

TTAB

P-4103-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: RP CREATIONS LTD.
MARK: NATALIE
SERIAL NO.: 76/656,180
FILED: March 7, 2006
EXAMINER: Ira J. Goodsaid, Trademark Examining
Attorney, Law Office 101

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD ON APPEAL

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

Sir:



REPLY TO EXAMINING ATTORNEY'S APPEAL BRIEF

05-07-2007

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

Applicant primarily stands on its arguments in its APPEAL BRIEF addressed to the issues of the Appeal of the Section 2(d) refusal based on Registration 3,020,769.

Applicant however supplements its legal position by briefly addressing the issues raised in the EXAMINING ATTORNEY'S APPEAL BRIEF.

The Examining Attorney has dissected the cited Registration of NATALIE & ME into the word NATALIE and the word ME, and concluded that NATALIE is the more dominant. There are no facts in the record to support this assertion and it is not demonstrated by the sequence of these words, and the Examining Attorney's claim that "As a general rule (underlining added) consumers are more inclined to focus on the first word...in any trademark."

The Examining Attorney has not provided a citation to the "general rule" in the TMEP or any other authority.

In connection with trademarks, the better rule is that they are to be considered in their entirety. See *In re E. I. DuPont de Nemours & Co.*, 476 F2d 1357, (C.C.P.A. 1972).

The Examining Attorney challenges applicant's statement that clothing is displayed on hangers, *i.e.* the Registrant's goods, and that "barrettes, buttons, etc., *i.e.* applicant's goods, are displayed on countertops. Applicant's statement is in accord with common experience and how a retailer would provide a point-of-sale display of barrettes, buttons, hair clips, hat pins and ornamental novelty pins.

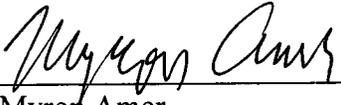
The Examining Attorney makes reference to "shelf-top hangers" without providing a description thereof and how such qualifies as a "hanger(s)," as defined in RANDOMHOUSE WEBSTER'S College Dictionary as "a shoulder-shaped frame with a hook usually of wire...(for draping and hanging a garment when not in use," (at right col. of page 607).

The facts properly made of record in the EVIDENTIARY DECLARATION have been sloughed off without comment, and thus stand uncontroverted concerning the consumers' response to the words "& ME" as lacking source identification of applicant doing business without a "ME."

The Section 2(d) refusal should be overruled.

Respectfully,

MYRON AMER, P.C.
Attorney for Applicant

By: 
Myron Amer
Reg. No. 18,650

114 Old Country Road
Suite 310
Mineola, NY 11501
(516) 742-5290

Dated: May 4, 2007