

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85306954
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The examiner has maintained the refusal to register the CVC mark (Application Serial No. 85/306,954) <u>in Class 12 only</u> on the basis that it is confusingly similar to the CVCC U.S. Trademark Registration Number 2,148,579. Reconsideration is respectfully requested. Applicant also reincorporates the arguments made in its previous response.</p> <p>Initially, Applicant respectfully advises the examiner that it has amended its identification of goods and services in order to clarify the goods and services on which its mark is used. Specifically, the examiner cites the language “body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes” in her arguments. Applicant has amended this language to specify that these goods are “not as parts of engines.” In addition, Applicant makes the following arguments (and incorporates its previous arguments herein by reference):</p> <p>A. <u>Marks are Visually, Phonetically and Connotatively Distinguishable</u></p> <p>With respect to the CVCC mark, Applicant believes that its mark is visually, phonetically and connotatively distinguishable. Whereas the trade mark CVCC would be pronounced /siË•/ - /viË•/ - /siË•/ - /siË•/, the applicant’s trade mark would be pronounced /siË•/ - /viË•/ - /siË•/. This is a noticeable difference in pronunciation. In addition, any consumer would see the visual differences between the marks since the marks would be viewed as a whole. The visual differences between the marks are striking, especially when viewed in connection with the connotation of each mark (discussed below). The letters CC in the CVCC mark are easily remembered by a consumer given the aspects of alliteration, and would be different from the CVC mark. In short, since both marks are acronyms and have different meanings, the marks as a whole are distinguishable.</p> <p>Moreover, the marks also have different commercial impressions. As mentioned previously, the CVCC mark is an acronym for “Compound Vortex Controlled Combustion.” This is a very specific meaning and is used on a very specific product (namely, the Honda Civic). The CVCC mark also has a special meaning and significance since it was the first engine to meet the stringent standards of the 1970 U.S. Clean Air Act. On the other hand, Applicant’s mark has no such meaning or significance. Applicant’s mark is an coined acronym for its coined phrase “controlled vacuum casting.”</p>	

The examiner's refusal of the CVC mark leads to the result that the owner of a short letter mark could effectively monopolize those and similar letters, even if those letters have different meanings and connotations to consumers and are used on different goods in different channels of trade. However, there are many cases where slight variations in marks have created different meanings, and no likelihood of confusion was found to exist. In Jacobs v. International Multifoods Corp., 668 F.2d 1234, 212 USPQ 641 (CCPA 1982), the Court held that a one letter difference between "BOSTON SEA PARTY" and "BOSTON TEA PARTY" was enough to negate confusion because the marks had distinct meanings. In this case, the marks have distinct meanings.

In a Trademark Trial and Appeal Board decision, no likelihood of confusion was found between "PAYOT" and "PEYOTE" because despite a difference in only two letters, and a similarity in appearance and sound, the word had different meanings. One was an English word, the other a surname. One was familiar, the other was unfamiliar. Payot v. Southwestern Classics, 3 USPQ2d 1601 (TTAB 1987). *Also see* In re Champion Oil Co., 1 USPQ2d 1920 (TTAB 1986) ("TOP FORMULA 16" V. "FORMULA 1"). In this case, the CVCC mark is a recognized acronym whereas Applicant's mark has no such meaning or significance.

Finally, there is much case law involving marks that were almost identical in a literal sense, but because of a difference in overall images conjured up by the marks, no likelihood of confusion was found. *See* In re Best Products Company, Inc., 231 USPQ 988 (TTAB 1986) ("JEWELERS' BEST" v. "BEST JEWELRY"); Bank of America National Trust and Savings Association v. American National Bank of St. Joseph, 201 1 USPQ 942 (TTAB 1978) ("BANKAMERICA" v. "AMERIBANC"); and Carlisle Chemical Works, Inc. v. Hardman and Holden Ltd., 434 F.2d 1403, 168 USPQ 110 (CCPA 1970) ("COZIRC" v. "ZIRCO").

See also Bass Pro Trademarks LLC v. Sportsman's Warehouse Inc., 89 USPQ2d 1844 (TTAB 2009). No likelihood of confusion was found between SPORTSMAN'S WAREHOUSE + Design for "retail and wholesale stores featuring hunting supplies, fishing supplies, camping supplies, reloading supplies, outerwear clothing and footwear" and BASS PRO SHOPS SPORTSMAN'S WAREHOUSE and Design for use on "retail stores featuring clothing, fishing supplies and sporting goods." The Board determined that confusion was unlikely since differences between the marks with respect to appearance, sound, connotation, and commercial impression outweigh any similarities resulting from their shared use of descriptive "SPORTSMAN'S WAREHOUSE."

The CVC and the CVCC marks are visually, phonetically and connotatively distinguishable, and there would be no likelihood of consumer confusion. These marks are understood by the relevant public as abbreviation of words which have entirely different meanings and connotations.

B. Goods are Distinguishable and Travel in Different Channels of Trade

The examiner argues that the goods of the parties are related since the registrant's goods are "structural parts" and Applicant provides "body and structural parts for vehicles." However, the attached specimen submitted by the registrant shows that the mark is used in connection only with a CVCC engine (which has a specific function and purpose). Moreover, the attached entry from Wikipedia.com indicates that "CVCC is a trademark by the Honda Motor Company for an engine with reduced automotive emissions, which stood for Compound Vortex Controlled Combustion." Again, this engine allowed vehicles to meet U.S. emission standards. Therefore, the language "structural parts and engines for automobiles" refers only to those structural parts which affect the engine. On the other hand, Applicant has specifically added the language "not in connection with engines" to show that its

mark is used on entirely different goods.

Moreover, the purchasers of Applicant's products and the purchasers of Honda's engines are not the same. Applicant is an automotive supplier and only provides automakers individual components or complete assemblies. Therefore, Applicant is part of the auto-supply chain. To its previous response, Applicant attached a press release which indicates that it has presented its CVC products to customers such as BMW, Audi, Daimler, Opel, and ZF Lemforder.

On the other hand, the registrant is itself an automaker. Therefore, there would be no confusion in consumers. The registrant would not be confused as to whether it was purchasing its own engines or Applicant's products. Third-party automakers would not be confused as to whether they were purchasing engines used in Honda vehicles or Applicant's products. Therefore, there is no likelihood of confusion as to the goods, the channels of trade, or the consumers. The consumers are sophisticated and pay careful attention to what specific goods they are purchasing.

The Examiner has not explained why the goods of the parties are related. Merely being classified in the same international class of goods and/or having something superficial to do with the same subject matter (*e.g.*, vehicles) are not sufficient bases for an Examiner to refuse registration. This is particularly true when those goods are sold in different channels of trade or to different consumers. Examples abound in many areas:

1) No likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. In re Shipp, 4 USPQ2d 1174 (TTAB 1987). The following reasons were given by the TTAB:

1. The services were offered to the general public, while the goods were used by owners or operators of the business establishments.

2. The goods were not ordinarily sold to the general public.

3. It was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses.

4. The only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

2) In the case In re American Olean Tile Co., Inc., 1 USPQ2d 1823 (TTAB 1986), the Trademark Trial and Appeal Board found that there was no likelihood of confusion between ceramic tile and wood doors for exterior and interior use. Despite the fact that both these materials could be used during construction of a building, they were products that were so dissimilar that they were not considered commercially related.

3) In the case In re W.W. Henry Co., 82 USPQ2d 1213 (TTAB 2007), the Trademark Trial and Appeal Board held that Applicant's PATCH & GO mark used in connection with a cement-based product used in repairing or smoothing wall and floor surfaces is not likely to cause confusion with the Registrant's PATCH 'N GO mark used in connection with chemical filler preparations used in cosmetic repair of polyolefin surfaces. Even though the marks are virtually identical, Applicant's product is of a type offered to do-it-yourselfers and contractors through home improvement hardware

stores, and the Registrant's products are purchased by plastics manufacturers.

4) No likelihood of confusion was found between the marks DIAMOND ESSENCE for jewelry and ESSENCE for a magazine advertising jewelry. Essence Communications, Inc. v. Singh Industries, Inc., 10 USPQ2d 1036 (S.D.N.Y. 1988).

5) In Glen Raven Cotton Mills, Inc. v. Jayvee Brand, Inc., 165 USPQ 791 (TTAB 1970), a distinction was drawn between products that seemed at first glance to be commercially related. The mark CANDEE CANE was used in connection with infant's garments. The mark CANDY CANE was used for a variety of fabrics sold in the piece for fabrication into upholstery fabrics, awnings, draperies, wearing apparel and various accessories. Although cases have held that fabrics and clothing items are related, in this case, the TTAB found no likelihood of confusion because the fabrics were not the type used in the manufacture of infant's garments.

6) No likelihood of confusion was found between the marks ONE FAB FIT for use on women's undergarments and ONE TRUE FIT for use on clothing including jeans, pants, shirts and skirts. H.D. Lee Co. v. Maidenform Inc., 87 USPQ2d 1715 (TTAB 2008). The Board determined that the fact that the parties' products are sold in different sections of department stores underscores their differences, even though the goods were sold in the same channels of trade and to the same consumers.

7) No likelihood of confusion was found between the ASTRA mark for use on pharmaceutical preparations and syringes and the ASTRA mark for use on blood analysis machines. Astra Pharmaceutical Products, Inc. v. Beckman Instruments, Inc., 220 USPQ 786 (1st Cir. 1983). Specifically, the Court noted that "[t]he 'hospital community' is not a homogeneous whole, but is composed of separate departments with diverse purchasing requirements, which, in effect, constitute different markets for the parties' respective products." Astra Pharmaceutical Products, Inc., 220 USPQ at 791. This decision was later cited in Hewlett-Packard Co. v. Human Performance Measurement Inc. in which the Board determined that "the fact that both parties sell their goods to hospitals, and thus share a common channel of trade, does not necessarily mandate a finding that the products are related and that confusion is likely." Hewlett-Packard Co. v. Human Performance Measurement Inc., 23 USPQ2d 1390, 1395 (TTAB 1991)(holding that there was no likelihood of confusion between HPM + Design for medical instruments for clinical measurement of human performance functions and HP + Design for use on a wide variety of medical and computer equipment).

8) There is no per se rule that all computer-related items are related. In Reynolds & Reynolds v. I.E. Systems, Inc., 5 USPQ2d 1749 (TTAB 1987), the Board found no likelihood of confusion between "ACCULINK" and a family of "ACCU" marks because computer software used to make microcomputers "dumb terminals" were unrelated to application software for tax programs. The Board stated:

In view of the fact that computers are useful and/or are used in almost every facet of the world of business, commerce, medicine, law, etc., it is obvious that distinctions must be made.

In the case In re Quadrum Corp., 228 USPQ 863 (TTAB 1985), the Board held that there was no likelihood of confusion between "MICROFASER" for peripheral computer hardware and "FASER" for applications software in the field of energy conservation and management.

9) No likelihood of confusion was found between the M2 mark for use on CD-ROMS for healthcare and the M2 COMMUNICATIONS mark for use on CD-ROMS for film and music. M2 Software Inc. v.

M2 Communications, Inc., 78 USPQ2d 1944 (CAFC 2006).

Similarly, in In re Box Solutions Corp., 79 USPQ2d 1953 (TTAB 2006), the Board reversed the examiner's likelihood of confusion refusal on the basis that the phrase BOX SOLUTIONS used with computer communications servers was not likely to cause confusion with registrant's BOX + Design mark for use with computers and computer peripherals.

10) There is no per se rule that all food-related products are related. *See* Steve's Ice Cream v. Steve's Famous Hot Dogs, 3 USPQ2d 1477 (TTAB 1987) (ice cream not related to restaurants featuring hot dogs); Jacobs v. International Multifoods, Corp., 212 USPQ 641, 642 (CCPA 1982) (restaurant services unrelated to tea); The Nestle Company, Inc., v. Nash-Finch Co., 4 USPQ2d 1085 (TTAB 1987) (delicatessen not related to chocolate milk powders); Hi-Country Foods Corp. v. Hi Country Beef Jerky, 4 USPQ 1169 (TTAB 1987) (fruit juices not related to beef snack food).

The essence of all these cases is that merely having something to do with food does not establish that products or services are commercially related. The Examiner must provide more proof.

11) In the case In re White Rock Distilleries Inc., 92 USPQ2d 1282 (TTAB 2009), the Board held that there was no likelihood of confusion between VOLTA for use on vodka infused with caffeine and TERZA VOLTA + Design for use on wine. Even though the goods in question travel in the same channels of trade to the same class of purchasers, the Board determined that the marks were dissimilar and vodka and wine are not related goods. The Board specifically noted that "there is no per se rule that holds that all alcoholic beverages are related." *Id.* at 1285.

12) *See* Andy Warhol v. Time, 9 USPQ2d 1455 (S.D.N.Y. 1988) (no likelihood of confusion between two magazines with the title INTERVIEW); American Cyanamid Corp. v. Connaught Laboratories, Inc., 800 F.2d 306, 231 USPQ2d 128 (2nd Cir. 1986), (no likelihood of confusion between HIBBVAX and HIBIMUNE); Lang v. Retirement Living Publishing Co., 21 USPQ2d 1041 (2d Cir. 1991) (no likelihood of confusion between NEW CHOICES FOR THE BEST YEARS and NEW CHOICES PRESS, both used for magazines, because the intended markets of each magazine was different).

13) No likelihood of confusion was found between the MORGAN CREEK mark used on motion pictures, videos, and audio products, and the MORGAN CREEK OUTFITTERS mark used on clothing. Morgan Creek Productions Inc. v. Foria International Inc., 91 USPQ2d 1134 (TTAB 2009). The Board determined that the goods cannot be considered related simply because establishments offering Applicant's clothing and those offering Opposer's products can be located in the same shopping mall. The Board noted that "It has been long held that the mere fact that two different items can be found in a supermarket, department store, drugstore or mass merchandiser store is not a sufficient bases for a finding that the goods are related." Morgan Creek Products, 91 USPQ2d at 1042.

14) In the case In re Giovanni Food Co., 97 USPQ2d 1990 (TTAB 2011), the Board determined that there was no likelihood of confusion between JUMPIN' JACKS on barbeque sauce and JUMPIN JACK'S for catering services. The Board noted "the relatedness of food services and food items in not to be assumed and that evidence sufficient to meet the 'something more' standard is necessary." *Id.* at 1992. In this case, the Board held that the mere fact that some restaurants that specialize in barbeque also provide catering services and sell barbeque sauce is not sufficient to establish a relationship between catering services in general and barbeque sauce.

The situation here presents goods that are even more disparate. Applicant's goods and the registrants' goods would not be encountered by the same people in any level of production or marketing. Accordingly, they should not be considered commercially related and there would be no likelihood of confusion.

In addition, even if the registrant's goods were arguably components of Applicant's goods, or vice versa, this does not mean that there is a likelihood of confusion. Examples abound in many areas:

1) In the case In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993), the Trademark Trial and Appeal Board determined that there was no likelihood of confusion between PHOENIX for leather sold in bulk, and the identical mark PHOENIX registered for use on all-purpose sports bags, luggage, attache cases, briefcases, and handbags. The application covered raw materials while the registration covered finished leather products, and even the registrant admitted that there was no likelihood of confusion.

2) In The Ritz Hotel Limited v. Ritz Closet Seat Corp., 17 USPQ2d 1466 (TTAB 1990), the Trademark Trial and Appeal Board determined that the RIT-Z (Stylized) mark used on toilet seats was not confusingly similar to the well known RITZ marks owned by the Ritz Hotel chain. The Board stated:

True, no hotel room could exist without such an item [a toilet seat]. But, a toilet seat is a fixture of the hotel just as the closets, bathtubs and chandeliers are. Guests would not expect to be able to purchase a toilet seat to take home with them as a memento or souvenir of their visit to a fashionable hotel as they might purchase a robe or a towel bearing the hotel's name and emblem. For these reasons, we do not believe that anyone would expect toilet seats to be within the natural expansion of opposer's business.

3) In Electronic Design & Sales Inc. v. Electronic Data Systems Corp., 21 USPQ2d 1388 (CAFC 1992), the Court of Appeals for the Federal Circuit overruled the Trademark Trial and Appeal Board and held that there was no likelihood of confusion between the E.D.S. mark used on power supplies and battery chargers, and the EDS mark used on computer services. The Court held that the Board failed to assess properly the differences in purchasers, channels of trade, and what each company sold, and overlooked the sophistication of the purchasers.

4) In the case In re Coors Brewing Co., 68 USPQ2d 1059 (CAFC 2003), the Court of Appeals for the Federal Circuit held that beer and restaurant services are not sufficiently related that the use of similar BLUE MOON marks for each would suggest to consumers that the goods and services share a common source. While it is a fact that restaurants sell food and beverages, this is not alone sufficient to show that beverages and restaurant services are related for purposes of likelihood of confusion analysis. In addition, the fact that some restaurants brew or serve their own private label beer does not support the conclusion that consumers are likely to assume common source for beer and restaurant services with similar marks.

5) Applicant also respectfully reiterates that in the case In re Shipp, 4 USPQ2d 1174 (TTAB 1987), no likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. The TTAB determined that the services were offered to the general public, while the goods were used by owners or operators of the business establishments; the goods were not ordinarily sold to the general public; it was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses; and the only class of purchaser who would encounter both the services and the goods were dry cleaning

professionals who were aware of practices in the trade.

On the basis of these cases, even if the registrant's goods were components of Applicant's goods and services, or vice versa, this does not mean that there is a likelihood of confusion between the goods of the parties. The goods and services of the parties are different, are sold in different channels of trade, and are purchased by different consumers. Thus, there is no likelihood of confusion.

C. Register Should Reflect Actual Use

Despite the unjust harm that will result if Applicant cannot obtain a federal registration, the reality is that Applicant will continue to use its mark. Dilution in the field will preclude serious challenges to Applicant's use. The Examiner should consider the words of the Court of Appeals for the Federal Circuit in *Bongrain International v. Delice de France*, 1 USPQ 2d 1775 (Fed. Cir. 1987):

The primary purpose of the Trademark Act of 1946 is to give Federal procedural augmentation to the common law rights of trademark owners -- which is to say legitimate users of trademarks. One of the policies sought to be implemented by the Act was to encourage the presence on the register of trademarks of as many as possible of the marks in actual use so that they are available for search purposes (emphasis added).

Applicant's mark will be used and should be registered.

In sum, Applicant respectfully requests that the examiner withdraw the likelihood of confusion refusal because the marks of the parties are visually, phonetically and connotatively distinguishable; Applicant's mark is used on different goods in an entirely different channel of trade; and the Register should reflect actual use.

EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_678018390-154927693_2148579_use.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\853\069\85306954\xml6\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\853\069\85306954\xml6\RFR0003.JPG
ORIGINAL PDF FILE	evi_678018390-154927693_CVCC_-_Wikipedia_the_free_encyclopedia.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\853\069\85306954\xml6\RFR0004.JPG
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DESCRIPTION OF EVIDENCE FILE	Specimen submitted the registrant for its registration and entry from Wikipedia.com regarding Registrant's mark
GOODS AND/OR SERVICES SECTION (007)(current)	
INTERNATIONAL CLASS	007

DESCRIPTION	
<p>Casting machines, namely, die casting machines and vacuum die casting machines for castings light metals, namely, magnesium, aluminium and alloys thereof; machine bearing housings; engine bearing housings; cylinder head covers for engines; engine bearers; oil sumps as engine parts; bearing housings and chassis for electrics of machines and engines; die cast components, namely, vacuum die cast components being parts of machines; die casting moulds, namely, vacuum die casting moulds being parts of machines for use in the production of machine and vehicle parts; compressors, pumps and parts therefore, namely, injection pump housings for fuel injection, oil and water pump housings; vacuum die cast components made of light metal combined with parts of steel, rubber and plastic for engine and machine parts and housings, except for land vehicles; housings for machines and engines, except for land vehicles; transmissions and parts therefore, except for land vehicles; hydraulic drives and parts thereof for machines and engines; pneumatic drives and parts thereof for machines and engines; exhaust manifolds for engines, except for land vehicles; transmission gearing and parts thereof for machines; cardan joints; shifting clutches and parts thereof, except for land vehicles; flywheels for machines; machine stands; machine parts, namely stators; pivot bearings; pistons, piston bolts and piston rings as well as ring segments and piston ring sets; cylinders, cylinder heads, liners for cylinders for internal combustion engines, except for land vehicles; crank, transmission, clutch, injection pump and steering gear housing, carburettors for internal combustion engines, parts for braking systems, namely braking cylinders; inlet manifolds and suction pipes for engines; accelerator throttle connectors, camshafts, and crankshafts; connecting rods; radiators for engines, exhaust gas coolers, intercoolers and oil coolers; turbochargers and parts thereof for engines; all such above-mentioned goods not for use in rolling mills or as part of rolling mills</p>	
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	302010063957
FOREIGN REGISTRATION COUNTRY	Germany
FOREIGN REGISTRATION DATE	05/03/2011
FOREIGN EXPIRATION DATE	11/30/2020
GOODS AND/OR SERVICES SECTION (007)(proposed)	
INTERNATIONAL CLASS	007
TRACKED TEXT DESCRIPTION	
<p>Casting machines, namely, die casting machines and vacuum die casting machines for castings light metals, namely, magnesium, aluminium and alloys thereof; machine bearing housings; engine bearing housings; cylinder head covers for engines; engine bearers; oil sumps as engine parts; bearing housings and chassis for electrics of machines and engines; die cast components, namely, vacuum die cast components being parts of machines; die casting moulds, namely, vacuum die casting moulds being parts of machines for use in the production of machine and vehicle parts; compressors, pumps and parts therefore, namely, injection pump housings for fuel injection, oil and water pump housings; vacuum die</p>	

cast components made of light metal combined with parts of steel, rubber and plastic for engine and machine parts and housings, except for land vehicles; housings for machines and engines, except for land vehicles; transmissions and parts thereof, except for land vehicles; hydraulic drives and parts thereof for machines and engines; pneumatic drives and parts thereof for machines and engines; exhaust manifolds for engines, except for land vehicles; transmission gearing and parts thereof for machines; cardan joints; shifting clutches and parts thereof, except for land vehicles; flywheels for machines; machine stands; machine parts, namely stators; pivot bearings; pistons, piston bolts and piston rings as well as ring segments and piston ring sets; cylinders, cylinder heads, liners for cylinders for internal combustion engines, except for land vehicles; crank, transmission, clutch, injection pump and steering gear housing, carburettors for internal combustion engines, parts for braking systems, namely braking cylinders; inlet manifolds and suction pipes for engines; accelerator throttle connectors, camshafts, and crankshafts; connecting rods; radiators for engines, exhaust gas coolers, intercoolers and oil coolers; turbochargers and parts thereof for engines; ~~all such above-mentioned goods not for use in rolling mills or as part of rolling mills~~; all such above-mentioned goods not for use in rolling mills or as part of rolling mills, all goods as die-casting machines or for die-casting machines or produced by using a die-casting method

FINAL DESCRIPTION

Casting machines, namely, die casting machines and vacuum die casting machines for castings light metals, namely, magnesium, aluminium and alloys thereof; machine bearing housings; engine bearing housings; cylinder head covers for engines; engine bearers; oil sumps as engine parts; bearing housings and chassis for electrics of machines and engines; die cast components, namely, vacuum die cast components being parts of machines; die casting moulds, namely, vacuum die casting moulds being parts of machines for use in the production of machine and vehicle parts; compressors, pumps and parts thereof, namely, injection pump housings for fuel injection, oil and water pump housings; vacuum die cast components made of light metal combined with parts of steel, rubber and plastic for engine and machine parts and housings, except for land vehicles; housings for machines and engines, except for land vehicles; transmissions and parts thereof, except for land vehicles; hydraulic drives and parts thereof for machines and engines; pneumatic drives and parts thereof for machines and engines; exhaust manifolds for engines, except for land vehicles; transmission gearing and parts thereof for machines; cardan joints; shifting clutches and parts thereof, except for land vehicles; flywheels for machines; machine stands; machine parts, namely stators; pivot bearings; pistons, piston bolts and piston rings as well as ring segments and piston ring sets; cylinders, cylinder heads, liners for cylinders for internal combustion engines, except for land vehicles; crank, transmission, clutch, injection pump and steering gear housing, carburettors for internal combustion engines, parts for braking systems, namely braking cylinders; inlet manifolds and suction pipes for engines; accelerator throttle connectors, camshafts, and crankshafts; connecting rods; radiators for engines, exhaust gas coolers, intercoolers and oil coolers; turbochargers and parts thereof for engines; all such above-mentioned goods not for use in rolling mills or as part of rolling mills, all goods as die-casting machines or for die-casting machines or produced by using a die-casting method

FILING BASIS	Section 44(d)
INTENT TO PERFECT 44(d)	At this time, the applicant intends to rely on Section 44(e) as a basis for registration. If ultimately the applicant does not rely on Section 44(e) as a basis for registration, a valid claim of priority may be retained.
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION	302010063957

NUMBER	
FOREIGN REGISTRATION COUNTRY	Germany
FOREIGN REGISTRATION DATE	05/03/2011
FOREIGN EXPIRATION DATE	11/30/2020
GOODS AND/OR SERVICES SECTION (012)(current)	
INTERNATIONAL CLASS	012
DESCRIPTION	
<p>Transmission parts for land vehicles, namely, disk carriers; transmission housings for land vehicles; body parts for land vehicles, namely, connecting elements, nodes of die-cast aluminium, and cast comers; wheel-guiding components for vehicles, namely, hub carriers and transverse links, auxiliary frames for connecting body and chassis, steering housings, die-cast components, namely, vacuum die cast components for vehicle parts; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic, namely, vehicle chassis and parts thereof; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic as machine housings for land vehicles; housings for machines; vehicle brakes; housings for parts of land vehicles, except engines; transmissions for land vehicles; clutches for land vehicles; knuckles for land vehicles; land vehicle brakes; chassis for motor vehicle; torque converters and parts thereof for land vehicles; shifting clutches and parts thereof for land vehicles; driving mechanism and parts thereof for land vehicles; clutches and parts thereof for land vehicles; connecting rods for land vehicles except engine parts; wheel axles; drive shafts for land vehicles; wheel suspension systems comprised of axles, axle mountings and individual parts thereof; shaft mountings for vehicles and parts therefor; rubber metal parts, namely, shock absorbers as vehicle parts for insulation of mechanical vibration; joints and individual parts thereof, namely, ball joints for vehicles; universal joints and individual parts thereof for vehicles; cardan joints and individual parts thereof for vehicles; steering wheels and individual parts thereof for vehicles; steering columns and individual parts thereof for vehicles, cardan shafts for vehicles; steering gears and individual parts thereof for vehicles; oil containers as parts of motor vehicles and individual parts thereof; airbag housings for vehicles and individual parts thereof; safety belts and individual parts thereof; hub carriers, brake disks, pedals, and fuel containers for vehicles; apparatus for force transmission for motor vehicles; parts for motor vehicle, namely, connecting struts, suspension links, trailing arms, transverse links, semi-tailing links, wishbones, four-point links, multiple links, supporting links, guide links, spring links, trapezoidal links, track rods and stabilizers; body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes; cross and longitudinal members as parts of the vehicle body, namely, for the reinforcement thereof and protection from impact and rollover; body parts, namely, door inner panels, mudguards, bonnets, knuckles, front axles, rear axles, twist beam axles for motor vehicles; bumper systems for motor vehicles comprising bumper cross members, crashboxes and flange plates and parts thereof; bumpers for motor vehicles; chassis and wheel suspensions for vehicles and parts thereof, namely rear axle carriers, front axle carriers, auxiliary frames and cross members, in particular integral die-cast carriers; axle carriers and engine bearers, axle mounts, knuckles and pivot bearings for vehicles; slider housings as a transmission part for vehicles; bearing frames for machines and bearing frames for engines, not as parts of engines; and foot-lever bearing</p>	

mounts for use as part of pedal systems for vehicles; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

FILING BASIS	Section 44(e)
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GOODS AND/OR SERVICES SECTION (012)(proposed)

INTERNATIONAL CLASS	012
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TRACKED TEXT DESCRIPTION

Transmission parts for land vehicles, namely, disk carriers; transmission housings for land vehicles; body parts for land vehicles, namely, connecting elements, nodes of die-cast aluminium, and cast comers; wheel-guiding components for vehicles, namely, hub carriers and transverse links, auxiliary frames for connecting body and chassis, steering housings, die-cast components, namely, vacuum die cast components for vehicle parts; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic, namely, vehicle chassis and parts thereof; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic as machine housings for land vehicles; housings for machines; vehicle brakes; housings for parts of land vehicles, except engines; transmissions for land vehicles; clutches for land vehicles; knuckles for land vehicles; land vehicle brakes; chassis for motor vehicle; torque converters and parts thereof for land vehicles; shifting clutches and parts thereof for land vehicles; driving mechanism and parts thereof for land vehicles; clutches and parts thereof for land vehicles; connecting rods for land vehicles except engine parts; wheel axles; drive shafts for land vehicles; wheel suspension systems comprised of axles, axle mountings and individual parts thereof; shaft mountings for vehicles and parts therefor; rubber metal parts, namely, shock absorbers as vehicle parts for insulation of mechanical vibration; joints and individual parts thereof, namely, ball joints for vehicles; universal joints and individual parts thereof for vehicles; cardan joints and individual parts thereof for vehicles; steering wheels and individual parts thereof for vehicles; steering columns and individual parts thereof for vehicles, cardan shafts for vehicles; steering gears and individual parts thereof for vehicles; oil containers as parts of motor vehicles and individual parts thereof; airbag housings for vehicles and individual parts thereof; safety belts and individual parts thereof; hub carriers, brake disks, pedals, and fuel containers for vehicles; apparatus for force transmission for motor vehicles; parts for motor vehicle, namely, connecting struts, suspension links, trailing arms, transverse links, semi-tailing links, wishbones, four-point links, multiple links, supporting links, guide links, spring links, trapezoidal links, track rods and stabilizers; ~~body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes~~; body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes, not as parts of engines; cross and longitudinal members as parts of the vehicle body, namely, for the reinforcement thereof and protection from impact and rollover; body parts, namely, door inner panels, mudguards, bonnets, knuckles, front axles, rear axles, twist beam axles for motor vehicles; bumper systems for motor vehicles comprising bumper cross members, crashboxes and flange plates and parts thereof; bumpers for motor vehicles; chassis and wheel suspensions for vehicles and parts thereof, namely rear axle carriers, front axle carriers, auxiliary frames and cross members, in particular integral die-cast carriers; axle carriers and engine bearers, axle mounts, knuckles and pivot bearings for vehicles; slider housings as a transmission part for vehicles; bearing frames for machines and bearing frames for engines, not as parts of engines; and foot-lever bearing mounts for use as part of pedal systems for vehicles; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

FINAL DESCRIPTION

Transmission parts for land vehicles, namely, disk carriers; transmission housings for land vehicles; body parts for land vehicles, namely, connecting elements, nodes of die-cast aluminium, and cast comers; wheel-guiding components for vehicles, namely, hub carriers and transverse links, auxiliary frames for connecting body and chassis, steering housings, die-cast components, namely, vacuum die cast components for vehicle parts; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic, namely, vehicle chassis and parts thereof; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic as machine housings for land vehicles; housings for machines; vehicle brakes; housings for parts of land vehicles, except engines; transmissions for land vehicles; clutches for land vehicles; knuckles for land vehicles; land vehicle brakes; chassis for motor vehicle; torque converters and parts thereof for land vehicles; shifting clutches and parts thereof for land vehicles; driving mechanism and parts thereof for land vehicles; clutches and parts thereof for land vehicles; connecting rods for land vehicles except engine parts; wheel axles; drive shafts for land vehicles; wheel suspension systems comprised of axles, axle mountings and individual parts thereof; shaft mountings for vehicles and parts therefor; rubber metal parts, namely, shock absorbers as vehicle parts for insulation of mechanical vibration; joints and individual parts thereof, namely, ball joints for vehicles; universal joints and individual parts thereof for vehicles; cardan joints and individual parts thereof for vehicles; steering wheels and individual parts thereof for vehicles; steering columns and individual parts thereof for vehicles, cardan shafts for vehicles; steering gears and individual parts thereof for vehicles; oil containers as parts of motor vehicles and individual parts thereof; airbag housings for vehicles and individual parts thereof; safety belts and individual parts thereof; hub carriers, brake disks, pedals, and fuel containers for vehicles; apparatus for force transmission for motor vehicles; parts for motor vehicle, namely, connecting struts, suspension links, trailing arms, transverse links, semi-tailing links, wishbones, four-point links, multiple links, supporting links, guide links, spring links, trapezoidal links, track rods and stabilizers; body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes, not as parts of engines; cross and longitudinal members as parts of the vehicle body, namely, for the reinforcement thereof and protection from impact and rollover; body parts, namely, door inner panels, mudguards, bonnets, knuckles, front axles, rear axles, twist beam axles for motor vehicles; bumper systems for motor vehicles comprising bumper cross members, crashboxes and flange plates and parts thereof; bumpers for motor vehicles; chassis and wheel suspensions for vehicles and parts thereof, namely rear axle carriers, front axle carriers, auxiliary frames and cross members, in particular integral die-cast carriers; axle carriers and engine bearers, axle mounts, knuckles and pivot bearings for vehicles; slider housings as a transmission part for vehicles; bearing frames for machines and bearing frames for engines, not as parts of engines; and foot-lever bearing mounts for use as part of pedal systems for vehicles; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

FILING BASIS	Section 44(d)
INTENT TO PERFECT 44(d)	At this time, the applicant intends to rely on Section 44(e) as a basis for registration. If ultimately the applicant does not rely on Section 44(e) as a basis for registration, a valid claim of priority may be retained.
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (040)(current)	
INTERNATIONAL CLASS	040
DESCRIPTION	
Material treatment; metal treatment; metal casting; metal casting, namely light metal cast components of	

magnesium, aluminium and alloys thereof; providing information on material treatment; metal casting, namely, die casting and vacuum die casting	
FILING BASIS	Section 44(e)
GOODS AND/OR SERVICES SECTION (040)(proposed)	
INTERNATIONAL CLASS	040
DESCRIPTION	
Material treatment; metal treatment; metal casting; metal casting, namely light metal cast components of magnesium, aluminium and alloys thereof; providing information on material treatment; metal casting, namely, die casting and vacuum die casting	
FILING BASIS	Section 44(d)
INTENT TO PERFECT 44(d)	At this time, the applicant intends to rely on Section 44(e) as a basis for registration. If ultimately the applicant does not rely on Section 44(e) as a basis for registration, a valid claim of priority may be retained.
FILING BASIS	Section 44(e)
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	Applicant has reasserted its 44(d) priority basis which was included in the original application, but not included in this response form for some reason.
SIGNATURE SECTION	
DECLARATION SIGNATURE	/alk/
SIGNATORY'S NAME	Aimee L. Kaplan
SIGNATORY'S POSITION	Attorney
SIGNATORY'S PHONE NUMBER	516/365-9802
DATE SIGNED	07/24/2013
RESPONSE SIGNATURE	/alk/
SIGNATORY'S NAME	Aimee L.Kaplan
SIGNATORY'S POSITION	Attorney
SIGNATORY'S PHONE NUMBER	516/365-9802
DATE SIGNED	07/24/2013
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL	YES

NOTICE FILED	
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Jul 24 16:05:13 EDT 2013
TEAS STAMP	USPTO/RFR-67.80.183.90-20 130724160513817476-853069 54-50025cf7b62192f363faa1 86a1e8497883034e1815bc441 f0bda1a8d56f8d8b0-N/A-N/A -20130724154927693946

PTO Form 1930 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 05/31/2014)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85306954** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The examiner has maintained the refusal to register the CVC mark (Application Serial No. 85/306,954) in Class 12 only on the basis that it is confusingly similar to the CVCC U.S. Trademark Registration Number 2,148,579. Reconsideration is respectfully requested. Applicant also reincorporates the arguments made in its previous response.

Initially, Applicant respectfully advises the examiner that it has amended its identification of goods and services in order to clarify the goods and services on which its mark is used. Specifically, the examiner cites the language “body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes” in her arguments. Applicant has amended this language to specify that these goods are “not as parts of engines.” In addition, Applicant makes the following arguments (and incorporates its previous arguments herein by reference):

A. Marks are Visually, Phonetically and Connotatively Distinguishable

With respect to the CVCC mark, Applicant believes that its mark is visually, phonetically and connotatively distinguishable. Whereas the trade mark CVCC would be pronounced /siË•/ - /viË•/ - /siË•/ /siË•/, the applicant’s trade mark would be pronounced /siË•/ - /viË•/ - /siË•/. This is a noticeable difference in pronunciation. In addition, any consumer would see the visual differences between the marks since the marks would be viewed as a whole. The visual differences between the marks are striking, especially when viewed in connection with the connotation of each mark (discussed below). The letters CC in the CVCC mark are easily remembered by a consumer given the aspects of alliteration, and would be different from the CVC mark. In short, since both marks are acronyms and have different meanings, the marks as a

whole are distinguishable.

Moreover, the marks also have different commercial impressions. As mentioned previously, the CVCC mark is an acronym for "Compound Vortex Controlled Combustion." This is a very specific meaning and is used on a very specific product (namely, the Honda Civic). The CVCC mark also has a special meaning and significance since it was the first engine to meet the stringent standards of the 1970 U.S. Clean Air Act. On the other hand, Applicant's mark has no such meaning or significance. Applicant's mark is an coined acronym for its coined phrase "controlled vacuum casting."

The examiner's refusal of the CVC mark leads to the result that the owner of a short letter mark could effectively monopolize those and similar letters, even if those letters have different meanings and connotations to consumers and are used on different goods in different channels of trade. However, there are many cases where slight variations in marks have created different meanings, and no likelihood of confusion was found to exist. In Jacobs v. International Multifoods Corp., 668 F.2d 1234, 212 USPQ 641 (CCPA 1982), the Court held that a one letter difference between "BOSTON SEA PARTY" and "BOSTON TEA PARTY" was enough to negate confusion because the marks had distinct meanings. In this case, the marks have distinct meanings.

In a Trademark Trial and Appeal Board decision, no likelihood of confusion was found between "PAYOT" and "PEYOTE" because despite a difference in only two letters, and a similarity in appearance and sound, the word had different meanings. One was an English word, the other a surname. One was familiar, the other was unfamiliar. Payot v. Southwestern Classics, 3 USPQ2d 1601 (TTAB 1987). *Also see In re Champion Oil Co.*, 1 USPQ2d 1920 (TTAB 1986) ("TOP FORMULA 16" V. "FORMULA 1"). In this case, the CVCC mark is a recognized acronym whereas Applicant's mark has no such meaning or significance.

Finally, there is much case law involving marks that were almost identical in a literal sense, but because of a difference in overall images conjured up by the marks, no likelihood of confusion was found. *See In re Best Products Company, Inc.*, 231 USPQ 988 (TTAB 1986) ("JEWELERS' BEST" v. "BEST JEWELRY"); Bank of America National Trust and Savings Association v. American National Bank of St. Joseph, 201 1 USPQ 942 (TTAB 1978) ("BANKAMERICA" v. "AMERIBANC"); and Carlisle Chemical Works, Inc. v. Hardman and Holden Ltd., 434 F.2d 1403, 168 USPQ 110 (CCPA 1970) ("COZIRC" v. "ZIRCO").

See also Bass Pro Trademarks LLC v. Sportsman's Warehouse Inc., 89 USPQ2d 1844 (TTAB 2009). No likelihood of confusion was found between SPORTSMAN'S WAREHOUSE + Design for "retail and wholesale stores featuring hunting supplies, fishing supplies, camping supplies, reloading supplies, outerwear clothing and footwear" and BASS PRO SHOPS SPORTSMAN'S WAREHOUSE and Design for use on "retail stores featuring clothing, fishing supplies and sporting goods." The Board determined that confusion was unlikely since differences between the marks with respect to appearance, sound, connotation, and commercial impression outweigh any similarities resulting from their shared use of descriptive "SPORTSMAN'S WAREHOUSE."

The CVC and the CVCC marks are visually, phonetically and connotatively distinguishable, and there would be no likelihood of consumer confusion. These marks are understood by the relevant public as abbreviation of words which have entirely different meanings and connotations.

B. Goods are Distinguishable and Travel in Different Channels of Trade

The examiner argues that the goods of the parties are related since the registrant's goods are "structural parts" and Applicant provides "body and structural parts for vehicles." However, the attached specimen submitted by the registrant shows that the mark is used in connection only with a CVCC engine (which has a specific function and purpose). Moreover, the attached entry from Wikipedia.com indicates that "CVCC is a trademark by the Honda Motor Company for an engine with reduced automotive emissions, which stood for Compound Vortex Controlled Combustion." Again, this engine allowed vehicles to meet U.S. emission standards. Therefore, the language "structural parts and engines for automobiles" refers only to those structural parts which affect the engine. On the other hand, Applicant has specifically added the language "not in connection with engines" to show that its mark is used on entirely different goods.

Moreover, the purchasers of Applicant's products and the purchasers of Honda's engines are not the same. Applicant is an automotive supplier and only provides automakers individual components or complete assemblies. Therefore, Applicant is part of the auto-supply chain. To its previous response, Applicant attached a press release which indicates that it has presented its CVC products to customers such as BMW, Audi, Daimler, Opel, and ZF Lemforder.

On the other hand, the registrant is itself an automaker. Therefore, there would be no confusion in consumers. The registrant would not be confused as to whether it was purchasing its own engines or Applicant's products. Third-party automakers would not be confused as to whether they were purchasing engines used in Honda vehicles or Applicant's products. Therefore, there is no likelihood of confusion as to the goods, the channels of trade, or the consumers. The consumers are sophisticated and pay careful attention to what specific goods they are purchasing.

The Examiner has not explained why the goods of the parties are related. Merely being classified in the same international class of goods and/or having something superficial to do with the same subject matter (*e.g.*, vehicles) are not sufficient bases for an Examiner to refuse registration. This is particularly true when those goods are sold in different channels of trade or to different consumers. Examples abound in many areas:

1) No likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. In re Shipp, 4 USPQ2d 1174 (TTAB 1987). The following reasons were given by the TTAB:

1. The services were offered to the general public, while the goods were used by owners or operators of the business establishments.
2. The goods were not ordinarily sold to the general public.
3. It was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses.
4. The only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

2) In the case In re American Olean Tile Co., Inc., 1 USPQ2d 1823 (TTAB 1986), the Trademark Trial and Appeal Board found that there was no likelihood of confusion between ceramic tile and wood doors for exterior and interior use. Despite the fact that both these materials could be used during construction of a building, they were products that were so dissimilar that they were not considered commercially related.

3) In the case In re W.W. Henry Co., 82 USPQ2d 1213 (TTAB 2007), the Trademark Trial and Appeal Board held that Applicant's PATCH & GO mark used in connection with a cement-based product used in repairing or smoothing wall and floor surfaces is not likely to cause confusion with the Registrant's PATCH 'N GO mark used in connection with chemical filler preparations used in cosmetic repair of polyolefin surfaces. Even though the marks are virtually identical, Applicant's product is of a type offered to do-it-yourselfers and contractors through home improvement hardware stores, and the Registrant's products are purchased by plastics manufacturers.

4) No likelihood of confusion was found between the marks DIAMOND ESSENCE for jewelry and ESSENCE for a magazine advertising jewelry. Essence Communications, Inc. v. Singh Industries, Inc., 10 USPQ2d 1036 (S.D.N.Y. 1988).

5) In Glen Raven Cotton Mills, Inc. v. Jayvee Brand, Inc., 165 USPQ 791 (TTAB 1970), a distinction was drawn between products that seemed at first glance to be commercially related. The mark CANDEE CANE was used in connection with infant's garments. The mark CANDY CANE was used for a variety of fabrics sold in the piece for fabrication into upholstery fabrics, awnings, draperies, wearing apparel and various accessories. Although cases have held that fabrics and clothing items are related, in this case, the TTAB found no likelihood of confusion because the fabrics were not the type used in the manufacture of infant's garments.

6) No likelihood of confusion was found between the marks ONE FAB FIT for use on women's undergarments and ONE TRUE FIT for use on clothing including jeans, pants, shirts and skirts. H.D. Lee Co. v. Maidenform Inc., 87 USPQ2d 1715 (TTAB 2008). The Board determined that the fact that the parties' products are sold in different sections of department stores underscores their differences, even though the goods were sold in the same channels of trade and to the same consumers.

7) No likelihood of confusion was found between the ASTRA mark for use on pharmaceutical preparations and syringes and the ASTRA mark for use on blood analysis machines. Astra Pharmaceutical Products, Inc. v. Beckman Instruments, Inc., 220 USPQ 786 (1st Cir. 1983). Specifically, the Court noted that "[t]he 'hospital community' is not a homogeneous whole, but is composed of separate departments with diverse purchasing requirements, which, in effect, constitute different markets for the parties' respective products." Astra Pharmaceutical Products, Inc., 220 USPQ at 791. This decision was later cited in Hewlett-Packard Co. v. Human Performance Measurement Inc. in which the Board determined that "the fact that both parties sell their goods to hospitals, and thus share a common channel of trade, does not necessarily mandate a finding that the products are related and that confusion is likely." Hewlett-Packard Co. v. Human Performance Measurement Inc., 23 USPQ2d 1390, 1395 (TTAB 1991)(holding that there was no likelihood of confusion between HPM + Design for medical instruments for clinical measurement of human performance functions and HP + Design for use on a wide variety of medical and computer equipment).

8) There is no per se rule that all computer-related items are related. In Reynolds & Reynolds v. I.E. Systems, Inc., 5 USPQ2d 1749 (TTAB 1987), the Board found no likelihood of confusion between "ACCULINK" and a family of "ACCU" marks because computer software used to make microcomputers "dumb terminals" were unrelated to application software for tax programs. The Board stated:

In view of the fact that computers are useful and/or are used in almost every facet of the world of business, commerce, medicine, law, etc., it is obvious that distinctions must be made.

In the case In re Quadrum Corp., 228 USPQ 863 (TTAB 1985), the Board held that there was no

likelihood of confusion between "MICROFASER" for peripheral computer hardware and "FASER" for applications software in the field of energy conservation and management.

9) No likelihood of confusion was found between the M2 mark for use on CD-ROMS for healthcare and the M2 COMMUNICATIONS mark for use on CD-ROMS for film and music. M2 Software Inc. v. M2 Communications, Inc., 78 USPQ2d 1944 (CAFC 2006).

Similarly, in In re Box Solutions Corp., 79 USPQ2d 1953 (TTAB 2006), the Board reversed the examiner's likelihood of confusion refusal on the basis that the phrase BOX SOLUTIONS used with computer communications servers was not likely to cause confusion with registrant's BOX + Design mark for use with computers and computer peripherals.

10) There is no per se rule that all food-related products are related. *See* Steve's Ice Cream v. Steve's Famous Hot Dogs, 3 USPQ2d 1477 (TTAB 1987) (ice cream not related to restaurants featuring hot dogs); Jacobs v. International Multifoods, Corp., 212 USPQ 641, 642 (CCPA 1982) (restaurant services unrelated to tea); The Nestle Company, Inc., v. Nash-Finch Co., 4 USPQ2d 1085 (TTAB 1987) (delicatessen not related to chocolate milk powders); Hi-Country Foods Corp. v. Hi Country Beef Jerky, 4 USPQ 1169 (TTAB 1987) (fruit juices not related to beef snack food).

The essence of all these cases is that merely having something to do with food does not establish that products or services are commercially related. The Examiner must provide more proof.

11) In the case In re White Rock Distilleries Inc., 92 USPQ2d 1282 (TTAB 2009), the Board held that there was no likelihood of confusion between VOLTA for use on vodka infused with caffeine and TERZA VOLTA + Design for use on wine. Even though the goods in question travel in the same channels of trade to the same class of purchasers, the Board determined that the marks were dissimilar and vodka and wine are not related goods. The Board specifically noted that "there is no per se rule that holds that all alcoholic beverages are related." *Id.* at 1285.

12) *See* Andy Warhol v. Time, 9 USPQ2d 1455 (S.D.N.Y. 1988) (no likelihood of confusion between two magazines with the title INTERVIEW); American Cyanamid Corp. v. Connaught Laboratories, Inc., 800 F.2d 306, 231 USPQ2d 128 (2d Cir. 1986), (no likelihood of confusion between HIBBVAX and HIBIMUNE); Lang v. Retirement Living Publishing Co., 21 USPQ2d 1041 (2d Cir. 1991) (no likelihood of confusion between NEW CHOICES FOR THE BEST YEARS and NEW CHOICES PRESS, both used for magazines, because the intended markets of each magazine was different).

13) No likelihood of confusion was found between the MORGAN CREEK mark used on motion pictures, videos, and audio products, and the MORGAN CREEK OUTFITTERS mark used on clothing. Morgan Creek Productions Inc. v. Foria International Inc., 91 USPQ2d 1134 (TTAB 2009). The Board determined that the goods cannot be considered related simply because establishments offering Applicant's clothing and those offering Opposer's products can be located in the same shopping mall. The Board noted that "It has been long held that the mere fact that two different items can be found in a supermarket, department store, drugstore or mass merchandiser store is not a sufficient bases for a finding that the goods are related." Morgan Creek Products, 91 USPQ2d at 1042.

14) In the case In re Giovanni Food Co., 97 USPQ2d 1990 (TTAB 2011), the Board determined that there was no likelihood of confusion between JUMPIN' JACKS on barbeque sauce and JUMPIN JACK'S for catering services. The Board noted "the relatedness of food services and food items in not to be assumed and that evidence sufficient to meet the 'something more' standard is necessary." *Id.* at

1992. In this case, the Board held that the mere fact that some restaurants that specialize in barbeque also provide catering services and sell barbeque sauce is not sufficient to establish a relationship between catering services in general and barbeque sauce.

The situation here presents goods that are even more disparate. Applicant's goods and the registrants' goods would not be encountered by the same people in any level of production or marketing. Accordingly, they should not be considered commercially related and there would be no likelihood of confusion.

In addition, even if the registrant's goods were arguably components of Applicant's goods, or vice versa, this does not mean that there is a likelihood of confusion. Examples abound in many areas:

1) In the case In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993), the Trademark Trial and Appeal Board determined that there was no likelihood of confusion between PHOENIX for leather sold in bulk, and the identical mark PHOENIX registered for use on all-purpose sports bags, luggage, attache cases, briefcases, and handbags. The application covered raw materials while the registration covered finished leather products, and even the registrant admitted that there was no likelihood of confusion.

2) In The Ritz Hotel Limited v. Ritz Closet Seat Corp., 17 USPQ2d 1466 (TTAB 1990), the Trademark Trial and Appeal Board determined that the RIT-Z (Stylized) mark used on toilet seats was not confusingly similar to the well known RITZ marks owned by the Ritz Hotel chain. The Board stated:

True, no hotel room could exist without such an item [a toilet seat]. But, a toilet seat is a fixture of the hotel just as the closets, bathtubs and chandeliers are. Guests would not expect to be able to purchase a toilet seat to take home with them as a memento or souvenir of their visit to a fashionable hotel as they might purchase a robe or a towel bearing the hotel's name and emblem. For these reasons, we do not believe that anyone would expect toilet seats to be within the natural expansion of opposer's business.

3) In Electronic Design & Sales Inc. v. Electronic Data Systems Corp., 21 USPQ2d 1388 (CAFC 1992), the Court of Appeals for the Federal Circuit overruled the Trademark Trial and Appeal Board and held that there was no likelihood of confusion between the E.D.S. mark used on power supplies and battery chargers, and the EDS mark used on computer services. The Court held that the Board failed to assess properly the differences in purchasers, channels of trade, and what each company sold, and overlooked the sophistication of the purchasers.

4) In the case In re Coors Brewing Co., 68 USPQ2d 1059 (CAFC 2003), the Court of Appeals for the Federal Circuit held that beer and restaurant services are not sufficiently related that the use of similar BLUE MOON marks for each would suggest to consumers that the goods and services share a common source. While it is a fact that restaurants sell food and beverages, this is not alone sufficient to show that beverages and restaurant services are related for purposes of likelihood of confusion analysis. In addition, the fact that some restaurants brew or serve their own private label beer does not support the conclusion that consumers are likely to assume common source for beer and restaurant services with similar marks.

5) Applicant also respectfully reiterates that in the case In re Shipp, 4 USPQ2d 1174 (TTAB 1987), no likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. The TTAB determined that the services were offered to the general public, while the goods were used by owners or operators of the business establishments; the goods were not ordinarily sold to the general public; it was unlikely that customers of

the cleaning business would come in contact with the goods used by those businesses; and the only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

On the basis of these cases, even if the registrant's goods were components of Applicant's goods and services, or vice versa, this does not mean that there is a likelihood of confusion between the goods of the parties. The goods and services of the parties are different, are sold in different channels of trade, and are purchased by different consumers. Thus, there is no likelihood of confusion.

C. Register Should Reflect Actual Use

Despite the unjust harm that will result if Applicant cannot obtain a federal registration, the reality is that Applicant will continue to use its mark. Dilution in the field will preclude serious challenges to Applicant's use. The Examiner should consider the words of the Court of Appeals for the Federal Circuit in *Bongrain International v. Delice de France*, 1 USPQ 2d 1775 (Fed. Cir. 1987):

The primary purpose of the Trademark Act of 1946 is to give Federal procedural augmentation to the common law rights of trademark owners -- which is to say legitimate users of trademarks. One of the policies sought to be implemented by the Act was to encourage the presence on the register of trademarks of as many as possible of the marks in actual use so that they are available for search purposes (emphasis added).

Applicant's mark will be used and should be registered.

In sum, Applicant respectfully requests that the examiner withdraw the likelihood of confusion refusal because the marks are of the parties are visually, phonetically and connotatively distinguishable; Applicant's mark is used on different goods in an entirely different channel of trade; and the Register should reflect actual use.

EVIDENCE

Evidence in the nature of Specimen submitted the registrant for its registration and entry from Wikipedia.com regarding Registrant's mark has been attached.

Original PDF file:

[evi_678018390-154927693_.2148579_use.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_678018390-154927693_.CVCC_-_Wikipedia_the_free_encyclopedia.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 007 for Casting machines, namely, die casting machines and vacuum die casting machines for castings light metals, namely, magnesium, aluminium and alloys thereof; machine bearing housings; engine bearing housings; cylinder head covers for engines; engine bearers; oil sumps as engine parts;

bearing housings and chassis for electrics of machines and engines; die cast components, namely, vacuum die cast components being parts of machines; die casting moulds, namely, vacuum die casting moulds being parts of machines for use in the production of machine and vehicle parts; compressors, pumps and parts therefore, namely, injection pump housings for fuel injection, oil and water pump housings; vacuum die cast components made of light metal combined with parts of steel, rubber and plastic for engine and machine parts and housings, except for land vehicles; housings for machines and engines, except for land vehicles; transmissions and parts therefore, except for land vehicles; hydraulic drives and parts thereof for machines and engines; pneumatic drives and parts thereof for machines and engines; exhaust manifolds for engines, except for land vehicles; transmission gearing and parts thereof for machines; cardan joints; shifting clutches and parts thereof, except for land vehicles; flywheels for machines; machine stands; machine parts, namely stators; pivot bearings; pistons, piston bolts and piston rings as well as ring segments and piston ring sets; cylinders, cylinder heads, liners for cylinders for internal combustion engines, except for land vehicles; crank, transmission, clutch, injection pump and steering gear housing, carburettors for internal combustion engines, parts for braking systems, namely braking cylinders; inlet manifolds and suction pipes for engines; accelerator throttle connectors, camshafts, and crankshafts; connecting rods; radiators for engines, exhaust gas coolers, intercoolers and oil coolers; turbochargers and parts thereof for engines; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

Original Filing Basis:

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [Germany registration number 302010063957 registered 05/03/2011 with a renewal date of _____ and an expiration date of 11/30/2020], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: Casting machines, namely, die casting machines and vacuum die casting machines for castings light metals, namely, magnesium, aluminium and alloys thereof; machine bearing housings; engine bearing housings; cylinder head covers for engines; engine bearers; oil sumps as engine parts; bearing housings and chassis for electrics of machines and engines; die cast components, namely, vacuum die cast components being parts of machines; die casting moulds, namely, vacuum die casting moulds being parts of machines for use in the production of machine and vehicle parts; compressors, pumps and parts therefore, namely, injection pump housings for fuel injection, oil and water pump housings; vacuum die cast components made of light metal combined with parts of steel, rubber and plastic for engine and machine parts and housings, except for land vehicles; housings for machines and engines, except for land vehicles; transmissions and parts therefore, except for land vehicles; hydraulic drives and parts thereof for machines and engines; pneumatic drives and parts thereof for machines and engines; exhaust manifolds for engines, except for land vehicles; transmission gearing and parts thereof for machines; cardan joints; shifting clutches and parts thereof, except for land vehicles; flywheels for machines; machine stands; machine parts, namely stators; pivot bearings; pistons, piston bolts and piston rings as well as ring segments and piston ring sets; cylinders, cylinder heads, liners for cylinders for internal combustion engines, except for land vehicles; crank, transmission, clutch, injection pump and steering gear housing, carburettors for internal combustion engines, parts for braking systems, namely braking cylinders; inlet manifolds and suction pipes for engines; accelerator throttle connectors, camshafts, and crankshafts; connecting rods; radiators for engines, exhaust gas coolers, intercoolers and oil coolers; turbochargers and parts thereof for engines; ~~all such above-mentioned goods not for use in rolling mills or as part of rolling mills~~; all such above-mentioned goods not for use in rolling mills or as part of rolling mills, all goods as die-casting machines or for die-casting machines or produced by using a die-casting method

Class 007 for Casting machines, namely, die casting machines and vacuum die casting machines for castings light metals, namely, magnesium, aluminium and alloys thereof; machine bearing housings; engine bearing housings; cylinder head covers for engines; engine bearers; oil sumps as engine parts; bearing housings and chassis for electrics of machines and engines; die cast components, namely, vacuum die cast components being parts of machines; die casting moulds, namely, vacuum die casting moulds being parts of machines for use in the production of machine and vehicle parts; compressors, pumps and parts therefore, namely, injection pump housings for fuel injection, oil and water pump housings; vacuum die cast components made of light metal combined with parts of steel, rubber and plastic for engine and machine parts and housings, except for land vehicles; housings for machines and engines, except for land vehicles; transmissions and parts therefore, except for land vehicles; hydraulic drives and parts thereof for machines and engines; pneumatic drives and parts thereof for machines and engines; exhaust manifolds for engines, except for land vehicles; transmission gearing and parts thereof for machines; cardan joints; shifting clutches and parts thereof, except for land vehicles; flywheels for machines; machine stands; machine parts, namely stators; pivot bearings; pistons, piston bolts and piston rings as well as ring segments and piston ring sets; cylinders, cylinder heads, liners for cylinders for internal combustion engines, except for land vehicles; crank, transmission, clutch, injection pump and steering gear housing, carburettors for internal combustion engines, parts for braking systems, namely braking cylinders; inlet manifolds and suction pipes for engines; accelerator throttle connectors, camshafts, and crankshafts; connecting rods; radiators for engines, exhaust gas coolers, intercoolers and oil coolers; turbochargers and parts thereof for engines; all such above-mentioned goods not for use in rolling mills or as part of rolling mills, all goods as die-casting machines or for die-casting machines or produced by using a die-casting method

Filing Basis: Section 44(d), Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [Germany application number _____ filed _____]. 15 U.S.C. Section 1126(d), as amended.

INTENT TO PERFECT 44(d) : At this time, the applicant intends to rely on Section 44(e) as a basis for registration. If ultimately the applicant does not rely on Section 44(e) as a basis for registration, a valid claim of priority may be retained.

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [Germany registration number 302010063957 registered 05/03/2011 with a renewal date of _____ and an expiration date of 11/30/2020], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 012 for Transmission parts for land vehicles, namely, disk carriers; transmission housings for land vehicles; body parts for land vehicles, namely, connecting elements, nodes of die-cast aluminium, and cast comers; wheel-guiding components for vehicles, namely, hub carriers and transverse links, auxiliary frames for connecting body and chassis, steering housings, die-cast components, namely, vacuum die cast components for vehicle parts; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic, namely, vehicle chassis and parts thereof; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic as machine housings for land vehicles; housings for machines; vehicle brakes; housings for parts of land vehicles, except engines; transmissions for land vehicles; clutches for land vehicles; knuckles for land vehicles; land vehicle brakes; chassis for motor vehicle; torque converters and parts thereof for land vehicles; shifting clutches and parts thereof for land vehicles; driving mechanism and parts thereof for land vehicles; clutches and parts thereof for land vehicles; connecting rods for land vehicles except

engine parts; wheel axles; drive shafts for land vehicles; wheel suspension systems comprised of axles, axle mountings and individual parts thereof; shaft mountings for vehicles and parts therefor; rubber metal parts, namely, shock absorbers as vehicle parts for insulation of mechanical vibration; joints and individual parts thereof, namely, ball joints for vehicles; universal joints and individual parts thereof for vehicles; cardan joints and individual parts thereof for vehicles; steering wheels and individual parts thereof for vehicles; steering columns and individual parts thereof for vehicles, cardan shafts for vehicles; steering gears and individual parts thereof for vehicles; oil containers as parts of motor vehicles and individual parts thereof; airbag housings for vehicles and individual parts thereof; safety belts and individual parts thereof; hub carriers, brake disks, pedals, and fuel containers for vehicles; apparatus for force transmission for motor vehicles; parts for motor vehicle, namely, connecting struts, suspension links, trailing arms, transverse links, semi-tailing links, wishbones, four-point links, multiple links, supporting links, guide links, spring links, trapezoidal links, track rods and stabilizers; body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes; cross and longitudinal members as parts of the vehicle body, namely, for the reinforcement thereof and protection from impact and rollover; body parts, namely, door inner panels, mudguards, bonnets, knuckles, front axles, rear axles, twist beam axles for motor vehicles; bumper systems for motor vehicles comprising bumper cross members, crashboxes and flange plates and parts thereof; bumpers for motor vehicles; chassis and wheel suspensions for vehicles and parts thereof, namely rear axle carriers, front axle carriers, auxiliary frames and cross members, in particular integral die-cast carriers; axle carriers and engine bearers, axle mounts, knuckles and pivot bearings for vehicles; slider housings as a transmission part for vehicles; bearing frames for machines and bearing frames for engines, not as parts of engines; and foot-lever bearing mounts for use as part of pedal systems for vehicles; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

Original Filing Basis:

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed:

Tracked Text Description: Transmission parts for land vehicles, namely, disk carriers; transmission housings for land vehicles; body parts for land vehicles, namely, connecting elements, nodes of die-cast aluminium, and cast comers; wheel-guiding components for vehicles, namely, hub carriers and transverse links, auxiliary frames for connecting body and chassis, steering housings, die-cast components, namely, vacuum die cast components for vehicle parts; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic, namely, vehicle chassis and parts thereof; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic as machine housings for land vehicles; housings for machines; vehicle brakes; housings for parts of land vehicles, except engines; transmissions for land vehicles; clutches for land vehicles; knuckles for land vehicles; land vehicle brakes; chassis for motor vehicle; torque converters and parts thereof for land vehicles; shifting clutches and parts thereof for land vehicles; driving mechanism and parts thereof for land vehicles; clutches and parts thereof for land vehicles; connecting rods for land vehicles except engine parts; wheel axles; drive shafts for land vehicles; wheel suspension systems comprised of axles, axle mountings and individual parts thereof; shaft mountings for vehicles and parts therefor; rubber metal parts, namely, shock absorbers as vehicle parts for insulation of mechanical vibration; joints and individual parts thereof, namely, ball joints for vehicles; universal joints and individual parts thereof for vehicles; cardan joints and individual parts thereof for vehicles; steering wheels and individual parts thereof for vehicles; steering columns and individual parts thereof for vehicles, cardan shafts for vehicles; steering gears and individual parts thereof for vehicles; oil containers as parts of motor vehicles and individual parts thereof;

airbag housings for vehicles and individual parts thereof; safety belts and individual parts thereof; hub carriers, brake disks, pedals, and fuel containers for vehicles; apparatus for force transmission for motor vehicles; parts for motor vehicle, namely, connecting struts, suspension links, trailing arms, transverse links, semi-tailing links, wishbones, four-point links, multiple links, supporting links, guide links, spring links, trapezoidal links, track rods and stabilizers; ~~body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes;~~ body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes, not as parts of engines; cross and longitudinal members as parts of the vehicle body, namely, for the reinforcement thereof and protection from impact and rollover; body parts, namely, door inner panels, mudguards, bonnets, knuckles, front axles, rear axles, twist beam axles for motor vehicles; bumper systems for motor vehicles comprising bumper cross members, crashboxes and flange plates and parts thereof; bumpers for motor vehicles; chassis and wheel suspensions for vehicles and parts thereof, namely rear axle carriers, front axle carriers, auxiliary frames and cross members, in particular integral die-cast carriers; axle carriers and engine bearers, axle mounts, knuckles and pivot bearings for vehicles; slider housings as a transmission part for vehicles; bearing frames for machines and bearing frames for engines, not as parts of engines; and foot-lever bearing mounts for use as part of pedal systems for vehicles; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

Class 012 for Transmission parts for land vehicles, namely, disk carriers; transmission housings for land vehicles; body parts for land vehicles, namely, connecting elements, nodes of die-cast aluminium, and cast comers; wheel-guiding components for vehicles, namely, hub carriers and transverse links, auxiliary frames for connecting body and chassis, steering housings, die-cast components, namely, vacuum die cast components for vehicle parts; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic, namely, vehicle chassis and parts thereof; die cast components, namely, vacuum die cast components of light metal in combination with steel, rubber and plastic as machine housings for land vehicles; housings for machines; vehicle brakes; housings for parts of land vehicles, except engines; transmissions for land vehicles; clutches for land vehicles; knuckles for land vehicles; land vehicle brakes; chassis for motor vehicle; torque converters and parts thereof for land vehicles; shifting clutches and parts thereof for land vehicles; driving mechanism and parts thereof for land vehicles; clutches and parts thereof for land vehicles; connecting rods for land vehicles except engine parts; wheel axles; drive shafts for land vehicles; wheel suspension systems comprised of axles, axle mountings and individual parts thereof; shaft mountings for vehicles and parts therefor; rubber metal parts, namely, shock absorbers as vehicle parts for insulation of mechanical vibration; joints and individual parts thereof, namely, ball joints for vehicles; universal joints and individual parts thereof for vehicles; cardan joints and individual parts thereof for vehicles; steering wheels and individual parts thereof for vehicles; steering columns and individual parts thereof for vehicles, cardan shafts for vehicles; steering gears and individual parts thereof for vehicles; oil containers as parts of motor vehicles and individual parts thereof; airbag housings for vehicles and individual parts thereof; safety belts and individual parts thereof; hub carriers, brake disks, pedals, and fuel containers for vehicles; apparatus for force transmission for motor vehicles; parts for motor vehicle, namely, connecting struts, suspension links, trailing arms, transverse links, semi-tailing links, wishbones, four-point links, multiple links, supporting links, guide links, spring links, trapezoidal links, track rods and stabilizers; body and structural parts for vehicles, namely, pillars, door impact supports, floor groups, tunnels, sills, roof frames, instrument panel supports and deformable steering protection tubes, not as parts of engines; cross and longitudinal members as parts of the vehicle body, namely, for the reinforcement thereof and protection from impact and rollover; body parts, namely, door inner panels, mudguards, bonnets, knuckles, front axles, rear axles, twist beam axles for motor vehicles; bumper systems for motor vehicles comprising bumper cross members, crashboxes and flange plates and parts thereof; bumpers for motor vehicles; chassis and wheel suspensions for vehicles and parts

thereof, namely rear axle carriers, front axle carriers, auxiliary frames and cross members, in particular integral die-cast carriers; axle carriers and engine bearers, axle mounts, knuckles and pivot bearings for vehicles; slider housings as a transmission part for vehicles; bearing frames for machines and bearing frames for engines, not as parts of engines; and foot-lever bearing mounts for use as part of pedal systems for vehicles; all such above-mentioned goods not for use in rolling mills or as part of rolling mills

Filing Basis: Section 44(d), Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [_____ application number _____ filed _____]. 15 U.S.C. Section 1126(d), as amended.

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Applicant proposes to amend the following class of goods/services in the application:

Current: Class 040 for Material treatment; metal treatment; metal casting; metal casting, namely light metal cast components of magnesium, aluminium and alloys thereof; providing information on material treatment; metal casting, namely, die casting and vacuum die casting

Original Filing Basis:

Filing Basis: Section 44(e), Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [_____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Proposed: Class 040 for Material treatment; metal treatment; metal casting; metal casting, namely light metal cast components of magnesium, aluminium and alloys thereof; providing information on material treatment; metal casting, namely, die casting and vacuum die casting

Filing Basis: Section 44(d), Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on [_____ application number _____ filed _____]. 15 U.S.C. Section 1126(d), as amended.

INTENT TO PERFECT 44(d) : At this time, the applicant intends to rely on Section 44(e) as a basis for registration. If ultimately the applicant does not rely on Section 44(e) as a basis for registration, a valid claim of priority may be retained.

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ADDITIONAL STATEMENTS

Miscellaneous Statement

Applicant has reasserted its 44(d) priority basis which was included in the original application, but not

included in this response form for some reason.

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 2.44. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /alk/ Date: 07/24/2013
Signatory's Name: Aimee L. Kaplan
Signatory's Position: Attorney
Signatory's Phone Number: 516/365-9802

Request for Reconsideration Signature

Signature: /alk/ Date: 07/24/2013
Signatory's Name: Aimee L.Kaplan
Signatory's Position: Attorney

Signatory's Phone Number: 516/365-9802

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing

him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85306954

Internet Transmission Date: Wed Jul 24 16:05:13 EDT 2013

TEAS Stamp: USPTO/RFR-67.80.183.90-20130724160513817

476-85306954-50025cf7b62192f363faa186a1e

8497883034e1815bc441f0bda1a8d56f8d8b0-N/

A-N/A-20130724154927693946



Declaration**Section 8: Declaration of Use in Commerce**

Unless the owner has specifically claimed excusable non-use, the owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: 

Date: 9/5/2007

Signatory's Name: Hiroshi Soda

Signatory's Position: Operating Officer

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page must include both the signature information and the boilerplate declaration language. Do not include the entire application, but do ensure that the boilerplate declaration language actually appears; a signature by itself will not be acceptable. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the one complete page can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

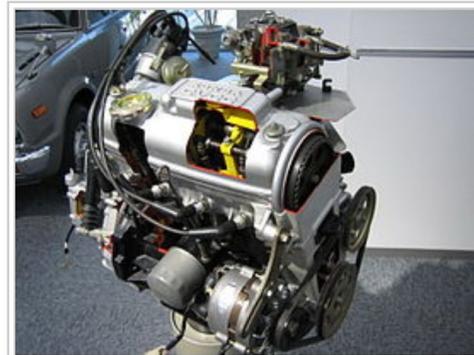
[Back](#)

CVCC

From Wikipedia, the free encyclopedia

CVCC is a trademark by the Honda Motor Company for an engine with reduced automotive emissions, which stood for "**Compound Vortex Controlled Combustion**".^[1] This technology allowed Honda's cars to meet United States emission standards in the 1970s without a catalytic converter. A type of stratified charge engine, it first appeared on the 1975 *ED1* engine.

In 2007, the Honda CVCC technology was added to the Mechanical Engineering Heritage of Japan.



A CVCC engine for Honda Civic

Contents

- 1 Construction and operation
- 2 Advantages over previous stratified charge engines
- 3 Early design flaw
- 4 CVCC-II
- 5 References/Reading

Construction and operation

Honda CVCC engines have normal inlet and exhaust valves, plus a small auxiliary inlet valve which provides a relatively rich air–fuel mixture to a volume near the spark plug. The remaining air–fuel charge, drawn into the cylinder through the main inlet valve, is leaner than normal. The volume near the spark plug is contained by a small perforated metal plate. Upon ignition flame fronts emerge from the perforations and ignite the remainder of the air–fuel charge. The remaining engine cycle is as per a standard four stroke engine.

This combination of a rich mixture near the spark plug, and a lean mixture in the cylinder allowed stable running, yet complete combustion of fuel, thus reducing CO (carbon monoxide) and hydrocarbon emissions.

Advantages over previous stratified charge engines

Honda's big advancement with CVCC was that they were able to use carburetors and they did not rely on intake swirl. Previous versions of stratified charge engines needed costly fuel injection systems. Additionally, previous engines tried to increase the velocity and swirl of the intake charge in keeping the rich and lean mixtures separated. Honda was able to keep the charges adequately separated by combustion chamber shape.

Early design flaw

Some of the early CVCC engines had a problem with the auxiliary valves retaining collars vibrating loose. Once unscrewed, engine oil would leak from the valvetrain into the pre-combustion chamber, causing a sudden loss of power and massive amounts of smoke to emanate from the exhaust pipe. The condition

simulated a blown engine, even though the needed repair was quite simple. Honda eventually came up with a fix involving metal retaining rings that slipped over the collars and prevented them from backing out of their threads.

CVCC-II

The 1983 Honda Prelude (the first year of the second generation of Preludes) used a CVCC design *and* a catalytic converter to reduce emissions, called CVCC-II, along with 2 separate sidedraught carburettors (instead of a single progressive twin choke carburettor). The following year a standard cylinder head design was used and the centre carburettor (providing the rich mixture) was dropped. The Honda City AA, introduced in November 1981, also used a CVCC-II engine called the **ER**.^[2]

References/Reading

- [^] Honda Worldwide (<http://world.honda.com/history/challenge/1972introducingthecvcc/text05/index.html>)
- [^] *World Cars 1985*. Pelham, NY: The Automobile Club of Italy/Herald Books. 1985. pp. 345–346. ISBN 0-910714-17-7.

- Setright, L. J. K. (1975). *Some Unusual Engines*. London: Mechanical Engineering Publications Limited.
- An Evaluation of a 350 CID Compound Vortex Controlled Combustion (CVCC) Powered Chevrolet Impala (<http://www.carsandracingstuff.com/library/reports/402.pdf>)

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Categories: Engine technology | Engines

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