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

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|------------------------|---|
| Proceeding             | 79103101  |
| Applicant              | Paul Wurth S.A.   |
| Applied for Mark       | TMT SOMA  |
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| Date                   | 04/08/2013  |

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

IN RE APPLICATION OF:

APPLICANT: PAUL WURTH S.A.  
SERIAL NO.: 79103101  
FILING DATE: AUGUST 24, 2011  
MARK: TMT SOMA  
EXAMINING ATTORNEY: April K. Roach, Esq.

**APPLICANT'S BRIEF ON APPEAL**

I. INTRODUCTION

Applicant's mark is TMT SOMA for the following goods and services:

International Class 7: Steel and metalworking machines and machine tools; motors, other than for land vehicles; machine coupling and transmission components except for land vehicles; machines and installations for the metallurgical and iron and steel industry, namely, metal cutting and casting machines; equipment for iron and steelworks and metallurgical plants not included in other classes, namely, electric welding machines, metalworking machine tools; pressure valves being parts of machines, namely, back pressure valves; regulators being parts of machines; valves, namely, valves as parts of machines; pressure reducers as parts of machines; exhaust valves as parts of machines; electromechanical pressure and gas flow regulators being parts of machines; hydraulic

and pneumatic control mechanisms for machines, engines or motors; industrial manipulator machines, namely, forging machines; apparatus, gates and electromechanical valves machines, namely, gate valves as parts of machines; apparatus, gates and flow regulator valves machines, namely, gate valves for flow regulator, all being parts of machines; hydraulic and pneumatic devices for opening or closing electromechanical valves and gates being parts of machines; hydraulic and pneumatic devices for opening or closing safety valves being parts of machines; sealing joints for electromechanical gates, valves and apparatus being parts of machines; driving chains other than for land vehicles, especially for gas flow control valves;

International Class 9: Scientific, surveying, photographic, optical, weighing, measuring, signaling, checking supervision, and teaching apparatus and instruments, namely, metallurgical microscopes, surveying chains, photographic cameras, optical lenses, weighing scales, measuring lasers, signal whistles and educational software in the field of engineering for the iron and steel industry, ferrous and non-ferrous metallurgical industry; apparatus for recording, transmission or reproduction of sound or images, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; blank magnetic data carriers, blank recording disks; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; fire-extinguishers; installations and apparatus for controlling, measuring, regulating, weighing, metering for metallurgical and iron and steel installations, especially for valves, gates, safety valves and machines and apparatus

for controlling gas flow rate, namely, electronic controllers, flow meters, gas flow regulators and weighing scales; pressure probes, namely, ultrasound probes, not for medical use; pressure indicators; pressure measuring apparatus, namely, pressure gauges; sensors, especially gas flow sensors; electrical and electronic installations for remote control of industrial operations, and especially for valves, safety valves and machines and apparatus for controlling gas flow rate, namely, computer hardware and software for remote control of gas flow rate; gas testing instruments; electric and electronic monitoring apparatus, namely, electronic flowmeter monitors; gas monitoring apparatus, namely, sensors for detecting the presence of gas and measuring gas concentration. installations and apparatus for controlling, monitoring measuring, regulating, weighing, metering for blast furnace installations and for iron and steel installations, namely, temperature controllers, electric meters; profilometers especially for the iron and steel industry and the ferrous and non-ferrous metal-working industry; probing installations and apparatus, namely, probes for testing integrated circuits; gas probes, namely, sensors for measuring gas concentration; video cameras; optical apparatus and instruments, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry, namely, optical scanners, optical glasses and frames; apparatus and instruments for measuring physical parameters, in particular, temperature, pressure and humidity, and for chemical analyses not included in other classes, namely, temperatures sensors, pressure gauges, humidity measuring sensor and liquid chromatography apparatus; computer apparatus, namely, computer hardware and software, computer interface boards for controlling, regulating, simulating, viewing and monitoring parameters of industrial installations, environmental protection installations, energy production, distribution and

transmission installations and machines and components thereof, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; computer programs, in particular for controlling, regulating, viewing and monitoring processes in industrial installations, in environmental engineering installations, power plants and machines and components thereof; computer programs for simulating and viewing industrial installations, in particular metallurgical installations, environmental engineering installations, power plants, machines and apparatus; optical fibers ; media for programmed and non-programmed data, namely, prerecorded digital discs featuring software for engineering design; data transmitting antennas, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; optical data media, namely, blank optical disk drives. transmitters of electronic signals, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; objectives lenses for cameras; optical lenses; processors being central processing units, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; chips being integrated circuits, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; printed circuits and integrated circuits, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; interfaces for computers, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; electric and electronic sensors, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; detectors, namely, metal detectors, electronic ultrasound flaw detectors for the iron and steel industry, ferrous and non-ferrous metallurgical industry; pressure sensors; heat sensors; computer software, recorded, namely, for automated manufacturing design for the iron and steel industry, ferrous and non-ferrous metallurgical industry; recorded

computer programs for three-dimensional image recognition and processing; radar apparatus; electronic notice boards; water level, gradient, electrical loss, temperature and speed indicators;

International Class 37: Construction, namely, construction planning, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; repair of steel- and metalworking machines and machine tools; installing and assembling industrial facilities, machinery installations and power plants; installation and assembly of electrical and electronic apparatus, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; installation, maintenance and repair of goods and/or apparatus for the electricity and electronics industry, the precision engineering and general mechanical engineering industry, as well as machines and apparatus for use in the metallurgical and iron and steel industries, especially for gates, valves and safety valves and machines and apparatus for heat and gas-flow monitoring; servicing, maintenance and repair of electric and electronic machines for industrial installations, metallurgical installations, environmental protection installations, energy production, distribution and transmission installations; assembly, maintenance, upkeep and repair of data-processing installations and computers and computer hardware for industrial installations, metallurgical installations, environmental technology installations, energy production, distribution and transmission installations and machines, namely, for the iron and steel industry, ferrous and non-ferrous metallurgical industry; and

International Class 42: Scientific and technological services, namely, scientific research and design for the iron and steel industry and the ferrous and non-ferrous metal-working industry ; industrial analysis and research services in the field of iron and steel industry and the ferrous and non-ferrous metal-working industry; architectural consultation; construction drafting; technical project studies in the field of air quality monitoring for the iron and steel industry, ferrous and non-ferrous metallurgical industry; surveying; engineering; technical research in the field of metallurgical processes in blast furnaces; engineering, mechanical and scientific research in connection with liquid, solid or gas flow monitoring, as well as relating to iron and steel metallurgy; development and setting-up of data-processing programs, especially using computers, for others; services of engineers and technical research on installations for monitoring gas and gas flow rate; research and development for others in the field of iron and steel industry and non-ferrous metalworking industry; research in the field of environmental protection; computer software consultancy for industrial installations, metallurgical installations, environmental protection installations, energy production, distribution and transmission installations and machines; creation of programs for computer installations for the purpose of controlling, regulating, simulating, viewing and monitoring parameters of industrial installations, environmental protection installations, energy production, distribution and transmission installations, machines and components thereof; analysis for installing computer systems for industrial installations, metallurgical installations, environmental protection installations, energy production, distribution and transmission installations, and for machines, namely, computer systems analysis

Registration was refused and made final citing United States Trademark Registration Nos. 3216689, 3219218, and 3219219, all for the mark SOMA, for “design and engineering for others of computer hardware, telephony hardware, component parts and fittings for all the aforesaid, telephony software for use in telephone networks, and computer software for use in data networks” (‘689), “computer hardware; telephony hardware; component parts and fittings for all the aforesaid; telephony software for use in telephone networks; computer software for use in data networks, namely, packet-switching software, circuit-switching software, billing software, codecs, firewalls, ip address managers” (‘218) and “installation and maintenance of computer hardware, telephony hardware, component parts and fittings for all the aforesaid, telephony software for use in telephone networks, and computer software for use in data networks” (‘219).

Registration was also refused, requiring disclaimer of TMT from the instant application. Applicant argued against both the refusal under Section 2(d) and the disclaimer requirement. The Examining Attorney maintained the refusals, from which Applicant hereby appeals.

## II. PROCEDURAL HISTORY

This is an appeal of a Final Action issued on July 5, 2012. A Notice of Appeal was timely filed on January 4, 2013, concurrently with a Request for Reconsideration. After the

Examining Attorney's action on the Request for Reconsideration, jurisdiction was returned to the Trademark Trial and Appeal Board for review of the refusals. The Board resumed the proceedings on February 6, 2013, granting Applicant sixty days to file a brief. This brief is therefore timely filed.

### III. ARGUMENT

#### A. Refusal Under Section 2(d)

Under the Trademark Act a refusal to register based upon a likelihood of confusion requires that confusion as to the source of the goods be likely, not merely possible; as the Second Circuit has stated, “likelihood of confusion means a probability of confusion; it is not sufficient if confusion is merely ‘possible.’” *Estee Lauder, Inc. v. The Gap, Inc.*, 42 USPQ2d 1228, 1232 (2nd Cir. 1997) (internal quotations omitted) quoting 3 J. McCarthy, *Trademarks and Unfair Competition*, § 23:2 (1996) (now at 4 McCarthy on Trademarks and Unfair Competition § 23.3 (4th ed. 2012)). When the relevant *DuPont* factors are considered in relation to the Applicant’s TMT SOMA mark, each factor weighs in favor of allowing Applicant’s Mark to register.

Applicant’s goods are directed toward specific industries, in particular, the iron, steel and related industries. This is made clear from the relevant descriptions of goods and services in Applicant’s application. Where the goods or services are dissimilar or are completely unrelated, no likelihood of confusion will be found even if the marks are very similar. See e.g. *Shen Mfg. Co., Inc. v. Ritz Hotel Ltd.*, 73 USPQ2d 1350 (Fed Cir. 2004)

(RITZ for cooking classes and RITZ for kitchen textiles not related); *Aries Systems Corp. v. World Book Inc.*, 26 USPQ2d 1926 (TTAB 1993) (computer programs sold under KNOWLEDGE FINDER not similar to computer programs sold under INFORMATION FINDER); *Flow Technology Inc. v. Picciano*, 18 USPQ2d 1970 (TTAB 1991) (OMNITRAX for computer programs for video store management not likely to be confused with OMNITRAK for flowmeter calibrator); *Local Trademarks, Inc. v. Handy Boys, Inc.*, 16 USPQ2d 1156 (TTAB 1990) (confusion not likely between LITTLE PLUMBERS for liquid drain opener and the identical mark for advertising services marketed to plumbing contractors); *Quartz Radiation Corp. v. Comm/Scope Co.*, 1 USPQ2d 1668 (TTAB 1986) (QR for coaxial cable held not confusingly similar to QR for various products (e.g. lamps, tubes) relating to the photocopying field).

It is not enough that “a general term or overarching relationship can be found to encompass them both.” *In re W.W. Henry Co*, 82 USPQ2d 1213 (TTAB 2007) (PATCH & GO for Portland cement and PATCH ‘N GO for chemical filler both used to repair surface, held unrelated). Thus, in order to support a likelihood of confusion the goods and services must be related and the circumstances must be such that consumers will be confused as to source. As noted in Applicant’s prior office action responses, the cited registrations are all directed toward telephone hardware and software. Applicant’s goods and services are not telephone hardware or software products as noted in the cited registrations. Merely because both parties offer electronic technological products does not mean that consumers will encounter the parties’ products in a contest giving rise to source confusion. Quite the contrary, due to the highly specialized nature of Applicant’s

and registrant's goods, there is little opportunity for consumers to encounter the products together at all, let alone in a context giving rise to source confusion.

Applicant's goods and services are marketed and offered in a totally different channel of trade than the Registrant's goods and services. Applicant's goods are technological solutions for the iron and steel industries, and related businesses. Registrant's goods and services are related to telephony hardware and services. Thus, the conditions and activities surrounding the marketing of Applicant's and Registrant's respective marks are such that they would not be encountered by the same persons under circumstances that could give rise to the mistaken belief that they originate from the same source. See 1207.01(a)(i); *In re Hal Leonard Publishing Corp. d/b/a Hal Leonard Books*, 15 USPQ2d 1574, 1575 (TTAB 1990); *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999). The threshold significance of the trade channels is whether the same class of persons is exposed to the marks at issue under circumstances likely to result in confusion. *Jeanne-Marc, Inc. v. Cluett, Peabody & Co., Inc.*, 221 USPQ 58, 61 (TTAB 1984); *TCPIP Holding Co. v. Haar Communications*, 57 USPQ2d 1969 (2d Cir. 2001) (similar buyers targeted). In this instance, it is clear from the above that the respective offerings move in distinct channels of trade and are marketed to distinct classes of consumers. Since the connection between the respective trade channels and consumers is tenuous at best, confusion is unlikely.

The offerings of the Applicant and those of Registrant are highly specialized and sophisticated. Consumers of Registrant's and Applicant's goods will exercise a high

degree of care in selecting the appropriate offerings necessary to meet their needs. The degree of consumer sophistication and conditions under which the sale is made is yet another *DuPont* factor that weighs in favor of Applicant. *Dupont*, 476 F.2d at 1361-1362, 177 U.S.P.Q. at 567. Where consumers exercise a higher degree of care any possibility of confusion is substantially mitigated. See *In re Vision Wheel, Inc.*, Serial Nos. 77498758 and 77498755 (T.T.A.B., July 28, 2010) (the Board found that there was no likelihood of confusion between V-TEC for custom wheels and V-TEC for car engines; conditions of sale lead to a high degree of care when making purchases). Further, a purchaser who has a “reasonably focused need” or “specific purpose” or plan for the product, will exercise a high degree of care in selecting the product that meets his or her needs. See e.g. *Haydon Switch & Instr., Inc. v. Rexnord, Inc.*, 4 U.S.P.Q.2d 1510, 1517 (D. Conn. 1987) (specific products for specific industrial purpose); *G.H. Mumm & Cie v. Desnoes & Geddes, Ltd.*, 917 F.2d 1292, 16 U.S.P.Q.2d 1635, 1638 (Fed. Cir. 1990) (“focused need” for champagne); *Cliffs Notes, Inc. v. Bantam Doubleday Dell Publi’g Group, Inc.*, 886 F.2d 490, 496, 12 U.S.P.Q.2d 1289, 1293 (2d Cir. 1989) (reader of Cliffs Notes probably has specific book in mind).

Both Registrant’s and Applicant’s goods are offered to distinct classes of highly sophisticated consumer. In the case of Applicant’s goods, its customers are those who require technological solutions for iron and steel foundries and related enterprises. By comparison, Registrant’s customers are in the market for telephony hardware and software. Consumers of the respective goods at issue are highly sophisticated and will therefore exercise a high degree of care in selecting the appropriate product that meets

their particular needs, thereby mitigating the possibility of consumer confusion even further.

In light of the foregoing, Applicant respectfully submits that its mark will not be encountered by the relevant consuming public in such manner to give rise to confusion with the marks of the cited Registrant. There is no overlap in the channels of trade in which the parties' goods and services move, and the relevant respective consumers thereof are sophisticated and will not erroneously mistake or confuse the source of the respective goods and services. Consequently, Applicant respectfully submits that the refusal under Section 2(d) is inappropriate, and requests reversal of the refusal.

#### B. Disclaimer Requirement

The Examining Attorney has maintained the requirement that "TMT" be disclaimed apart from the mark as shown, asserting that TMT is an acronym for "thermo-mechanical treatment", and thus descriptive since it was alleged Applicant's goods could be used for this type of treatment and Applicant's services could feature this type of treatment.

Applicant respectfully disagrees with the requirement, and requests reversal thereof. A disclaimer functions as a concession by Applicant that the disclaimed term lacks inherent distinctiveness, and thus is descriptive. TMEP §1213. Applicant submits that such is not the case in the instant application. In order for a mark, or an element thereof, to be

“merely descriptive” for purposes of Section 2(e)(1) of the Trademark Act, the mark at issue must directly and immediately convey knowledge of the characteristics of a product or service. In re MBNA America Bank, N.A., 67 USPQ2d 1778, 1780 (Fed. Cir. 2003); Equine Technologies Inc. v. Equitechnology Inc., 36 USPQ 2d 1659, 1661 (1st Cir. 1995) (“A [mark] is descriptive if it forthwith conveys an immediate idea of the ingredients, qualities, or characteristics of the goods” at issue.”) (citations omitted); J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition, 4th Ed. (2012), § 11:67 (“If the mental leap between the word and the product’s attributes is not almost instantaneous, this strongly indicates suggestiveness and not descriptiveness.”). In other words, a mark is not descriptive if it requires imagination, thought and perception to reach a conclusion as to the nature of goods or services with which it is used. Equine Technologies Inc., 36 U.S.P.Q. 2d at 1661 (citations omitted); see No Nonsense Fashions, Inc. v. Consolidated Foods Corp., 226 USPQ 502, 507 (TTAB 1985) (SHEER ELEGANCE for hosiery did not convey an “immediate notion” as to any particular characteristic, quality or ingredient; mark suggestive in a laudatory sense); Plyboo America, Inc. v. Smith & Fong Co., 51 USPQ 2d at 1642 (PLYBOO not descriptive of plywood made of bamboo); In re Shutts, 217 USPQ 363, 365 (TTAB 1983). (SNO-RAKE held not merely descriptive of a snow removal hand tool). Any doubts in this regard are to be resolved in favor of the Applicant. Id.

As noted previously, the “TMT” in Applicant’s mark is ambiguous and thus disclaimer is inappropriate. The Examining alleges TMT will be perceived as an acronym for “thermo-mechanical treatment” and is thus descriptive. However, mere use of TMT in

the context of the mark TMT SOMA does not necessarily evoke this single definition. As demonstrated previously, TMT has various definitions; forty-nine separate results for TMT was revealed as an acronym. Consumers confronted with Applicant's mark will not immediately appreciate the term TMT conveys the association proffered by the Examining Attorney. The mark may be perceived by consumers as referring to one of the other associations of the acronym TMT, thus creating an incongruity impressing a unitary association to consumers. In re Corporate Fuel Partners, LLC, 2010 TTAB LEXIS 368 (Aug. 27, 2010) (finding that consumers would view the phrase CORPORATE FUEL, for business management services, as a play on actual types of fuel); In re Cohber Press, Inc., 2007 TTAB LEXIS 210, \*7 (Nov. 15, 2007) (finding that ARCTIC ART for coated printing paper "has an alliterative cadence" that "conveys the commercial impression of 'art' of the 'arctic'"); In re Bijoux Int'l, 2001 TTAB LEXIS 175 (Feb. 27, 2001) (finding that EXTREME SPORT, for sports bags, handbags, luggage, refers to a non-traditional type of sport and creates a commercial impression that is separate from that created by the word SPORT alone).

The touchstone for a mark, or element thereof, to be merely descriptive and thus requiring disclaimer is not merely the conveyance of some aspect of the underlying goods and services, but that the proposed mark element must immediately call to a consumer's mind a significant characteristic, function or feature of a good or services. See In re Disc Jockeys Inc., 23 USPQ2d 1715 (TTAB 1992). In light of the foregoing discussion, the mark TMT SOMA does not immediately identify any particular significant aspect of Applicant's goods or services. The term TMT on its own is too broad of an acronym to

immediately impart to a consumer any immediate aspect of the Applicant's goods and services. Instead, in the context of Applicant's goods and services, the term "TMT" is suggestive of any number of possible interpretations, particularly when combined with the arbitrary and unrelated "SOMA". "A certain amount of creative imagination is required" to intuit the specific attributes of the goods from the mark. In re Rank Organisation, Ltd., 222 U.S.P.Q. 324 (TTAB 1984) (LASER not descriptive of speakers designed and tested by use of laser holography; thought and imagination required to determine significance of "laser" in this context); Hasbro, Inc. v. Manyard Toys, Ltd., 858 F.2d 70, 8 USPQ2d 1345, 1349 (9th Cir. 1988) (GUNG-HO for marine action figure not descriptive). It is doubtful a consumer will immediately appreciate the nature of the Applicant's goods and services merely upon perception of the mark, which is required for meeting the "immediacy" of the commercial association.

Even assuming, *arguendo*, some information about features or functions of Applicant's goods and services is conveyed by TMT, this information is not conveyed directly, nor is there an immediate association between the mark and any features or characteristics of the goods or services. Applicant notes that it is not fatal to a mark for it to identify the subject matter of the goods with which the mark is used, or to convey information concerning such goods. See *Dial-A-Mattress Operating Corp. v. Mattress Madness, Inc.*, 33 USPQ2d 1961, 1966 (E.D.N.Y. 1994) (DIAL-A-MATTRESS is an inherently distinctive mark for retail mattress sales); *In re Reynolds Metals Co.*, 178 USPQ 296, 297 (C.C.P.A. 1973) (BROWN-IN-BAG for bag product that browns meat in the oven is not merely descriptive). It is permissible for a mark to evoke some connection to the

properties or functions of the goods with which it is used; it merely cannot immediately describe a significant attribute or aspect of the goods with which the mark is used.

Plyboo America, 51 USPQ2d at 1640. In the instant case, the term TMT is not so clearly descriptive that an immediate descriptive association is conveyed. As suggested above, TMT does not clearly and unequivocally describe the relevant goods and services; rather, an ambiguous impression of the goods and services is conveyed, but nothing immediately descriptive thereof.

The wording TMT is so broad and incongruous that it cannot be considered to be immediately descriptive of the goods and services offered by the Applicant. When consumers see TMT SOMA, they are confronted with a unitary term that does not convey a significant characteristic, function or feature of the Applicant's goods or services. The meaning of the mark is therefore ambiguous; in other words, the expression has multiple connotations when used in connection with the goods and services and is therefore not descriptive. TMEP 1213.05(c); see *In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (C.C.P.A. 1968) (SUGAR & SPICE for bakery products); *In re Tea and Sympathy, Inc.*, 88 USPQ2d 1062 (TTAB 2008) (THE FARMACY held registrable for retail store services featuring natural herbs and organic products and related health and information services relating to dietary supplements and nutrition); *In re Simmons Co.*, 189 USPQ 352 (TTAB 1976) (THE HARD LINE for mattresses and bed springs); *In re Delaware Punch Co.*, 186 USPQ 63 (TTAB 1975) (THE SOFT PUNCH for noncarbonated soft drink); *In re National Tea Co.*, 144 USPQ 286 (TTAB 1965) (NO BONES ABOUT IT for fresh pre-cooked ham).

In light of the foregoing, Applicant respectfully submits that disclaimer of TMT is inappropriate in the instant case. The mark, TMT SOMA, is a unitary term wherein disclaimer of individual words is not required. Applicant therefore respectfully requests reconsideration of the disclaimer requirement.

#### C. Request for Remand and Suspension

Applicant notes that U.S. Registration Nos. 3216689, 3219218, and 3219219 issued March 13, 2007 ('689) and March 20, 2007 ('218, '219). To date, the requisite Declarations of Use due to be filed prior to the sixth year post-registration have not yet been filed. Applicant therefore requests that jurisdiction be restored to the Examining Attorney, and that further action be suspended pending final disposition of the cited registrations.

#### IV. CONCLUSION

In light of the foregoing, Applicant respectfully requests that the Board reverse the refusal under Section 2(d), and not require disclaimer of TMT apart from the mark as shown. In the alternative, Applicant requests entry of disclaimer of TMT should the Board determine the word in fact requires disclaimer despite Applicant's argument to the contrary, and further requests jurisdiction be restored to the Examining Attorney for

suspension pending final disposition of U.S. Trademark Registration Nos. 3216689,  
3219218, and 3219219.

Respectfully submitted,

/George A. Pelletier, Jr./

George A. Pelletier, Jr.

Attorney for Applicant

Date: April 8, 2013