From: Lorenzo, Kathleen

Sent: 8/7/2012 12:23:10 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85259331 - TSC TRACTOR SUPPLY CO. - 012795.06987 - Request for Reconsideration Denied - Return to TTAB - Message 1 of 3

****
Attachment Information:
Count: 7
Files: supply-1.jpg, supply-2.jpg, tscweb-1.jpg, tscweb-2.jpg, tscfact-1.jpg, tscfact-2.jpg, 85259331.doc

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85259331

MARK: TSC TRACTOR SUPPLY CO.

CORRESPONDENT ADDRESS:
ROBERT P. FELBER, JR.
WALLER LANSDEN DORTCH & DAVIS, LLP
STE 2700
511 UNION ST
NASHVILLE, TN 37219

GENERAL TRADEMARK INFORMATION:
http://www.uspto.gov/main/trademarks.htm

APPLICANT: Tractor Supply Co. of Texas, LP

CORRESPONDENT'S REFERENCE/DOCKET NO:
012795.06987
CORRESPONDENT E-MAIL ADDRESS:
robert.felber@wallerlaw.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 8/7/2012

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is granting the request in part but denying the request in part for the reasons stated below. *See* 37 C.F.R. §2.64(b); TMEP §§715.03(a), 715.04(a). The requirement made final in the Office action dated January 18, 2012 is maintained and continues to be final in regards to the following goods: "metal tool boxes". *See* TMEP §§715.03(a), 715.04(a). The requirement is withdrawn as to "decorative wall plaques made of common metal".

In the present case, applicant's request has not resolved the outstanding issue, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied as to "metal tool boxes".

Disclaimer Required

Applicant must disclaim the descriptive wording "SUPPLY CO." apart from the mark as shown because it merely describes an feature or purpose of applicant's goods, namely, "metal tool boxes". *See* 15 U.S.C. §§1052(e)(1), 1056(a); *In re Steelbuilding.com*, 415

F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987); TMEP §§1213, 1213.03(a).

Applicant argues the Office has allowed registration of similar marks on the Principal Register without disclaimer. However, the fact that third-party registrations exist for marks allegedly similar to applicant's mark is not conclusive on the issue of descriptiveness. *See* TMEP §1209.03(a). An applied-for mark that is merely descriptive does not become registrable simply because other seemingly similar marks appear on the register. *In re Scholastic Testing Serv., Inc.*, 196 USPQ 517, 519 (TTAB 1977); TMEP §1209.03(a).

It is well settled that each case must be decided on its own facts and the Trademark Trial and Appeal Board is not bound by prior decisions involving different records. *See In re Nett Designs, Inc.*, 236 F.3d 1339, 1342, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001); *In re Lean Line, Inc.*, 229 USPQ 781, 783 (TTAB 1986); TMEP §1209.03(a). The question of whether a mark is merely descriptive is determined based on the evidence of record at the time each registration is sought. TMEP §1209.03(a); *see In re Nett Designs, Inc.*, 236 F.3d at 1342, 57 USPQ2d at 1566.

The word "supply" is defined as "something that is or can be supplied; materials and provisions stored and dispensed when needed; materials provisions, etc. for supply an army, expedition, a business, etc.". See the attached dictionary definitions and the definition attached to the June 7, 2011 Office Action.

Applicant's website states: "Stores <u>supply</u> the unique products to support their customers' rural lifetstyle, from welders and generators to animal care products and men and women's workwear. You can also find pet supplies, animal feed, power tools, riding mowers, lawn and garden products and more." (emphasis added). See the attached screenshot from applicant's website, http://www.tractorsupply.com/content/abouttsc/aboutuscompanyprofile, retrieved August 6, 2012.

Applicant's website also states in its mission statement: "We are committed to be the most dependable <u>supplier</u> of basic maintenance products to our farm, ranch and rural customers." (emphasis added). See the attached screenshot from applicant's website, http://www.tractorsupply.com/content/abouttsc/aboutusmissionvalues, retrieved August 6, 2012.

Additionally, applicant's website states: "What can you buy at Tractor Supply Company? Everything except tractors. At TSC, customers find everything they need to maintain their farms, ranches, homes and animals. As the inventors of the "do it yourself" trend, our customers handle practically every chore themselves, from repairing wells to building fences, welding gates together, constructing feed bins, taking care of livestock and pets, repairing tractors and trucks and building trailers for hauling. TSC's products include: clothing, equine and pet supplies, tractor/trailer parts and accessories, lawn and

garden supplies, sprinkler/irrigation parts, power tools, fencing, welding and pump supplies, riding mowers and more." See the attached screenshot from applicant's website, http://www.tractorsupply.com/content/abouttsc/aboutusfactsheet, retrieved August 6, 2012.

See also the attached third party registration and Internet evidence showing common use of the term "Supply Co." in relation to "tool boxes".

Applicant's metal tool box is a material or supply for use by customers to maintain their farms, ranches or homes.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §§715.03, 715.03(a), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement and/or refusal and/or to file an appeal with the Board. TMEP §715.03(a), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. *See* TMEP §715.04(a).

/Kathleen Lorenzo/
Trademark Examining Attorney
Law Office 109
Tel: (571) 272-5883
Fax: (571) 273-9109
kathleen.lorenzo@uspto.gov

Hi, Kathleen | Sign Out | Help
Preview Mail w/ Y! Toolbar
Mail | My Y! | Yahoo!

YAHOO! EDUCATION
Search | Search Web

AdChoices
Shine from YAHOO! PRESENTS TEAM MOM
Hear from the moms behind the athletes.
See Their Stories

Definition of supply

Word of the Day

perfunctory
Definition: (adjective) unenthusiastic, routine, or mechanical.
Petersons.com

Add Word of the Day to your personalized My Yahoo! page:
MY YAHOO! RSS
About My Yahoo! and RSS »

Sponsored Links
New Supple□ Powder
Special Intro Pricing. Free Mini Shaker. Risk Free Guarantee
BuySupplePowder.com

sup·ply (sə-plī') KEY

VERB:
sup·plied, sup·ply·ing, sup·plies
VERB:
tr.

1. To make available for use; provide.
2. To furnish or equip with: *supplied sheets for every bed.*
3. To fill sufficiently; satisfy: *supply a need.*
4. To make up for (a deficiency, for example); compensate for.
5. To serve temporarily as a substitute in (a church, for example).

VERB:
intr.

To fill a position as a substitute.

NOUN:
pl. **sup·plies**

AUGUST 2012
Would You Go Back To School If You Qualified For A Grant?
See If You Qualify!
AUG 2012 - You're losing up to $21,900 every year you don't go back to school. See how grants and financial aid can help qualified students return to school.
PICK YOUR AGE
33

pl. **sup·plies**

1. The act of supplying.
2. Something that is or can be supplied.
3. An amount available or sufficient for a given use; stock.
4. Materials or provisions stored and dispensed when needed. Often used in the plural.
5. *Economics* The amount of a commodity available for meeting a demand or for purchase at a given price.
6. A cleric serving as a substitute or temporary pastor.

ETYMOLOGY:
Middle English supplien, *to help, complete, furnish with additional troops*, from Old French soupleer, *to fill up*, from Latin supplēre : sub-, *from below* ; see **sub-** + plēre, *to fill*; see pelə-[1] in Indo-European roots

OTHER FORMS:
sup·pli'er*(Noun)*

Thesaurus: synonyms for supply

Visit our partner's site
Provided by Houghton Mifflin

eReference -- Download this interactive reference software to your desktop computer
e-Reference

Sponsored Links
Supple Associates
Earn Significant Discounts Off Supple product
suppleassociates.com

Tractor **Supply** at Sears
Save on Big Selection of Tractors. Craftsman & Other Top Brands!
www.sears.com/Tractors

Dell Official Ink Store
Get Free Shipping on Ink at Dell's Official Site for Home & Business.
www.Dell.com/Ink
(What's this?)

Copyright ©2009 Yahoo! Inc. All rights reserved. Questions or Comments, Privacy Policy - About Our Ads - Terms of Service - Copyright/IP Policy.

About Us
History
Company Profile
Mission Values
Fact Sheet
Product Category Expertise
Corporate Sponsorship
Store Events
Vendor Center
Logistics Information, EDI Information, Document Library, Open Buying Days
Careers
Investor Relations

COMPANY PROFILE

Tractor Supply Company is the largest retail farm and ranch store chain in the United States. The company operates over 1,130 retail stores in 45 states, employs more than 16,000 team members and is headquartered in Brentwood, Tenn. Its stock is traded on the NASDAQ exchange under the symbol "TSCO."

The company was founded in 1938 as a mail order catalog business offering tractor parts to America's family farmers. Today Tractor Supply is a leading edge retailer with revenues of approximately $4 billion.

Tractor Supply stores are primarily located in rural areas and the outlying suburbs of major cities. The typical Tractor Supply store has 15,000-24,000 square feet of inside selling space with a similar amount of outside space used to display agricultural fencing, livestock equipment anc horse stalls.

Stores supply the unique products to support their customers' rural lifestyle, from welders and generators to animal care products and men and women's workwear. You can also find pet supplies, animal feed, power tools, riding mowers, lawn and garden products and more. Each store team includes welders, farmers and horse owners who collectively provide an exceptional depth of knowledge and resources.

Tractor Supply is committed to understanding and fulfilling the needs of those who enjoy the rural lifestyle: folks who frequently describe themselves as hobby farmers and hobby ranchers. It is estimated that the "hobby" or "pleasure" farmer consumer segment spends more than $5.5 billion annually on farm supplies. Today less than 10 percent of the company's customers classify themselves as full-time farmers or ranchers. In fact, Tractor Supply's largest customer segment does not farm at all. They are more aptly described as rural or suburban homeowners, or "self-reliants." When asked, customers often describe Tractor Supply as "a store you can trust."

Tractor Supply is continuing to grow with new stores and improved product offerings. The Tractor Supply mission and values motivate and inspire team members and give the organization a unified focus for the future.

Shop by Department

Agriculture
Clothing & Footwear
Equine
Fencing
Home Improvement
Lawn & Garden
Livestock
Parts Store
Pet
Power Equipment
Tools
Toys & Decor
Trailers & Towing
Vehicle Maintenance & Accessories
Welding

Shop by Brand

Carhartt
Cub Cadet
Dumor
GTO Mighty Mule
Hobart
Husqvarna
Justin
Purina
Winchester
Wolverine

Popular Searches

tsc.tractorsupply.com/

Connect

Like 1,699 people like this. Be the first of your friends.

Recommend on Google+

Email Signup

Signup for Special Offers

View Your Local Ad

My TSC Store

Know-How Central

Cattle Care
Goat Care
Heating
Horse Care
Lawn & Garden
Outdoor Power Equipment
Pet Care
Poultry Care
Welding
View All Know-How Central

Out Here Magazine

Current Issue
Back Issues
Recipe Archive

Service

Contact Us
TSC Stores: Find a Store
Frequently Asked Questions
Order Cancellation Policy
Order Status
PowerPlus Plan
Privacy Policy
Propane Tank Filling
Return Policy
Satisfaction Guarantee
Shipping Rates
Store Events
Terms and Conditions
Tractor Supply Credit Cards

Credit

Major Purchase Plan

Tractor Supply Personal Credit Card
Customer Service: 1-800-263-0691

Tractor Supply Business Credit Card
Customer Service: 1-800-559-8232

About Tractor Supply

About Us
Careers
History
Investor Relations
Mission & Values
Quick Facts
Sustainability New!
Vendor Information

Contact US

Online Order Support
customerservice@tractorsupply.com
Call: 1-877-718-6750
Monday – Saturday: 8am – 9pm CST
Sunday: 9am – 6pm CST New!

Tractor Supply Store Support
Call: 1-877-872-7721
Monday – Sunday: 8am – 5pm CST

Mailing Address
Tractor Supply Company
Attn: Online Customer Service
200 Powell Place
Brentwood, TN 37027

TSC TRACTOR SUPPLY CO | FOR LIFE OUT HERE

© 2012 Tractor Supply Co.

McAfee SECURE
TESTED DAILY 06-AUG

ABOUT SSL CERTIFIC

About Us
History
Company Profile
Mission Values
Fact Sheet
Product Category Expertise
Corporate Sponsorship
Store Events
Vendor Center
Logistics Information, EDI Information, Document Library, Open Buying Days
Careers
Investor Relations

FACT SHEET

What is Tractor Supply Company?
Tractor Supply Company is the leading retail farm and ranch store brand in America. Founded in 1938 as a mail order tractor parts business, Tractor Supply Company (also referred to as TSC) owns and operates over 1,130 stores in 45 states supplying daily farm and ranch maintenance supplies to a targeted customer base. Based in Brentwood, Tenn., Tractor Supply is a public company whose stock is traded on The NASDAQ National Market under the symbol TSCO.

Who are Tractor Supply Company's customers?
A niche market of farmers, horse owners, ranchers, part-time and hobby farmers, and suburban and rural homeowners, as well as contractors and tradesmen.

Where are Tractor Supply Company stores located?
TSC stores are located in rural communities and in the outlying areas of large cities in 45 states where agriculture is a significant factor in the local economy.

What can you buy at Tractor Supply Company?
Everything except tractors. At TSC, customers find everything they need to maintain their farms, ranches, homes and animals. As the inventors of the "do it yourself" trend, our customers handle practically every chore themselves, from repairing wells to building fences, welding gates together, constructing feed bins, taking care of livestock and pets, repairing tractors and trucks and building trailers for hauling.

TSC's products include: clothing, equine and pet supplies, tractor/trailer parts and accessories, lawn and garden supplies, sprinkler/irrigation parts, power tools, fencing, welding and pump supplies, riding mowers and more.

Shop by Department

Agriculture
Clothing & Footwear
Equine
Fencing
Home Improvement
Lawn & Garden
Livestock
Parts Store
Pet
Power Equipment
Tools
Toys & Decor
Trailers & Towing
Vehicle Maintenance & Accessories
Welding

Shop by Brand

Carhartt
Cub Cadet
Dumor
GTO Mighty Mule
Hobart
Husqvarna
Justin
Purina
Winchester
Wolverine

Popular Searches

tsc.tractorsupply.com/

Connect

Like 1,700 people like this. Be the first of your friends.

Recommend on Google+

Email Signup

Signup for Special Offers

View Your Local Ad

My TSC Store

Know-How Central

Cattle Care
Goat Care
Heating
Horse Care
Lawn & Garden
Outdoor Power Equipment
Pet Care
Poultry Care
Welding
View All Know-How Central

Out Here Magazine

Current Issue
Back Issues
Recipe Archive

Service

Contact Us
TSC Stores: Find a Store
Frequently Asked Questions
Order Cancellation Policy
Order Status
PowerPlus Plan
Privacy Policy
Propane Tank Filling
Return Policy
Satisfaction Guarantee
Shipping Rates
Store Events
Terms and Conditions
Tractor Supply Credit Cards

Credit

Major Purchase Plan

Tractor Supply Personal Credit Card
Customer Service: 1-800-263-0691

Tractor Supply Business Credit Card
Customer Service: 1-800-559-8232

About Tractor Supply

About Us
Careers
History
Investor Relations
Mission & Values
Quick Facts
Sustainability New!
Vendor Information

Contact US

Online Order Support
customerservice@tractorsupply.com
Call: 1-877-718-6750
Monday – Saturday: 8am – 9pm CST
Sunday: 9am – 6pm CST New!

Tractor Supply Store Support
Call: 1-877-872-7721
Monday – Sunday: 8am – 5pm CST

Mailing Address
Tractor Supply Company
Attn: Online Customer Service
200 Powell Place
Brentwood, TN 37027

TRACTOR SUPPLY CO | FOR LIFE OUT HERE

© 2012 Tractor Supply Co.

McAfee SECURE
TESTED DAILY 06-AUG

ABOUT SSL CERTIFIC