

ESTTA Tracking number: **ESTTA371421**

Filing date: **10/03/2010**

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

Proceeding	78093634
Applicant	Gungner, David J.
Applied for Mark	MISSING A RIB, XY INSTEAD OF XX
Correspondence Address	david gungner Post Office Area 3302 Los Angeles County, CA 90408-3302 UNITED STATES e9pxbkwmp1u5o3@pacbell.net
Submission	Request for Recnsdratn from Final Bd Dcsn
Attachments	TTAB_USPTO_2010-October-03_78093634.pdf (11 pages)(186307 bytes)
Filer's Name	david gungner
Filer's e-mail	e9pxbkwmp1u5o3@pacbell.net
Signature	/0a9h5a3wh9topev5i8sw/
Date	10/03/2010

1 United States Patent and Trademark Office (USPTO) (www.uspto.gov)

2 Trademark Trial and Appeal Board

3 Post Office Area 1451

4 stateless ZIP Code 22313-1451

5

6 gungner, david j. ,) SERIAL NO. 78093634
7 applicant,)
8 regarding) SERIAL NO. 78134559

9 United States Patent and) REMOVE A RIB, XY LESSER THAN XX
10 Trademark Office,)

11 Trademark Trial and Appeal Board.) REQUEST REGARDING RECONSIDERATION
12) AND MODIFICATION FROM FINAL
13) TRADEMARK TRIAL AND APPEAL BOARD
14) DECISION WITH APPLICANT'S
15) SUPPLEMENTAL LEGAL BRIEF
16)

17 david gungner, "individual inventor", requests issuance of
18 "certificate of registration" as defined with United States Code Title 15
19 Section 1051(d)1 regarding SERIAL NO. 78093634 "MISSING A RIB, XY
20 INSTEAD OF XX" (United States Patent and Trademark Office, Tuesday
21 July 15th 2003 "notice of allowance", United States Code Title 15
22 Section 1063(b)2) and SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX"
23 (United States Patent and Trademark Office, Tuesday March 11th 2003,
24 "notice of allowance", United States Code Title 15 Section 1063(b)2).

25

1 **INDEX OF EXHIBITS**

2 EXHIBIT 001: USPTO International Trademark Protection (enpreent 10 of 11) .

3 EXHIBIT 002: USPTO "one-size-fits-all" Service Mark / Trademark
4 (enpreent 11 of 11) .

5
6 **FACTS**

7 **Summary of the Facts**

8 1. The Constitution of the United States Article I, Section 8, Clause 8
9 grants Congress the authority power {regarding} "to promote the progress of
10 science and useful arts, by securing for limited times to authors and
11 inventors the exclusive right to their respective writings and discoveries."

12 2. The Constitution of the United States Amendment 8 (Eighth Amendment)
13 specifies that "Excessive bail shall not be required, nor excessive
14 fines imposed, nor cruel and unusual punishments inflicted."

15 3. United States Code Title 15 Section 1070 provides that "An appeal
16 may be taken to the Trademark Trial and Appeal Board from any final
17 decision of the examiner in charge of the registration of marks upon the
18 {monetary} payment of the prescribed {monetary} fee."

19 4. United States Patent and Trademark Office, Trademark Trial and
20 Appeal Board Manual {Documentation} of Procedure Section 102.03
21 General Description of Board Proceedings defines that "An ex parte
22 appeal, being appellate in nature, is a much simpler and shorter
23 {timeInterval} procedure, involving only the filing of {legal} briefs by
24 {viaVirtueOf} the applicant and examining attorney, and, if requested
25 by {viaVirtueOf} the applicant, an oral hearing {verbal gathering}."

1 5. The plaintiff is of continuing "interest in the case." (United States
2 Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation}
3 of Procedure Section 801.02(a) Plaintiff's Main {Legal} Brief).

4 6. United States Patent and Trademark Office, Trademark Trial and
5 Appeal Board "Notice of Appeal" / "Ex Parte Appeal" was implemented
6 during Sunday January 16th 2005 timeInterval regarding SERIAL NO. 78093634
7 "MISSING A RIB, XY INSTEAD OF XX" and during Sunday July 25th 2004
8 timeInterval regarding SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX",
9 respectively.

10 7. United States Patent and Trademark Office, Trademark Trial and
11 Appeal Board Manual {Documentation} of Procedure Section 801.02(a)
12 Plaintiff's Main {Legal} Brief defines that "It is the policy of the
13 Board {Trademark Trial and Appeal Board} not to {shan't} enter
14 judgment against a plaintiff, for failure to file {regarding the file
15 of} a main brief on the case, where the plaintiff, in its response to
16 the {plaintiff's response regarding} show cause order, indicates that
17 it has not {hasn't} lost interest in the case." The plaintiff is of
18 continuing "interest in the case."

19 8. United States Code Title 15 Section 1063(b)2 provides that when
20 the "applicant applied for registration" during Thursday November 15th 2001
21 timeInterval regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD
22 OF XX" that the issuance accrues regarding a United States Patent and
23 Trademark Office, Tuesday July 15th 2003 "notice of allowance" of
24 "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 016.
25

1 9. United States Code Title 15 Section 1063(b)2 provides that when
2 the "applicant applied for registration" during Tuesday June 11th 2002
3 timeInterval regarding SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER
4 THAN XX" that the issuance accrues regarding a United States Patent
5 and Trademark Office, Tuesday March 11th 2003 "notice of allowance" of
6 "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 042.

7 10. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
8 "statement of use" United States Code Title 15 Section 1051(d)1 starting
9 Thursday January 15th 2004 and SERIAL NO. enumeration 78134559
10 "REMOVE A RIB, XY LESSER THAN XX" "statement of use" United States Code
11 Title 15 Section 1051(d)1 starting Thursday September 11th 2003 included
12 "specimens or facsimiles of the mark as used in commerce" with both
13 unicode U+00AE ® and unicode U+2122 ™ (in unicode numeric ordering)
14 describing how SERIAL NO. enumeration 78093634 "MISSING A RIB, XY
15 INSTEAD OF XX" and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY
16 LESSER THAN XX" exist utilized in the context of "commerce" (United
17 States Code Title 15 Section 1051(d)1), "GOODS/SERVICES BY {ViaVirtueOf}
18 INTERNATIONAL CLASS" aggregation 016 and "GOODS/SERVICES BY {ViaVirtueOf}
19 INTERNATIONAL CLASS" aggregation 042, respectively.

20 11. United States Code Title 15 Section 1070 provides that "An appeal
21 may be taken to the Trademark Trial and Appeal Board from any final
22 decision of the examiner in charge of the registration of marks upon the
23 {monetary} payment of the prescribed {monetary} fee." of USD\$100.00
24 (monetary fee payment provided regarding SERIAL NO. 78093634 " MISSING A
25 RIB, XY INSTEAD OF XX" during January 2005 timeInterval). Title 37 Code

1 Federal Regulations Section 2.122(b)(1) considers the "file" of SERIAL NO.
2 78093634 "MISSING A RIB, XY INSTEAD OF XX" (United States Patent and
3 Trademark Office, Tuesday July 15th 2003, "notice of allowance", United
4 States Code Title 15 Section 1063(b)2) as "part of the record of the
5 proceeding without any action by {viaVirtueOf} the parties and reference
6 may be made to {regarding} the file for {regarding} any relevant and competent
7 purpose." The existing SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX"
8 "file" is sufficient regarding applicant's legal appeal brief (applicant's
9 legal brief) requirement of Friday March 17th 2005. With the context of
10 United States Patent and Trademark Office (USPTO) Internet information
11 [EXHIBIT 001] (Friday June 2nd 2006 timeInterval) (enpreent 10 of 11)
12 and United States Patent and Trademark Office (USPTO) Internet information
13 [EXHIBIT 002] (Friday June 2nd 2006 timeInterval) (enpreent 11 of 11),
14 requesting a United States Patent and Trademark Office, Trademark Trial
15 and Appeal Board "appeal" (United States Code Title 15 Section 1070, Title 37
16 Code Federal Regulations Section 2.122(b)(1)) "certificate of registration"
17 (United States Code Title 15 Section 1051(d)1) regarding SERIAL NO. 78093634
18 "MISSING A RIB, XY INSTEAD OF XX".

19 12. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"
20 "file" (Title 37 Code Federal Regulations Section 2.122(b)(1)) "specimen
21 of record" "statement of use" (United States Code Title 15 Section 1051(d)1
22 starting Thursday January 15th 2004 with concatenations of Saturday
23 March 27th 2004 / Sunday March 28th 2004, Wednesday April 28th 2004,
24 Friday May 28th 2004 and Monday June 28th 2004 timeInterval) illustrates
25 specific, functioning facsimile "container" 'encapsulization' (Trademark

1 Manual {Documentation} of Examination Procedures Section 904.04)
2 utilizations "as goods that travel in commerce."

3 13. United States Patent and Trademark Office, Trademark Trial and
4 Appeal Board decision of Thursday, August 7th 2008 specifies that
5 the United States Patent and Trademark Office has implemented a
6 "tortured prosecution history" and is without regard of the
7 Constitution of the United States Amendment 8 (Eighth Amendment) that
8 precludes "unusual punishments inflicted."

9 14. United States Patent and Trademark Office Internet electronic trademark
10 filing system electronic application declaration signature was provided as a
11 required, valid "Electronic Signature" during SERIAL NO. 78093634
12 "MISSING A RIB, XY INSTEAD OF XX" Internet electronic registration application
13 of Thursday November 15th 2001 timeInterval and has continued,
14 without modification, as the same required, valid "Electronic Signature"
15 regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX".

1 SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" and
2 SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"
3 United States Patent and Trademark Office electronic application filings
4 (United States Patent and Trademark Office, Trademark Trial and Appeal
5 Board Manual {Documentation} of Procedure Section 119.02 Papers and
6 Fees---Ex Parte Cases).

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 I inatwith certify that this correspondence is Internet electronic
2 filing regarding the United States Patent and Trademark Office on the
3 earthCalendarDate Sunday, October 3rd 2010. "The undersigned being
4 warned that willful false statements and the like are punishable by
5 {viaVirtueOf} fine or imprisonment, or both, under 18 United States Code 1001,
6 and that such willful false statements and the like may jeopardize the
7 validity of the application or document or any registration resulting
8 therefrom, declares that all statements made of his/her own knowledge
9 are true; and all statements made on information and belief are believed
10 to be {exist} true." (Title 37 Code Federal Regulations Section 2.20,
11 Title 37 Code Federal Regulations Section 2.59(a), Trademark Manual
12 {Documentation} of Examination Procedures Section 904.09).

13 wholeheartedly, david gungner (Sunday, October 3rd 2010).

14 "individual inventor"

15 SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"

16 _____/0a9h5a3wh9topev5i8sw/_____ (Signature)

17 SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"

18 _____/6qrgzfpmn8nsv6l63wi5/_____ (Signature)

19 ___david gungner_,__ h_sapien ___ (Print or Type Name and Position)

20 _____10/03/2010_____ (earthCalendarDate MM/DD/YYYY)

21

22 missing a rib, XY instead of XX TM GenesIs 2:20-23 (GenesIs 22:10)

23 remove a rib, XY lesser than XX TM GenesIs 2:20-23

24

25

1 **EXHIBIT 001: USPTO International Trademark Protection.**

2

3

4 **Trademark Protection**

5 **How can I insure that my patent or trademark is protected internationally?**

6 U.S. patents only protect your invention in the United States. To protect your
7 invention internationally you must file applications in each country where you seek
8 protection. The same goes for trademarks. International filings can be quite
9 complicated you may want to consult with a registered patent attorney/agent.

10 United States Patent and Trademark Office (USPTO) Internet information:
11 http://www.uspto.gov/inventors/independent/chats/faq/transcriptst_z.jsp .

12 Last Modified: 12/30/2009 6:54:40 AM

13 **"USPTO Expert2"** eResponse from
14 actual edited transcript of Tuesday, December 7, 2004
15 On Line for Independent Inventors (07DEC2004) .

3
4 **Service Mark**

5 **I'm interested in registering a Service Mark but noticed there are two types
6 of applications. What are the differences?**

7 There is only one application for either a service mark or a trademark in the
8 electronic trademark filing system at the USPTO website. You are encouraged to
9 file electronically if possible. If you are looking at paper forms, the information
10 required for a trademark and a service mark is basically the same - only the
11 terminology differs slightly. If you are filing a paper application, you should file the
12 service mark application if you are applying for a service mark just to keep things
13 from getting confusing. But it's best to use the "one-size-fits-all" application for
14 filing either a trademark or service mark that's available on line.

15 United States Patent and Trademark Office (USPTO) Internet information:
16 http://www.uspto.gov/inventors/independent/chats/faq/transcripts_n_s.jsp .

17 Last Modified: 7/20/2010 4:35:15 PM

18 **"USPTO Expert2"** eResponse from
19 actual edited transcript of Thursday, June 10, 2004
20 On Line for Independent Inventors (10JUN2004) .
21
22
23
24
25