

ESTTA Tracking number: **ESTTA767349**

Filing date: **08/29/2016**

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

Proceeding	79149804
Applicant	TM France
Applied for Mark	S SINTER TECH
Correspondence Address	JOHN J O'MALLEY VOLPE AND KOENIG PC 30 S 17TH STREET SUITE 1800 PHILADELPHIA, PA 19103-4009 UNITED STATES trademarks@vklaw.com, jomalley@vklaw.com, jhanna@vklaw.com
Submission	Appeal Brief
Attachments	brief-cab.pdf(80809 bytes)
Filer's Name	John J. O'Malley
Filer's e-mail	trademarks@vklaw.com, jomalley@vklaw.com, jhanna@vklaw.com
Signature	/John J. O'Malley/
Date	08/29/2016

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

Applicant: TM France

Appln. No.: 79149804

Filed: December 11, 2013

Mark:



Law Office: 102

Our File: CAB-TM056WO-US

Date: August 29, 2016

MAIN BRIEF OF APPLICANT ON APPEAL

TABLE OF CONTENTS

I. DESCRIPTION OF THE RECORD AND STATEMENT OF FACTS 1

II. STATEMENT OF ISSUES 1

III. ARGUMENT 1

IV. CONCLUSION..... 4

TABLE OF AUTHORITIES

Statutes and Regulations

37 C.F.R. §2.142(d) 3

Applicant, TM France (referred to herein as “Applicant”), submits this Main Brief of Applicant on Appeal in support of the registration of U.S. Application Serial No. 79149804 for “S SINTERTECH” and Design (“Applicant’s Mark”).

I. DESCRIPTION OF THE RECORD AND STATEMENT OF FACTS

A first Office Action issued in this matter on August 1, 2014. In that Office Action, the Examining Attorney refused Applicant’s Mark based on the indefiniteness of the identification of goods for international classes 6, 7, 8, 11 and 12. On September 2, 2015, the appeal was instituted. Applicant filed several Requests for Extension of Time to File an Appeal. On June 30, the Board granted Applicant’s request for Extension of Time to file an Appeal Brief, but noted that no further extensions would be granted.

II. STATEMENT OF ISSUES

The issues on appeal are as follows:

1. Whether certain items in the identification of goods for international classes 6, 7, 8, 11 and 12 are indefinite.

III. ARGUMENT

The only issue remaining pertains to the identification of goods in international classes 6, 7, 8, 11 and 12. Applicant wishes to amend the application to conform to the Examining Attorney’s proposed requirements for international classes 6, 7 and 12 put forth in the March 3, 2015 Final Office Action and has amended the identification to address the Examining Attorney’s issues with respect to international classes 8 and 11.

Based on the March 3, 2015 Final Office Action, has prepared the following amendments to the identification of goods in Class 9.

International Class 6: Common metals, unwrought or semi-wrought, and their alloys, steel, ores, common metal powders used in manufacturing, powder compounds of common metal used in manufacturing, common alloys, obtained by powder metallurgy from metal powders, ~~oxides powders,~~cermets, for use in manufacturing metal parts, namely structural components of mechanisms, bearings, friction plates, filters, ~~cermets,~~porous products, namely, metal sintered porous filters, self-lubricating bearings and self-lubricating friction plates;
common metals, unwrought or semi-wrought made from molding powder, metal bands, sheets, non-electric wires, tubes of metal

International Class 7: Machines for use in the field of metallurgy, namely, metal forming presses or powder pressing presses, and, for the mechanical, thermal and chemical transformation of metals, machine tools for use in the mechanical industry for manufacturing metal parts, for compacting powder materials, parts for electrical engineering and industrial electromechanical machines, namely, bearings and components for soft magnetic application ~~in the name of,~~ namely, distributor rotors, stators, ~~induction cores,~~all mechanical parts in metal and sintered alloys all for machines, namely, sprockets, polar masses for electrical engines or magnetic wheels, namely, cams and cam lobes for use in camshafts, gear lever knobs, returns, namely, hydraulic linear actuators, internal combustion engines land vehicle parts, namely distributor rotors, roller bearing housings, for power transmission and motion guidance in machines used in the production or transmission of electric power, electrical power generation, electromechanics, electricity generators, electric motors, electric coils, water or gas filtration, manufacturing of medicine, locomotion and watchmaking

International Class 8: Hand operated tools made by or using parts obtained by powder metallurgy, ~~namely bearings and self-lubricating linings, brake fittings, with surfaces that have high or low friction coefficient~~ for commercial and industrial use

International Class 11: Filters for filtering water, air, particles, corrosive liquids, acids, and ~~gases~~chlorides for domestic or industrial installations

International Class 12: All vehicles and apparatus for locomotion by land, air or water, namely, land vehicles, boats, air planes, and rail vehicles in the nature of trains, ~~metros or tramways~~ and ~~their~~trams and spare parts for land vehicles and rail vehicles in the nature of trains and trams, namely, brake fittings and friction linings, brakes, with surfaces that have a high or low friction coefficient, clutches, and power transmission and gear shifting mechanisms for motor land vehicles, ~~boats, airplanes,~~ and rail vehicles in the nature of trains, ~~metros or tramways~~ and trams

Applicant has a good faith belief that the entry of the amendments resolves the sole remaining issue regarding the identification of goods and services.

In view of the above, Applicant respectfully requests suspension of the appeal pursuant to the provisions of 37 C.F.R. §2.142(d) and the remand of the application to the Examining Attorney in order to allow consideration of the appeal for processing the final amendments to resolve the issue.¹

IV. CONCLUSION

In view of the foregoing Applicant respectfully requests remand.

Respectfully submitted,

Vishay Precision Group, Inc.

August 29, 2016

/John J. O'Malley/
John J. O'Malley, Esquire
Attorneys for Applicant

¹ Concurrently herewith, Applicant filed a separate and identical Request for Remand in the event that this brief was not the proper format for that request.