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

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| Proceeding | 76616320 |
| Applicant | ACCURA BULLETS, LLC |
| Applied for Mark | POWER BOND |
| Correspondence Address | Ken J. Pedersen PEDERSEN & COMPANY, PLLC PO BOX 2666 BOISE, ID 83701-2666 UNITED STATES IP@PEDERSENCO.COM |
| Submission | Reply Brief |
| Attachments | 3832ReplyBrief.pdf (3 pages)(91365 bytes) |
| Filer's Name | KEN J. PEDERSEN |
| Filer's e-mail | ip@pedersenco.com |
| Signature | /Ken J. Pedersen/ |
| Date | 10/13/2009 |

Ken J. Pedersen
PEDERSEN & COMPANY, PLLC
P.O. Box 2666
Boise ID 83701-2666
Telephone: (208) 343-6355
Fax: (208) 343-6341

Attorney for Applicant

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TRADEMARK TRIAL AND APPEAL BOARD

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|------------|---------------------|---|-----------------------------|
| In Re: | Accura Bullets, LLC |) | Applicant's Representative: |
| | |) | Ken J. Pedersen |
| Mark: | POWER BOND |) | |
| | |) | Law Office: 114 |
| Serial No. | 76/616,320 |) | |
| | |) | |

The Commissioner for Trademarks
PO Box 1451
Alexandria, VA 22131-1451

APPLICANT'S REPLY BRIEF

In response to the EXAMINING ATTORNEY'S APPEAL BRIEF filed September 22, 2009, Applicant makes the following statements:

I. The only issue is whether the specimen is acceptable.

Respectfully, Applicant objects to the Examiner's framing of the issues on page 2 of his BRIEF. Really, the only issue is whether the specimen is acceptable. This is apparent from review of the Examiner's arguments about his recited first issue, that the name of a process may not be a trademark for goods, on pages 2-4 of his BRIEF. What the Examiner argues about now is Applicant's specimen, and whether the specimen shows use of the mark on the goods. For example, in the fourth paragraph on page 3 of the EXAMINER'S BRIEF, he states:

The manner in which the mark POWERBOND *is used on the specimen* clearly shows the mark as a technological process... (emphasis added)

This is entirely different from the Examiner's position in the FINAL OFFICE ACTION, wherein he stated, in the second full paragraph on page 2 of the FINAL OFFICE ACTION dated January 9, 2009:

The applicant argued that [the name of] a process may be used as a trademark for goods. The examining attorney disagrees insofar as the cases cited above.¹

Clearly, there is no statutory basis for excluding any type of word as a trademark. Instead, as cited by the Examiner in the first sentence in the "A. Rule of Law" section on page 2 of his BRIEF, "*any* word, name, symbol..." (emphasis added) may be used as a trademark. Therefore, Applicant's name of its process may be used as a trademark for its goods.

Therefore, the only real issue is whether the specimen is acceptable.

II. Applicant's specimen is acceptable.

Clearly, Applicant's specimen is more than "merely advertising material" as recited by the Examiner in the first line of the third full paragraph of page 5 of his BRIEF. In fact, the Examiner recites at the top of page 2 of his BRIEF that the facts as noted in APPLICANT'S APPEAL BRIEF are accurate, and Applicant recites in the top full paragraph of page 2 of APPLICANT'S BRIEF that the specimen is "an informational brochure" describing features of the goods which result in optimum bullet performance. Notably therein, one technological feature is identified as POWERBOND™ with the trademark symbol, clearly indicating to the public that Applicant considers POWERBOND to be a trademark for these bullets. This fact that

¹ In this vein, Applicant's attorney has noted a typographical error in APPLICANT'S APPEAL BRIEF filed September 11, 2009. In the sixth line of the top paragraph on page 4 therein, the word "not" should be inserted between the words "may" and "be."

the brochure is informational, and therefore instructional, plus the established fact that Applicant's brochure is clearly always associated with the goods, satisfies the statutory requirements for use of the mark "on or with" the goods.

Therefore, Applicant respectfully requests that the Board reverse and overturn the Examiner's decision to refuse registration of the mark.

Dated: October 12, 2009

PEDERSEN & COMPANY, PLLC



Ken J. Pedersen
Attorney for Applicant

cc: client