's ambidextrous gloves," a product covered by patent 6,895,599.

More particularly, as made of record, the feature of the gloves in issue is the stretch of the construction material which makes each glove "ambidextrous," *i.e.* having a fitting mode in which a glove fits either on the left hand or on the right hand because the "stretch" takes account of the glove sheath for the thumb being out of the plane of the sheaths of the fingers.

Thus it is the stretch which renders the glove "ambidextrous" and neither the glove nor the manner in which the stretch is used to provide this unique, patented feature is common in the trade. Moreover, as to this unique, patented feature, applicant claims the exclusive right to use, and argues that disclaimer is not required by TMEP 1213 which in pertinent part provides:



01-13-2006

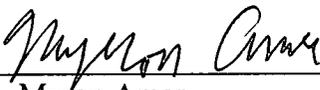
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #34

“In a trademark application or registration, a disclaimer is a statement that the applicant or registrant does not claim the exclusive right to use a specified element or elements of the mark” (underlining added).

The requirement that the word STRETCH should be disclaimed should be overruled.

Respectfully,

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Dated: January 11, 2006

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on January 11, 2006

