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

Proceeding	85663950
Applicant	Allegiance Staffing
Applied for Mark	ALLEGIANCE STAFFING
Correspondence Address	NICHOLAS A DUPRE KNIGHTON & STONE PLLC 2202 TIMBERLOCH PL STE 250 THE WOODLANDS, TX 77380-1107 UNITED STATES nick@knightonstone.com
Submission	Reply Brief
Attachments	Response to Examining Attorney's Appeal Brief EFILED 05.02.2014.pdf(85049 bytes)
Filer's Name	Axel Lindholm
Filer's e-mail	Axel@Knightonstone.com
Signature	/Axel Lindholm/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Serial No.: 85663950

Mark: ALLEGIANCE STAFFING

Applicant: Allegiance Staffing, LLC, a Texas limited liability company

Examining Attorney: Cory Boone

COMES NOW the Applicant, Allegiance Staffing, LLC, by its Counsel, and hereby respectfully responds to Examining Attorney's Appeal Brief and refusal to re-register the mark ALLEGIANCE STAFFING (the "Mark" or "Applicant's Mark") in standard characters. Although Applicant chooses to respond to only a few of Examining Attorney's arguments, Applicant previously addressed many of Examining Attorney's argument and reiterates all of its arguments presented in its original Appellate Brief, filed on February 3, 2014.

I.
Examining Attorney's Brief

The Examining Attorney focused much of his argument on comparing the appearance, sound, connotation, and impressions of Applicant's Mark and "Allegis" (the "Allegis Mark" and collectively with "Applicant's Mark", the "Marks").

When comparing the similarity of the Marks, Examining Attorney disclaims the importance of the word, "Staffing" in Applicant's Mark. Examining Attorney argues that "Allegiance" is the dominating word in Applicant's Mark and should be the focus of any analysis of whether the Marks are confusingly similar. He deemphasizes the importance of "Staffing" because it is 'merely descriptive' of the services provided by Applicant.

The Examining Attorney does not consider the sophistication or knowledge of members of the general public who will be exposed to the Marks as relevant because he argues this knowledge does not make them immune from confusion.

II.

Applicant's Response

The Examining Attorney is unpersuasive in concluding the two Marks are similar enough in appearance, sound, connotation, and impression to one another that members of the public would find them confusingly similar.

The Examining Attorney takes for granted that "Allegiance" is the sole distinctive term in Applicant's Mark. In doing so, the Examining Attorney only compares the similarity of the first part of Applicant's Mark with the Allegis Mark. By only analyzing one part of Applicant's Mark, it leads to an invalid conclusion that the public will be confused by the two Marks. The Examining Attorney does not provide adequate justification for not taking the second word of the Mark into consideration of its similarity to the Allegis Mark.

By their appearances alone, the two words that comprise Applicant's Mark are similar in their impact. The two words are nearly the same length. The word "Allegiance" has ten letters and "Staffing" has eight letters. As noted by the Examining Attorney, both words are made up of three syllables. By not considering the Mark in its entirety when comparing it to the Allegis Mark, Examining Attorney misses half of the analysis.

The Examining Attorney takes for granted that the public will place less emphasis on "Staffing" because it is a descriptive term. It is unclear how much emphasis the general public would put on each word of the Mark. The Examining Attorney focuses his analysis on the mind of the average consumer of a particular product or service. Such analysis fails to properly consider the type of consumer most likely to perceive the Marks. Applicant's business serves a small niche industry. It is limited to light industrial, logistics, and clerical employment staffing. Such is not the type of business or industry that is sought out by general members of the public.

Such is a limited and discriminating consumer group. Members of the public who search out Applicant's business are often looking for staffing services. Such consumers will likely already have the idea of staffing or employment services in their mind prior to seeing the Mark. When they do see the Mark, these individuals will focus much of their perception on the word "Staffing" because that is the service they are seeking. For these consumers, perception of the Mark is likely to include both words. As these types of consumers comprise the general public who will see the Marks, the word "Staffing" is as, if not more dominant, than the word "Allegiance". Thus, in analyzing whether the Marks are similar, Applicant's Mark should be considered in its entirety and not just the first word.

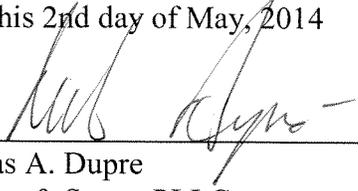
III. **CONCLUSION**

The Examining Attorney takes for granted that "Allegiance" is the dominating part of Applicant's Mark and erroneously only compares that part of the Mark to determine the Mark's similarity to the Allegis Mark. The niche industry serviced by Applicant means consumers who seek out Applicant's business will already have the idea of staffing or employment services when they see the Mark. This leads the average consumer to place emphasis on the Mark in its entirety, and not just the word "Allegiance".

When Applicant's Mark is analyzed and compared in its entirety to the Allegis Mark, there is no likelihood of confusion. The Examining Attorney's analysis fails to consider the Applicant's Mark in its entirety, which leads to an erroneous conclusion. Because of the nature of Applicant's customers, there should not be a dominant focus in any analysis on any one part of the Mark. When the entire Mark is analyzed, it is clear the Marks are not likely to be confusingly similar to the perception of those likely to be exposed to them.

Respectfully, the Examining Attorney has failed to meet his burden to demonstrate the Applicant's Mark is confusingly similar to the Allegis Registrations. In light of the above, Applicant respectfully reiterates its request that the Board approve the Mark's registration.

Dated this 2nd day of May, 2014



Nicholas A. Dupre
Knighton & Stone, PLLC
Attorney for Applicant
State Bar No.: 24059701
2202 Timberloch Place, Suite 250
The Woodlands, Texas 77380
Telephone: (281) 681-3004
Facsimile: (281) 681-3007