From: Shiner, Mark

Sent: 7/7/2011 5:35:32 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 77952263 - THE SLANTS - N/A - Request for Reconsideration Denied - Return to TTAB - Message 7 of 29

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Attachment Information:
Count: 4
Files: dst-4.jpg, onnd-1.jpg, onnd-2.jpg, onnd-3.jpg

had AALDEF's support, the page Simon linked clearly says that that is not necessarily the case:

"The views expressed in this blog do not necessarily represent the views or policies of AALDEF."

I've spoken to other bloggers about this. The support is not widespread. It's just that most people who disagree with the name would rather not say anything. I'm basically the same way--I support Simon's right to do whatever he wants; I just happen to be sharing my opinion on your blog and mine.

May 7, 2011 7:22 AM

bigWOWO said...

"The amazing work that you have apparently done is admirable, but I can't help but wonder if the positive reactions that you receive from Asians and non-Asians might have less to do with your name and more to do with the actual work and activism that you engage in. In fact, I might even be inclined to believe that making "slant" a positive thing undermines your real activist work."

Good point, Ben.

Again, Simon, people aren't saying that you're a bad person. Your claim to have independently raised $750k sounds kinda high to me in a profession where even many mainstream stars complain about how little they make, but I'm not a rock musician, so I have no idea what rock musicians make.

Your name offends and alienates a lot of people. Someone on your blog mentioned the dialogue your band creates about "equality," but honestly, most of the dialogue I've seen and heard is about your choice of name. I've never heard anyone talk about equality from your work.

Ben makes a great point. You could be achieving much more if you dropped the name.

May 7, 2011 8:03 AM

Ben Efsaneyim said...

Hi bWW

Yes I agree. The stated aim of Simon is to generate dialogue by using this term. Well, that's exactly what we are doing!

Like you, I'm simply voicing my opnion and not making character judgements on Simon or his band. This dialogue is a positive thing.

May 8, 2011 9:17 AM

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Rock band to trademark office: 'Our name is not disparaging to Asians'

Posted on 17 March 2011
Tags: 2011, The Slants, Vol 30 No 12 | March 19 - March 25

Members of the band, The Slants, are facing an uphill battle in proving to the trademark office that their name is not offensive to Asians. (Photo by Jamie Elle Harris)

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By Evangeline Cafe
Northwest Asian Weekly

Members of the Portland-based band The Slants create synth-pop anthems that channel 1900s icon Depeche Mode, but with an Asian flair. In one track, "Sakura Sakura," the band blends techno beats with a Japanese folk song and proclaims in its chorus, "We sing for the Japanese and the Chinese, and all the dirty knees" — a reference to the old, racist schoolyard rhyme.

The Slants, whose members are of Asian descent, have amassed fans nationwide, taking the stage at dive bars, Asian festivals, anime conventions, and even serving on panels to discuss racial stereotypes.

But behind the scenes, the band is fighting a battle with the United States Patent and Trademark Office (USPTO). The office has twice denied The Slants' request to obtain federal trademark registration of its name, or "service mark," on the grounds that it is "disparaging to people of Asian ethnicity."

The band denies that its name is offensive to Asians and is preparing to file a second appeal.

Transcending stereotypes

"None of us expected the response that the Office would provide," said bassist and founding member Simon Young. "Our name has been widely accepted by the Asian American community. Many of our fans are Asian, we've gotten a lot of support from the API media, and we're very involved within the community," he said.

When Young formed the band in 2007, he sought to create music that would transcend stereotypes. He began thinking of a name that would help the band achieve that goal.

"I was trying to think of things that people associate with Asians. Obviously, one of the first things people say is that we have slanted eyes," said Young. "I thought, 'What a great way to reclaim that stereotype and take ownership of it' — and, in doing so, take away the power from those who try to use it as a term of hate."

The terms "slant" and "slant eye" permeated American society in the early to mid-1900s. During the World War II era, it was used as a controversial slur to typecast Asian enemy forces abroad and Asian Americans at home.

Young said he and his bandmates could attest to similar experiences of alienation.

"Growing up, we'd have kids singing, 'Chinese, Japanese, dirty knees, look at these!' and trying to imitate slanted eyes in a very disturbing and distorted fashion. That kind of became the inspiration for one of our songs," he said.

Offensive or empowering?

In order to determine whether a mark is disparaging, the Trademark Act Section 2(a) requires that the USPTO consider two factors: the likely meaning of the mark and whether it may be disparaging to a "substantial composite" of the reference group.

In its latest office action, dated Dec. 23, the USPTO concluded that the likely meaning of "slants" is a racial slur referencing the eyes of people of Asian descent. It referenced online dictionary entries defining the term

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slur referencing the eyes of people of Asian descent. It referenced online dictionary entries defining the term as such. The USPTO also referenced articles that remark that The Slants' name is controversial.

Moreover, it included articles indicating that in 2009, organizers of an Asian youth conference in Portland canceled a band member's role as keynote speaker after a sponsor — the Oregon Commission on Asian Affairs — pulled its funding in protest of the band's name.

The Slants' attorney, Spencer Trowbridge, states that the USPTO neglected to consider an overwhelming amount of other evidence demonstrating the support of the Asian community. He maintains that the Asian community has in fact "widely embraced" the mark.

"[The USPTO] relied on wiki (user-created online encyclopedias) sources… and I don't think those speak to how Asians feel about the way The Slants are using the mark," said Trowbridge. "You've got a group of Asian Americans who are clearly spreading a positive message and cultural awareness. What they're doing is not disparaging."

Young echoed that sentiment. "They're taking these kinds of wiki sources, but didn't even talk to members of the Asian American community," he said. "For me, it just seems like there's a disconnect," said Young.

"This is about the right of a minority group to decide for itself how it defines itself," Trowbridge said.

In its application and response to the USPTO, The Slants supplied as evidence multiple articles written by Asian American media organizations expressing support for the band. The band also provided declarations written by one band member and two Asian American leaders — Rev. Joseph Santos-Lyons and Mari Watanabe — in support of its position.

It also referenced other uses of the term, including "The Slanted Screen" documentary, "The Slant" television show, and the "Slant Eye for the Round Eye" blog to show that the term is used in ways that promote cultural pride.

However, the USPTO rejected The Slants' evidence as unpersuasive. It noted that although its members may have laudable goals, the band's intent is irrelevant in determining whether the name is disparaging.

It also stated that while the declarations were noteworthy, they were not sufficient.

A hard-won battle

Seattle-based intellectual property law attorney Priya Cloutier believes that The Slants will face "an uphill battle" in appealing unless it can gather more evidence showing that the band's mark does not disparage a "substantial composite" of the Asian community.

She thinks that the best way for the band to support its position is to hire an expert to conduct surveys to gauge Asian Americans' opinions. "It's going to be costly, but it would be more thorough and provide a wider sample," said Cloutier. "I also think that the expert would have to evaluate Asian Americans of all ages and cultures, because different groups would likely respond to the questions differently."

Cloutier made it clear that while The Slants clearly want federal trademark registration of its name, the band would still be allowed to use its mark, even if lost on appeal. The legal protections, however, would not be as

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