

ESTTA Tracking number: **ESTTA597011**

Filing date: **04/07/2014**

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

Proceeding	85483695
Applicant	The Hyman Companies, Inc.
Applied for Mark	ROMANÃ#V
Correspondence Address	TIMOTHY D PECSENYE BLANK ROME LLP 1 LOGAN SQ , FL 8 PHILADELPHIA, PA 19103-6998 UNITED STATES pecsenye@blankrome.com, mhomyk@blankrome.com
Submission	Reply Brief
Attachments	040714-164440.pdf(201340 bytes )
Filer's Name	Matthew A. Homyk
Filer's e-mail	mhomyk@blankrome.com, pecsenye@blankrome.com
Signature	/matthew a homyk/
Date	04/07/2014

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

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Applicant: The Hyman Companies, Inc.  
Serial No.: 85/483,695  
Trademark: ROMANÓV  
Filing Date: November 30, 2011  
Classes: 6, 14, 20, and 21  
To: Hon. Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**REPLY BRIEF OF APPLICANT IN SUPPORT OF REGISTRATION**

BLANK ROME LLP  
One Logan Square  
Philadelphia, PA 19103  
(215) 569-5619

Attorneys for Applicant,  
The Hyman Companies, Inc.

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## ARGUMENT

### THE MARK IS NOT PRIMARILY MERELY A SURNAME.

Applicant's mark, ROMANÓV, immediately evokes in the minds of consumers the family members of the House of Romanóv. According to T.M.E.P. § 1211.01(a)(iv), "[a] term with surname significance may not be primarily merely a surname if that term also identifies a historical place or person." See *Lucien Piccard Watch Corp. v. Since 1868 Crescent Corp.*, 314 F. Supp. 329, 331, 165 USPQ 459, 461 (S.D.N.Y. 1970) (holding DA VINCI not primarily merely a surname because it primarily connotes Leonardo Da Vinci); *In re Pyro-Spectaculars, Inc.*, 63 USPQ2d 2022, 2024 (TTAB 2002) (holding SOUSA for fireworks and production of events and shows featuring pyrotechnics not primarily merely a surname); *Michael S. Sachs Inc. v. Cordon Art B.V.*, 56 USPQ2d 1132, 1136 (TTAB 2000) (finding the primary significance of M. C. ESCHER to be that of a famous deceased Dutch artist).

As the Examining Attorney correctly points out in her Appeal Brief of March 18, 2014, the Romanóvs were a "well-known," "famous" family dynasty in Russia. The Examining Attorney's analysis takes a wrong turn, however, by making the assumption that the existence of Peter the Great and Catherine II, for example, both of whom were Romanóvs, causes consumers to "understand the term to refer to a surname that also happens to

be the surname of a famous family dynasty in Russia." Instead, consumers, when presented with the term "Romanóv," think first of the iconic, historical House of Romanóv, not of a mere surname. As a result, the Section 2(e)(4) refusal to register Applicant's mark should be reversed.

Applicant's Mark Refers Not to "Numerous Individuals," but to One Iconic Ruling Family, the Romanóvs of Russia.

The case involving Applicant's ROMANÓV mark stands in stark contrast to the Board's decision in *In re Thermo LabSystems Inc.*, which held that WATSON is primarily merely a surname. 85 USPQ2d 1285 (TTAB 2007). Unlike the ROMANÓV mark, WATSON refers to multiple unrelated prominent individuals from disparate times and places. The WATSON applicant argued that there were sixteen allegedly historical figures with the surname "Watson," including pro golfer Tom Watson, DNA discoverer James Watson, and Postmaster General William Watson. *Id.* at 1289-90. In stark contrast, the only historical figures associated with the "Romanóv" surname are individuals in the House of Romanóv. There are no other famous or historical persons with this surname, at least which have been made of record.

Considering this severe distinction between the WATSON mark and the ROMANÓV mark, the Examining Attorney's statement that "The fact that the name is well known in reference to this particular Russian dynasty makes it more likely for consumers to

believe that the term is a surname with no other significance." is unfounded and illogical, unless the word "more" is replaced by the word "less." The fact that consumers nearly universally associate the "Romanóv" surname with the House of Romanóv means that consumers do not consider it a mere surname. Unlike the WATSON mark, which forces consumers to question which (allegedly) historical individual is referenced by the surname "Watson," the ROMANÓV mark immediately causes consumers to think of the historically prominent family members of the House of Romanóv.

Moreover, it is worth considering the implications of the Examining Attorney's statement that T.M.E.P. § 1211.01(a)(iv) requires there to be only "one particular famous person in history." This reading of T.M.E.P. § 1211.01(a)(iv) would eliminate the relevance of the subsection for many, if not most, historical persons because many historical persons have had noteworthy, historical relatives. Think, for instance, of President Barack Obama and First Lady Michelle Obama. Certainly most individuals would consider both the President and First Lady to be historical persons, but would the fame of Michelle cause the "Obama" surname to lose its historical significance under this section of the T.M.E.P.? Certainly this is not the intended consequence of *In re Thermo LabSystems Inc.*

**CONCLUSION**

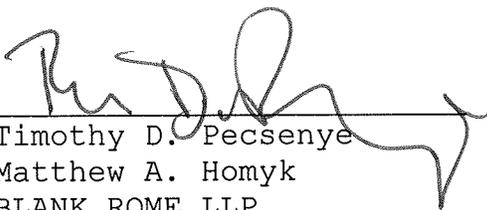
For the foregoing reasons, Applicant, The Hyman Companies, Inc., respectfully requests that the Trademark Trial and Appeal Board reverse the Examining Attorney's final refusal to register its trademark.

Respectfully submitted,

THE HYMAN COMPANIES, INC.

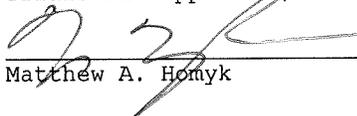
Dated: April 7, 2014

By:

  
\_\_\_\_\_  
Timothy D. Pecsénye  
Matthew A. Homyk  
BLANK ROME LLP  
One Logan Square  
Philadelphia, PA 19103  
(215) 569-5619

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is addressed to the Trademark Trial and Appeal Board, Hon. Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, and is being deposited via the Electronic System for Trademark Trials and Appeals (ESTTA) on April 7, 2014.

  
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Matthew A. Homyk