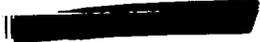


T T A B

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

Applicant: **Pamela J. Bowman**


05-04-2004

U.S. Patent & TMO/TM Mail Rept. Dt. #40

Serial Number: **78161583**

Filing Date of Application: **September 6, 2002**

Mark: **Desert Rose**

NOTICE OF APPEAL

Applicant hereby appeals to the Trademark Trial and Appeal Board from the decision of the Trademark Examining Attorney refusing registration.

By *Pamela J. Bowman* (Applicant)

I would like to file an Appeal Brief (see page 2) using trademark laws in my response as reasons for being granted the trademark Desert Rose.

My application is for one class of goods (003), so I am enclosing a check for \$100, which is the fee for appealing one class of goods.

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Appeal Brief

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However, “ If the goods or services in question are not related and marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely.”

1207.01 (a) (vi)

Depilatory waxes and perfumes are not used together - perfume is for the purpose of perfuming the body, whereas depilatory waxes are used to remove hair. These are two different functions although they are in the same class of goods.

Perfumes and depilatory waxes would never be advertised together or put next to each other in a sales environment because they are incongruent. You do not think of expensive fine fragrances and hairwax and connect the two together and become confused.

Perfumes of the Bible is a fragrance company. I will not market skin care, cosmetics, hair care or depilatory waxes under the name Perfumes of the Bible. Perfumes of the Bible is a company

name that describes the products - perfumes (and coordinating perfumed products). If I ever desired to sell cosmetics or skin care or depilatory wax I would create a new company and name for that purpose. However, cosmetics, skin care and hair care are completely different fields of expertise than fragrances. I did list some hair care and cosmetic items when I trademarked the name Perfumes of the Bible but since that time I have decided to only market fragrances and related fragranced products such as shower gel, bath crystals and body powder, etc. Only a large corporation could consider manufacturing fragrances, skin care, cosmetics, hair care, and all the goods listed in class 003. I have no intention of ever getting into anything except fragrances. As I stated before, even if for some reason I did want to get into other goods in class 003 I would start another company. Perfumes of the Bible would lose its uniqueness if anything except fragrances were sold under that label. It would ruin the purpose I am hoping to achieve - a collection of fragrances that create a unified concept - Perfumes of the Bible.

1207.01 (d) (v)

The classification of goods has no bearing on the question of likelihood of confusion. Rather, it is the way the applicant identifies the goods that determines if there is likelihood of confusion.

I believe that because Desert Rose is only one of several perfume names under the company name Perfumes of the Bible that Desert Rose perfume would not be confused with Desert Rose depilatory wax which is a product sold alone in a different market and for a different purpose.

If I believed that the two products in this class were similar or that I would be infringing on someone else's trademark I would not even file an appeal.

I have not cited any examples as evidence of cases similar to mine but I am sure the Trademark and Appeal Board can access this information easier than I can so I'll consider the above statements my Appeal Brief.

Sincerely,

Pamela J. Bowman

**Pamela J. Bowman
Applicant**