

**This Opinion is a Not a
Precedent of the TTAB**

Hearing: October 28, 2014

Mailed: September 11, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Michelin North America, Inc.

—————
Serial No. 85077031
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Fred W. Hathaway and Melissa Alcantara of Dickinson Wright PLLC for Michelin North America, Inc.

Michael Webster, Trademark Examining Attorney, Law Office 102 (Mitchell Front, Managing Attorney).

—————
Before Wellington, Wolfson and Shaw, Administrative Trademark Judges.

Opinion by Wolfson, Administrative Trademark Judge:

Michelin North America, Inc. (“Applicant”) seeks registration on the Principal Register of the mark 1-800-TIRE-911 (in standard characters) for

Vehicle tire maintenance and repair services; Size fitting and installation of replacement vehicle tires; Removal of vehicle tires; Emergency roadside services for vehicles, namely, flat tire changing, emergency fuel supplying, battery jump starting, responding to calls for roadside assistance, repair services in case of motor vehicle breakdown in International Class 37;

Emergency roadside assistance services, namely, towing services in the event of vehicle breakdown, services of transportation of people and/or vehicles in the event of breakdown, winch-out and key delivery services in International Class 39; and

Emergency roadside services, namely, opening of locks in International Class 45.¹

The Trademark Examining Attorney has refused registration of Applicant's proposed mark in all three classes under Sections 1, 2, 3 and 45 of the Trademark Act, 15 U.S.C. §§ 1051-1053, 1127, on the ground that the mark, as used on the specimens of record, fails to function as a service mark. After the Examining Attorney made the refusal final, Applicant filed a request for reconsideration and appealed to this Board. The Examining Attorney denied the request for reconsideration and the appeal was resumed. For the reasons discussed more fully below, we reverse the refusal to register.

Applicable Law

Section 2 of the Trademark Act, 15 U.S.C. § 1052, provides, *inter alia*, that “[n]o trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the principal register” Section 3 of the Act, 15 U.S.C. § 1053, makes the provisions of Section 2 relating to the registration of trademarks applicable to service marks. Section 45 of the Act, 15 U.S.C. § 1127, defines “service mark” as follows:

any word, name, symbol, or device, or any combination thereof-- used...to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown.

According to this same section, a service mark is deemed to be used in commerce “when it is used or displayed in the sale or advertising of services and the services

¹ Application Serial No. 85077031 was filed on July 2, 2010, based on Applicant's assertion of first use of the mark in a different form at least as early as January 1, 1999.

are rendered in commerce.” See *In re Advertising & Marketing Development Inc.*, 821 F.2d 614, 2 USPQ2d 2010, 2014 (Fed. Cir. 1987) (recognizing that it is implicit in the statutory definition of a service mark that it be used to identify the named services for which registration is sought and to indicate the source of the services).

The law is clear that vanity telephone numbers (that is, a telephone number that has been partly or fully converted into words, where the words form a mnemonic tool for remembering the number) are registrable when perceived as source-identifying and more than simply a means for contacting the applicant. See *Dial-A-Mattress Franchise Corp. v. Page*, 880 F.2d 675 (2d Cir. 1989) (“Telephone numbers may be protected as trademarks, and a competitor’s use of a confusingly similar telephone number may be enjoined as both trademark infringement and unfair competition”; preliminary injunction granted against defendant’s use of telephone number 1-800-MATTRESS in market area of plaintiff who had prior rights to local telephone number comprising “MATTRES”); *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807 (Fed. Cir. 2001) (holding “1-888-MATTRESS” registrable as a descriptive mark with secondary meaning); *Murrin v. Midco Commc’ns Inc.*, 726 F. Supp. 1195, 13 USPQ2d 1815 (D. Minn. 1989) (enjoining defendant from using a phone number outside the New York City metropolitan area confusingly similar to plaintiff’s unchallenged registered mark “DIAL L-A-W-Y-E-R-S”); *In re Page*, 51 USPQ2d 1660 (TTAB 1999) (affirming Section 2(e)(1) refusal to register 888 PATENTS). See also 3 CALLMANN ON UNFAIR COMP., TR. & MONO. § 18:17 (4th Ed.) (“Telephone numbers may be protected as

trademarks if they are used as such.”); and TMEP § 1209.03(l) (Jan. 2015) (confirming that vanity phone numbers consisting of descriptive terms are registrable upon a proper showing of acquired distinctiveness, or on the Supplemental Register).

While the question of registrability in earlier cases has often turned on whether a vanity telephone number is generic or merely descriptive, here there is no dispute that given the addition of the distinctive mnemonic “TIRE-911” to the generic “1-800” prefix, the mark is not merely descriptive or generic. The Examining Attorney does not contend otherwise and explicitly states that Applicant’s telephone number includes a “non-descriptive letter combination.”² The Examining Attorney argues, however, that consumers will immediately perceive the “inherent nature” of 1-800-TIRE-911 as a telephone number and thus view the designation only as one means by which to contact Applicant. Comparing Applicant’s telephone number to a domain name, the Examining Attorney argues, “[w]here the substance of the designation is informational in nature, the presumption is that the use thereof is for informational purposes. Consequently, the mark must be clearly used and displayed as a source-indicator.”³ Applicant disputes the characterization of its applied-for mark as purely informational. “The fact that a designation is recognizable on a specimen as a telephone number, however, does not negate its ability to function as an indicator of source.”⁴ Applicant contends that the specimens it has submitted

² Examining Attorney’s August 20, 2013 Reconsideration Letter.

³ Examining Attorney’s Brief, 8 TTABVue 5.

⁴ Applicant’s Brief, 4 TTABVue 10.

demonstrate that its mark is used in direct association with its services in a trademark manner.

To be clear, this is not a specimen refusal, that is, registration has not been refused on the ground that the specimens do not evidence use of the applied-for mark in association with the services specified in the application. Instead, the basis for the refusal is that the applied-for mark is merely informational and would not be seen as an indicator of source but merely as the means by which customers can contact Applicant. Where a term fails to function as a mark, “registration must be refused even if the specimen of record shows what would otherwise be acceptable trademark or service mark use.” TRADEMARK MANUAL OF EXAMINING PROCEDURE, (“TMEP”) § 1301.02(a) (January 2015).

To determine whether Applicant’s mark would be perceived as identifying Applicant’s roadside emergency services, or only as a telephone number, we look to the manner in which Applicant uses its vanity phone number on its specimens, focusing on the likely consumer perception of Applicant’s proposed mark. *See In re AOP LLC*, 107 USPQ2d 1644, 1654 (TTAB 2013) (refusing registration of term AOP for wine as merely informational of a certification process, observing that in deciding how the average purchaser will perceive and react to applicant’s proposed mark, the question was whether the specimens submitted “show the applied-for mark used in a source-identifying manner, or rather in a manner that simply conveys information to the consumer”); *In re Manco, Inc.*, 24 USPQ2d 1938, 1942 (TTAB 1992) (“[T]he manner in which an applicant has employed the asserted

mark, as evidenced by the specimens of record, must be carefully considered in determining whether the asserted mark has been used as a trademark with respect to the goods named in the application”; THINK GREEN unregistrable because it would be perceived only as an informational slogan encouraging environmental awareness and not as a trademark for weather stripping and paper products) (*citing In re Standard Oil Co.*, 47 CCPA 829, 275 F.2d 945, 125 USPQ 227 (1960)); *In re Roberts*, 87 USPQ2d 1474, 1478 (TTAB 2008) (refusing registration to “irestmymcase” for legal services, where only use of applied-for mark was embedded in applicant’s website address, www.irestmymcase.com); *In re Eilberg*, 49 USPQ2d 1955, 1956 (TTAB 1998) (refusing registration to “www.eilberg.com” given its placement on applicant’s letterhead).

Hence, we look closely at the manner in which Applicant uses the wording 1-800-TIRE-911. On November 28, 2012, following publication of the application, Applicant submitted the following specimen (a bi-fold brochure) with its statement of use:

Consistent, High-Quality, 24-Hour Emergency Road Service

MICHELIN® COMMERCIAL SERVICE NETWORK

MICHELIN® ONCall™
1-800-TIRE-911™
1-800-847-3911

MICHELIN® ONCall™
1-800-TIRE-911™
1-800-847-3911

MICHELIN® ONCALL™ HOW TO REGISTER

- Visit MichelinTruck.com to register for the MICHELIN® Premier™ or Premier Elite™ Service Offers
- For help with michelinb2b.com login, call 1-888-624-2638

You don't have to be a registered Premier Fleet to use the MICHELIN® ONCall™ service, but registration will save you time and help us provide fast service to your specifications and provide you with the reporting benefits you deserve.

See MichelinTruck.com for more information. Michelin reserves the right to amend or cancel this offer at any time.

www.michelintruck.com

MICHELIN NORTH AMERICA, INC., Greenville, South Carolina, USA
MICHELIN NORTH AMERICA (CANADA) INC., Laval, Quebec, Canada

An Equal Opportunity Employer
Copyright © 2012 Michelin North America, Inc. All rights reserved.
The Michelin Man is a registered trademark owned by Michelin North America, Inc.

MAW4881/10/12



24-HOUR PROFESSIONAL EMERGENCY ROAD SERVICE

Only MICHELIN® ONCall™ service can bring Michelin dependability to your emergency road service needs. You can count on MICHELIN® ONCall™ to find a Michelin Service Provider to get you back on the road quickly and efficiently. MICHELIN® ONCall™ is available to Fleets large and small as well as Owner-Operators.

MICHELIN® ONCall™
1-800-TIRE-911™
1-800-847-3911

MICHELIN® ONCALL™ Delivering Value For Fleets

FREE DISPATCH

No dispatch fee for North American Fleet Account Customers or MICHELIN® Advantage Program Members who purchase MICHELIN® tires during their service call. Nominal fee for all others.

NATIONWIDE COVERAGE

MICHELIN® ONCall™ has expanded dealer and travel plaza coverage to meet your needs, no matter where you are.

ERS RESPONSE TIME

We maximize your uptime. All our providers are focused on a roll time target of less than two hours.*

CONSISTENT PRICING**

We've taken the guesswork out of pricing so you know what to expect, even on the road.

*Within 25 miles. Excludes may apply during rush hour in large metropolitan areas, inclement weather, or in the case of extensive tow/vehicle damage.
**Tire pricing based on each Fleet's NAFA or Advantage Program contract.

TIRE STOCKING INVENTORY

Our dealers stock key sizes for efficient service to get you back on the road quickly.

EVENT NOTIFICATION

You'll know exactly when your trucks are rolling again, because our online Event View Finder allows you to track an event anywhere in the country. Case-specific notification reports available to registered fleets, with notifications on:

- » Status
- » Vehicle number
- » Fleet name
- » Service location
- » ETA & rolling time

Detailed monthly ERS reporting for MICHELIN® Premier Elite™ customers

MORE TOOLS TO FIND MICHELIN DEALERS NEAR YOU

MICHELIN® Truck Tires Dealer Locator App (Available at MichelinTruck.com)

MichelinTruck.com Dealer Locator

The Examining Attorney accepted this specimen as showing use of the applied-for mark in association with Applicant's services in the nature of tire

replacement or repair in Class 37, but rejected it for the Class 39 and 45 services. On July 30, 2013, Applicant submitted the following page from its website,⁵ which was accepted as showing the mark in association with the services in Classes 39 and 45. The refusal under Sections 1, 2, 3 and 45 was continued; although the specimens show 1-800-TIRE-911 is used in association with the services, the Examining Attorney maintains that it does not function as a source-identifier.

The screenshot displays the Michelin website's emergency road service page. At the top left is the Michelin logo with the slogan 'In Motion, Every Moment' and the text 'MICHELIN AMERICAS TRUCK TIRES'. The main heading is '24-Hour Emergency Road Service'. Below this, it lists 'MICHELIN® ONCall™ 1-800-TIRE-911 (1-800-847-3911)'. A list of services includes 'Only MICHELIN® ONCall™ service can bring Michelin® dependability to your emergency road service needs. You can count on MICHELIN ONCall to find a Michelin Service Provider to get you back on the road quickly and efficiently. MICHELIN ONCall is available to Fleets large and small as well as Owner Operators.' Below this is the section 'Delivering Value for Fleets' with a bullet point: 'When you have a roadside service need for tires make one toll-free call to 1-800-TIRE-911 (1-800-847-3911) for rapid dispatch of a service provider.' The next section is '24/365 Nationwide Coverage' with three bullet points: 'MICHELIN® ONCall™ has expanded dealer and travel plaza coverage to meet your needs, no matter where you are.', 'Our dealers stock key sizes for efficient service to get you back on the road ASAP.', and 'Multi-language support in English and Spanish' and 'Complete incident management and accountability'. The final section is 'Free Dispatch' with a bullet point: 'No dispatch fee for North American Fleet Account Customers or MICHELIN® Advantage Program Members who purchase MICHELIN® tires during their service call. Nominal fee for all others.' On the right side, there is a sidebar with 'You may also be interested in' and 'e-Business' with a sub-point 'Purchase your tires or manage your accounts payable on-line.' At the bottom right, there is a button for 'Access the ERS Event Management System' and a 'MICHELIN® ONCall™ EVENT VIEWER' button. On the left side, there is a navigation menu with links: 'MICHELIN® COMMERCIAL SERVICE NETWORK™', 'ONCALL™ EMERGENCY ROAD SERVICE', 'ONLINE REPORTING', 'SERVICE MANUAL', 'NETWORK DEALERS', 'MICHELIN ADVANTAGE PROGRAM', 'E-BUSINESS', and 'MICHELIN® FLEET SOLUTIONS™'.

⁵ From <http://www.michelintruck.com/michelintruck/services/onCall.jsp>.

While we acknowledge that this is a close call, we find Applicant's mark is being used and would be perceived as a service mark for emergency roadside services. The vanity number is displayed prominently at the top of the specimens, together with two other of Applicant's marks and separated from the advertising copy on the materials. It appears in a font size that is at least as large as the word MICHELIN (clearly itself being used as a mark). It does not blend so well with the other matter on the specimens that it is difficult to discern what the mark is, but rather is set apart from the other marks as well as the text on the pages. *See In re McDonald's Corp.*, 229 USPQ 555, 556 (TTAB 1985) ("It is not that the subject matter must be more prominent than everything else on the specimens. On the other hand, it must not blend so well with other matter on the specimens that it is difficult or impossible to discern which element is supposed to be the service mark."). At one point Applicant's vanity telephone number mark is differentiated from the term "OnCall," (which appears directly above it) by means of a different color scheme. There is a TM symbol following the telephone number, which although not dispositive as to whether the telephone number is actually perceived as a mark, lends a degree of visual prominence to the term. While in one instance, Applicant's vanity number is embedded in text suggesting that consumers make "one toll-free call to 1-800-TIRE-911 (1-800-847-3911)," even here the trademark significance of the mnemonic is not fatally impaired. The numerical values (i.e., the actual phone number) are displayed directly underneath the mark, thereby providing consumers

with “1-800-847-3911” to use as the means for reaching Applicant and setting off the mnemonic phrase as something more than merely informational matter.

Our conclusion that Applicant’s vanity telephone number functions as a mark is corroborated by Applicant’s submission of copies of the specimens for a large number of live third-party “1-800” type registrations for vanity telephone numbers, showing registration of vanity telephone numbers by the Office under the Trademark Act. The specimens upon which these third-party registrations (totaling over forty) are based do not appear to involve materially different displays than the specimen in which Applicant displays its mark.

The following examples were filed with Applicant’s request for reconsideration. The first group have been registered for vehicle towing services:



⁶ Reg. No. 3797354.

AAMCO **1-800-PITCREW**
Program Guide

AAMCO Store Process:

- 1 Place decal in upper left corner of customer's windshield
- 2 Hand customer brochure and briefly explain the 1-800-PITCREWSM program
- 3 Customers who need roadside assistance simply call our 24/7 care center (1.800.748.2739)

We offer the following services:

- ✓ Vehicle Towing
- ✓ Locksmith Service
- ✓ Flat Tire Service
- ✓ Battery Boost
- ✓ Fluid Delivery
- ✓ Extrication/Winchling
... at our pre-negotiated rates!

1-800-PITCREW customers receive:

- ✓ Free external diagnostics
- ✓ 10% off repair (up to \$100)
- ✓ 12 mo./12 k mile limited nationwide warranty

How It Works For Your Customers

- 1 Customers have peace of mind with decal located in upper left corner windshield
- 2 For Roadside Assistance customers call 1-800-PITCREW (1.800.748.2739)
- 3 Customers pay our pre-negotiated rate
- 4 Our certified Provider is dispatched immediately & Car is towed (to AAMCO if available)
- 5 We manage the entire process, ensuring customer's safety and satisfaction

Roadside Assistance... On Demand! www.1800pitcrew.com

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YOU CANNOT REGISTER FOR MEMBERSHIP OR PAY AN INITIAL OR ANNUAL FEE UNLESS YOUR BID WINS!!

A SETUP FEE OF \$799 PER COMPANY INCLUDES THE \$299 LICENSING FEE FOR THE FIRST YEAR OF SERVICE

THERE ARE NO MONTHLY SUBSCRIPTION FEES!

EACH REFERRAL THAT PRODUCES A SERVICE CALL WILL EARN 1-800-WRECKER A REFERRAL FEE.

****REFERRAL FEES:**

PRICES PER CALL /CITY POPULATION	
\$25	700,000+
\$20	300,000-699,999
\$15	70,000-299,999
\$10	26,000-69,999
\$5	-25,999

1-800-WRECKER, L.L.C.
P.O. BOX 302845 HOUSTON, TX 77201
TELEPHONE: 1.800.773.2337 FAX: 1.877.413.2337
OR LOCAL: 281.381.4334

1-800-WRECKER
"KNOW IT! TO TOW IT!"

1-800-WRECKER
Know It! To Tow It!
24 hours/7 days a week

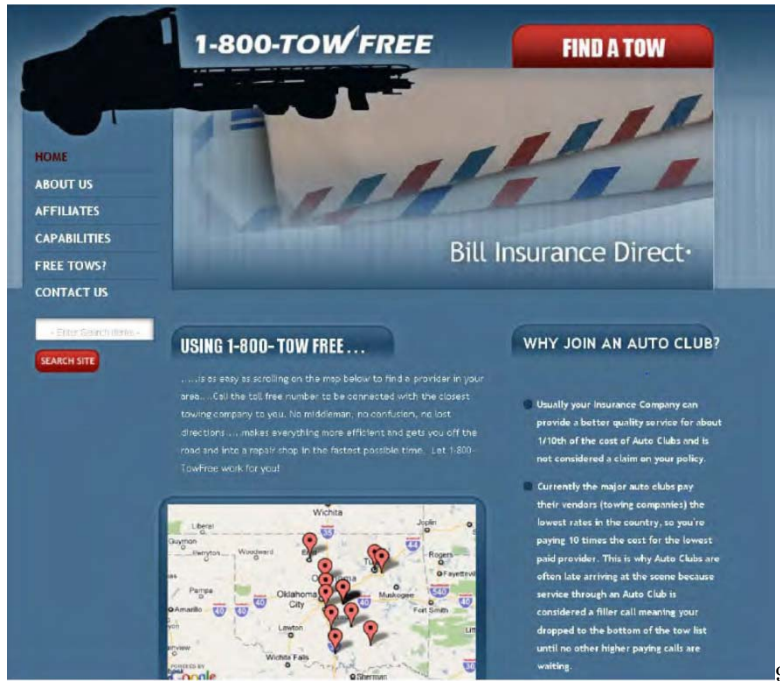
IT'S SIMPLE.
THEY CALL US
&
WE CALL YOU!

THIS OFFER IS GOOD FOR TOWING BUSINESSES IN THE STATE OF TEXAS ONLY.

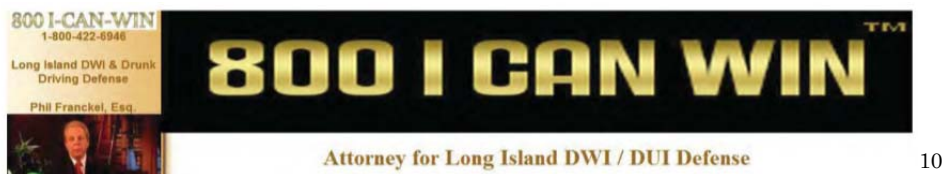
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⁷ Reg. No. 3873897.

⁸ Reg. No. 3278183. Registered on the Supplemental register.

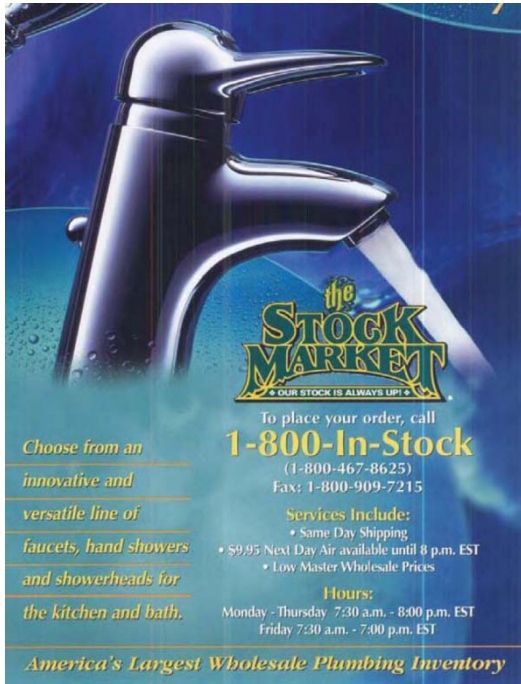


The next group is representative of marks registered for various services, as indicated in the footnotes.

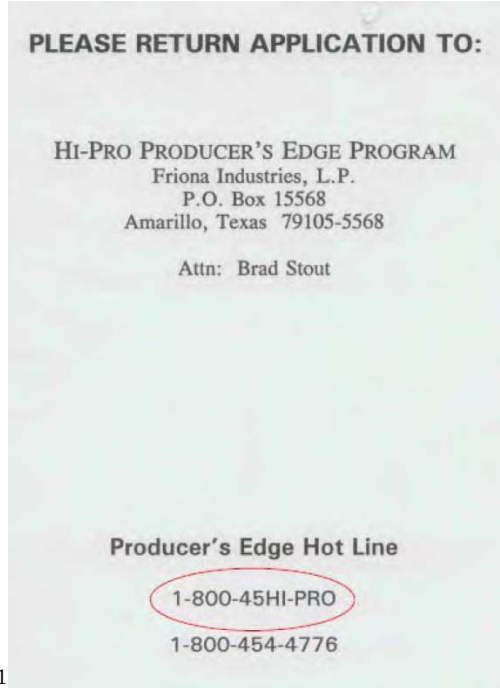


⁹ Reg. No. 3922672.

¹⁰ Reg. No. 4069535 for the mark 800 I CAN WIN for lawyer referral services.

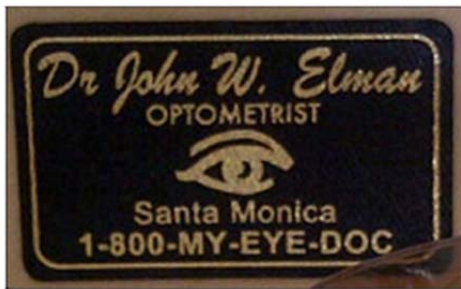


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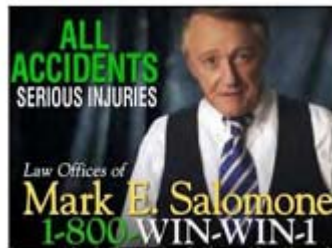
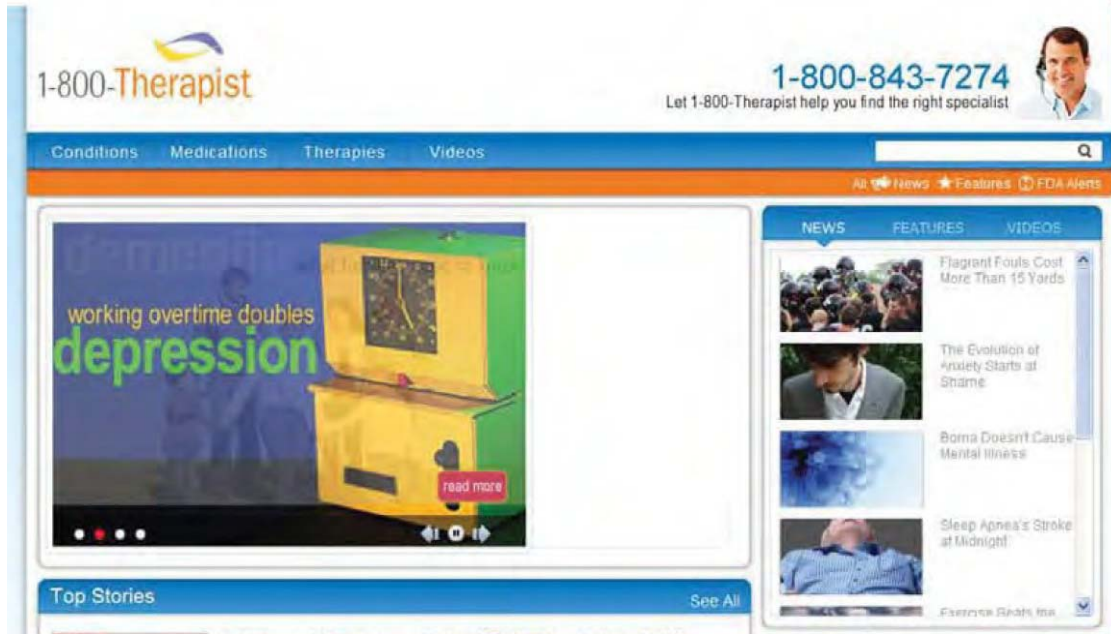


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¹¹ Reg. No. 4196740 for the mark 1-800-IN-STOCK for plumbing supply stores. Registered with a claim of acquired distinctiveness under Section 2(f).

¹² Reg. No. 1966592 for the mark 1-800-45HI-PRO for programs to sustain and improve the health and quality of young calves and cattle.

¹³ Reg. No. 4298015 for the mark 1-800-My-Eye-Doc for optometry services.



¹⁴ Reg. No. 4285135 for the mark 1-800-THERAPIST for providing information in the fields of health, medicine, and mental health. Registered with a claim of acquired distinctiveness under Section 2(f).

¹⁵ Reg. No. 2345079 for the mark 1-800-ASK-USPS for telephone directory services and providing information regarding mail sorting, handling and receiving and related information by means of the telephone.

¹⁶ Reg. No. 3106660 for the mark 1-800-WIN-WIN-1 for legal services.

¹⁷ Reg. No. 3538372 for the mark 1-800-CALL-JOE for legal services.

How to Order

U.S.A. AND CANADA

TELEPHONE

1-800-622-6279*

Mexico: 001 (203) 359-7803

International: (203) 359-1660

24 hr. FAX: (203) 359-7700

Toll-Free Fax: 1-877-FAX-OMEGA

Our qualified sales personnel are trained to offer technical assistance as well as aid you in placing an order.

CONFIRMING ORDERS

When placing an order by telephone, please inform the salesperson that confirming paperwork will follow. To avoid duplication, mark your confirming paperwork "Confirmation Only, Do Not Duplicate" and include the salesperson's name.

Send order confirmations to:

OMEGA ENGINEERING, INC.

P.O. BOX 2669

STAMFORD, CT 06906 USA

WRITTEN ORDERS

Written orders are welcomed. If you are familiar with our products and do not need to consult with a salesperson, send or FAX your written orders to:

OMEGA ENGINEERING, INC.

P.O. Box 4047

Stamford, CT 06907-0047 USA

FAX: (203) 359-7700

or e-mail your order to:

sales@omega.com (domestic orders)

intsales@omega.com (international orders)

For fast, efficient processing of your order, please include:

Purchase Order Number
Billing and Shipping Addresses
Part No. and Description of Items Ordered
Telephone Number of Requisitioner

TERMS

We are pleased to extend the terms of Net 30 days to all customers who have established an open account with OMEGA. All shipments will be F.O.B. Stamford, CT. OMEGA welcomes new accounts and will process orders on a C.O.D. or a prepaid basis when an open account is being established. Prepayment checks should be mailed to:

OMEGA ENGINEERING, INC.

P.O. Box 2349

Stamford, CT 06906 USA

PRICES

QUANTITY DISCOUNTS

Many items have quantity discount schedules. For large quantities and for products which do not have discount schedules listed, please consult the Sales Department.

CREDIT CARDS

OMEGA is pleased to honor major credit cards for your ordering convenience: VISA, MasterCard and American Express.

MINIMUM BILLING

The minimum billing is \$10.

SHIPMENTS

Domestic and international orders are shipped via UPS. Other qualified carriers are available upon request.

PAYMENTS BY CHECK

OMEGA Engineering, Inc.

P.O. Box 740498

Atlanta, GA 30374-0498 USA

PAYMENTS BY TRANSFER

OMEGA Engineering, Inc.

Bank of America

ABA # 011900571 (EFT)

For Credit To OMEGA Engineering, Inc.

Checking Acct. # 1584271

ADDITIONAL PAYMENT INFORMATION

U.S. Federal Tax I.D. No.: 06-6041011

Duns Reference No.: 001455856

ORDER STATUS AND RETURN/

REPAIR INQUIRIES

For delivery status, order changes, cancellations, in-warranty and out-of-warranty repairs, please contact OMEGA's Customer Service Department. Before returning any Product(s), please contact the Customer Service Department to obtain an Authorized Return (AR) number and shipping address.

The designated AR number should then be marked on the outside of the return package. To avoid processing delays, please be sure to include: purchase order number, invoice number, name, address and phone number, product model and serial number, and repair instructions. Call Toll-Free for Service:

1-800-622-6279*

OEM ACCOUNTS

Original equipment manufacturers' discounts are available to all qualified manufacturers. Contact the OEM Sales Department for an application form.

¹⁸ Reg. No. 2224899 for the mark 1-800-622-BEST for the ordering of products designed to measure, control or regulate laboratory temperature and other conditions.

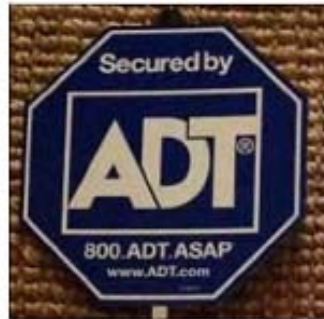
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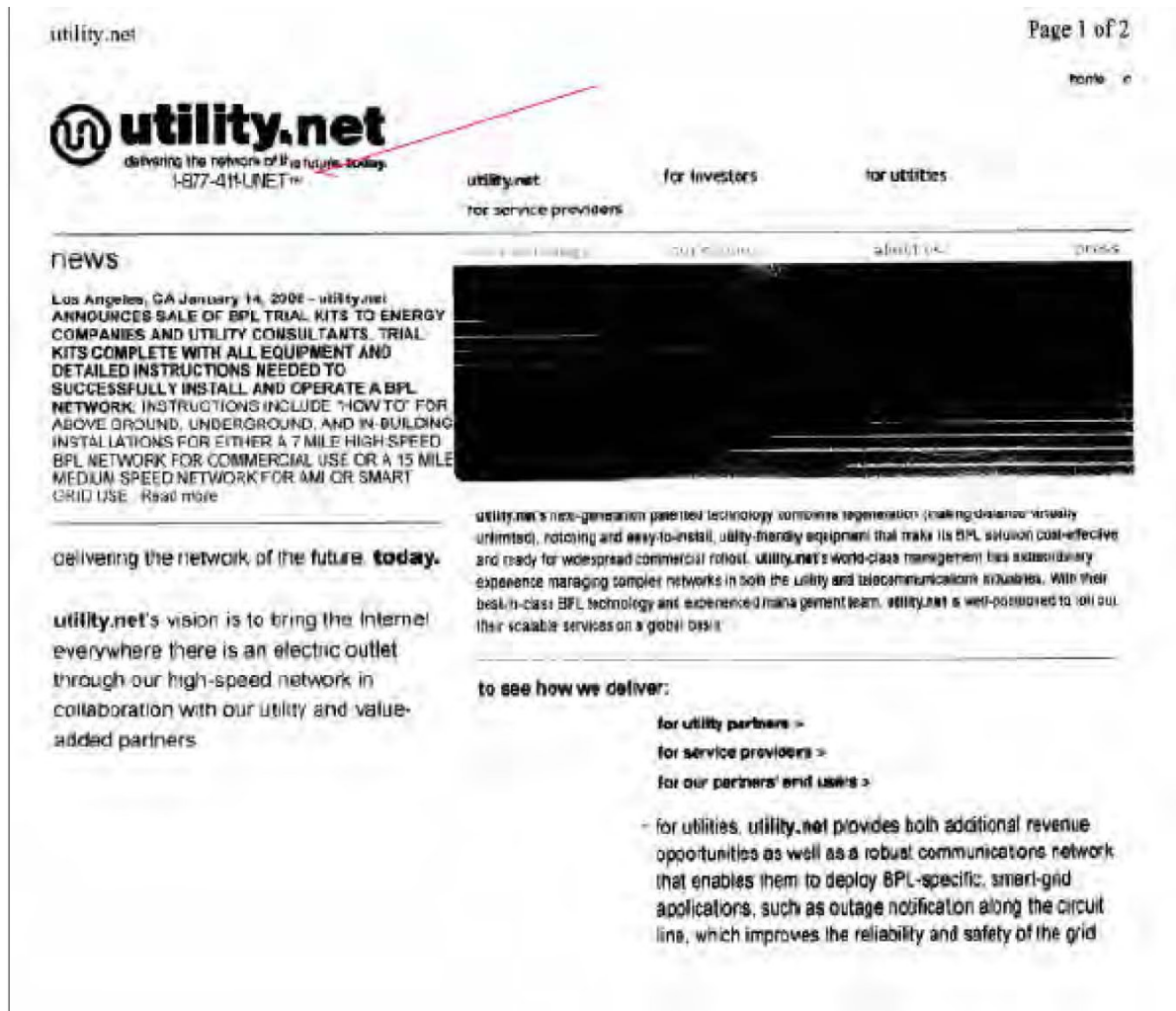


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¹⁹ Reg. No. 3946570 for the mark 1-800-CALL-KEN for legal services; registered on the Supplemental Register.

²⁰ Reg. No. 3738707 for the mark 888-995-HOPE for financial counseling services.

²¹ Reg. No. 2734955 for the mark 800.ADT.ASAP for security systems.



As noted above, Applicant provided copies of the specimens for over forty vanity telephone number registrations. Conversely, the record is devoid of any information regarding vanity telephone numbers that may have been refused registration based on their alleged failure to function as a mark. Further, the fact that four of these are for services identical to those provided by Applicant, namely vehicle towing, mitigates the Examining Attorney's argument that in the field of roadside assistance, consumers are familiar with emergency service providers using

²² Reg. No. 3409750 for the mark 1-877-411-UNET for broadband communication services.

vanity telephone numbers and thus would perceive Applicant's mark as only a means by which one could reach Applicant. We also note the Examining Attorney's argument and evidence regarding the alleged descriptive nature of the term "OnCall" (which appears on Applicant's specimens), but disagree that consumers would connect "OnCall" with "1-800-TIRE-911" and "view this use on the specimen only as a statement that applicant can be summoned by dialing the telephone number that follows 'OnCall'."²³ As used on Applicant's specimens, the term OnCall appears on a separate line and is also followed by a TM symbol. The terms do not form a unitary phrase, such as "on call at this number," but would be perceived as separate designations. Applicant's vanity telephone number is not so blended with "OnCall" or any other matter on the specimens that it is difficult or impossible to discern what the mark is, nor is it displayed in close proximity to any other of Applicant's contact information, such as its address, fax number, email or website address.

Applicant's mark may serve an informational purpose in telling the customer how to reach Applicant, but it also provides a catchy means by which to remember that the services are for those unfortunate times when one has a "tire emergency." As used on the specimens, Applicant's mark creates a commercial impression beyond that of a mere telephone number and thus will be recognized by prospective purchasers as a service mark. For these reasons, the designation 1-800-TIRE-911 functions as a mark.

²³ Examining Attorney's Brief, 8 TTABVue 8.

Serial No. 85077031

Decision: The refusal to register applicant's mark 1-800-TIRE-911 is reversed.