

From: Jenkins, Charles

Sent: 11/2/2013 6:31:00 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85726368 - FUZE - 2223.37111 - Request for
Reconsideration Denied - Return to TTAB - Message 1 of 5

Attachment Information:

Count: 5

Files: hgf-01.jpg, hgf-02.jpg, hgf-03.jpg, hgf-04.jpg, 85726368.doc

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

U.S. APPLICATION SERIAL NO. 85726368

MARK: FUZE



CORRESPONDENT ADDRESS:

GEOFFREY A MANTOOTH

DECKER JONES MCMACKIN MCCLANE HALL & BAT

801 CHERRY ST BURNETT PLAZA SUITE 2000

FORT WORTH, TX 76102

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: WGI Innovations, Ltd.

CORRESPONDENT'S REFERENCE/DOCKET NO:

2223.37111

CORRESPONDENT E-MAIL ADDRESS:

gmantooth@deckerjones.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 11/2/2013

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated April 4, 2013, are maintained and continue to be final. See TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

The applicant's mark is FUZE for "game scouting cameras" and the registrant's mark is FUSE for "camera cases and accessories for digital cameras, namely, digital video viewers and tripods." With respect to applicant's and registrant's goods, the question of likelihood of confusion is determined based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. See, e.g., *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-70, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012); *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Absent restrictions in an application and/or registration, the identified goods are "presumed to travel in the same channels of trade to the same class of purchasers." *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. See *In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application and registration(s) has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods and/or services travel in all normal channels of trade, and are available to the same class of purchasers. Further, the registration use(s) broad wording to describe the goods and this wording is presumed to encompass all goods and/or services of the type described, including those in applicant's more narrow identification.

The examining attorney has enclosed several references showing that "game scouting cameras" and "camera cases" may be sold by the same entities and are related goods.

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

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

/Charles L. Jenkins, Jr./

Charles L. Jenkins, Jr.

Trademark Attorney

Law Office 105

571-272-9305

charles.jenkins@uspto.gov



Online Specials: great gifts you'll only find at Walmart

New customer? Sign In | Help

Value of the Day | Weekly Ad Store Finder | Registry | Gift Cards

Track My Orders | My Account | My Lists

See All Departments

Search Sports & Outdoors Search Go

My Cart (0)

Choose My Store

Sports & Outdoors : Game Cameras

NEW FREE SHIPPING NOW on nearly everything.* *On orders of \$50 or more. Learn more

All Departments

Sports & Outdoors

Hunting

Hunting Accessories

Game Cameras

Refine Results

Category

- Game Cameras (151)
- Other Hunting Gear (8)
- Hunting Gear (3)
- Fishing Reels (1)
- Hunting Accessories (1)
- Listening Devices (1)

Brand

- Arkon (2)
- Barska (2)
- Big Game Treestands (5)
- Bresser (2)
- Browning (5)
- Bushnell (10)
- CamlockBox (7)
- Cuddeback (6)
- Day 6 PlotWatcher (1)
- EPIC Cameras (3)

- Hunter's Specialties (1)
- Image (7)

All Items

Store Items

Sort by Top Sellers

Items 1-52 of 215 total 52 100 Per Page List View Grid View

Previous 1 2 3 4 5 Next



Moultrie Camera Solar Power Panel

★★★★★ (52)

- Solar panel with built-in 12-volt battery
- LCD screen displays
- Compatible with Moultrie 2007 and later digital game cameras

Online

\$62.97

List Price: ~~\$79.97~~
You save: \$17.00(21%)

- Free Shipping
- Free store pickup as soon as 11/08 with **site to store**



Wingscapes Audubon BirdCam

★★★★★ (3)

- 5-megapixel, high-resolution BirdCam
- Laser aim and fully weatherproof
- Motion-activated

Online

\$109.00

List Price: ~~\$159.95~~
You save: \$50.95(32%)

- Free Shipping

Preorder



Wildgame Innovations - ACSX - 5MP Action Video Camera

★★★★★ (7)

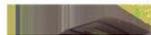
- Wildgame Innovations - ACSX - 5MP Action Video Camera

Online

\$113.49

List Price: ~~\$149.99~~
You save: \$36.50(24%)

- Free Shipping
- Free store pickup as soon as 11/08 with **site to store**



Moultrie Feeders Co 12494 Moultrie Game Spy Re-Action Cam

Online

\$144.32

- Sold & shipped by **UnbeatableSale.com**

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|---|--|---|--------------------------------------|---|--|---|--|---|--|--|---|
| <p> <input type="checkbox"/> LTL Acorn (3) <input type="checkbox"/> Legrand (1) <input type="checkbox"/> Moultrie (28) <input type="checkbox"/> OldBoys Outdoors (2) <input type="checkbox"/> Primos (5) <input type="checkbox"/> SPYPOINT (38) <input type="checkbox"/> Scoutguard (6) <input type="checkbox"/> Simmons (4) <input type="checkbox"/> Stealth Cam (19) <input type="checkbox"/> Tasco (2) <input type="checkbox"/> UWay (16) <input type="checkbox"/> Walker's (1) <input type="checkbox"/> Walker's Game Ear (1) <input type="checkbox"/> Wild Game Innovation (1) <input type="checkbox"/> Wildgame (1) <input type="checkbox"/> Wildgame Innovations (16) <input type="checkbox"/> Wildview (6) <input type="checkbox"/> Wingscapes (2) </p> <p> Save Big <input type="checkbox"/> Bundle (1) </p> <p> Species Type <input type="checkbox"/> Deer (42) <input type="checkbox"/> Dove (16) <input type="checkbox"/> Elk (42) <input type="checkbox"/> Mule Deer (42) <input type="checkbox"/> Predator (41) <input type="checkbox"/> Turkey (35) </p> <p> Price \$ <input type="text"/> to \$ <input type="text"/> <input type="button" value="Go"/> <input type="checkbox"/> 0 - \$10 (4) <input type="checkbox"/> \$10 - \$25 (11) <input type="checkbox"/> \$20 - \$50 (56) <input type="checkbox"/> \$50 - \$100 (44) <input type="checkbox"/> \$100 - \$150 (39) <input type="checkbox"/> \$150 - \$200 (25) <input type="checkbox"/> \$200 - \$250 (11) </p> | <table border="1"> <tr> <td data-bbox="503 237 682 378">  </td> <td data-bbox="682 237 1429 378"> <p>High Definition Video Camera,</p> </td> </tr> <tr> <td data-bbox="503 378 682 567">  </td> <td data-bbox="682 378 1429 567"> <p>Wildgame Innovations - AC3 - 3MP Action Video Camera</p> <p>Online \$74.45 List Price: \$99.99 You save: \$24.55(25%)</p> <ul style="list-style-type: none"> Free Shipping Free store pickup as soon as 11/08 with site to store </td> </tr> <tr> <td data-bbox="503 567 682 756">  </td> <td data-bbox="682 567 1429 756"> <p>Moultrie Game Camera Tree Mount</p> <p>★★★★★ (4)</p> <p>Adjusts to almost any position for perfect aiming of your trail camera</p> <p>Online \$18.36 List Price: \$49.49 You save: \$18.36(37%)</p> <ul style="list-style-type: none"> Free shipping on orders Free store pickup as soon as 11/08 with site to store </td> </tr> <tr> <td data-bbox="503 756 682 945">  </td> <td data-bbox="682 756 1429 945"> <p>Moultrie Game Spy I-35 IR 4.0 Megapixel Game Camera</p> <p>★★★★★ (28)</p> <ul style="list-style-type: none"> 4.0-megapixel infrared digital game camera Infrared sensor for immediate game capture Color day pictures <p>Online \$105.00 List Price: \$149.99 You save: \$44.95(30%)</p> <ul style="list-style-type: none"> Free Shipping Free store pickup as soon as 11/08 with site to store </td> </tr> <tr> <td data-bbox="503 945 682 1127">  </td> <td data-bbox="682 945 1429 1127"> <p>Moultrie Camera Tripod, MFH-UCM-T</p> <p>★★★★★ (2)</p> <ul style="list-style-type: none"> mount game cameras without mounting to trees or other permanent structures <p>Online \$69.99 List Price: \$99.99 You save: \$29.99(30%)</p> <ul style="list-style-type: none"> Free Shipping </td> </tr> </table> |  | <p>High Definition Video Camera,</p> |  | <p>Wildgame Innovations - AC3 - 3MP Action Video Camera</p> <p>Online \$74.45 List Price: \$99.99 You save: \$24.55(25%)</p> <ul style="list-style-type: none"> Free Shipping Free store pickup as soon as 11/08 with site to store |  | <p>Moultrie Game Camera Tree Mount</p> <p>★★★★★ (4)</p> <p>Adjusts to almost any position for perfect aiming of your trail camera</p> <p>Online \$18.36 List Price: \$49.49 You save: \$18.36(37%)</p> <ul style="list-style-type: none"> Free shipping on orders Free store pickup as soon as 11/08 with site to store |  | <p>Moultrie Game Spy I-35 IR 4.0 Megapixel Game Camera</p> <p>★★★★★ (28)</p> <ul style="list-style-type: none"> 4.0-megapixel infrared digital game camera Infrared sensor for immediate game capture Color day pictures <p>Online \$105.00 List Price: \$149.99 You save: \$44.95(30%)</p> <ul style="list-style-type: none"> Free Shipping Free store pickup as soon as 11/08 with site to store |  | <p>Moultrie Camera Tripod, MFH-UCM-T</p> <p>★★★★★ (2)</p> <ul style="list-style-type: none"> mount game cameras without mounting to trees or other permanent structures <p>Online \$69.99 List Price: \$99.99 You save: \$29.99(30%)</p> <ul style="list-style-type: none"> Free Shipping |
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| <p><input type="checkbox"/> \$200 - \$250 (14) <input type="checkbox"/> \$250 - \$500 (11) <input type="checkbox"/> \$500 - \$750 (1)</p> <p>Fishing Type <input type="checkbox"/> Freshwater (1)</p> <p>Customer Rating <input type="checkbox"/> ★★★★★ (40) <input type="checkbox"/> ★★★★☆ (15) <input type="checkbox"/> ★★★☆☆ (3) <input type="checkbox"/> ★★☆☆☆ (3)</p> <p>Retailer <input type="checkbox"/> Walmart.com (161) <input type="checkbox"/> Looking.com (1) <input type="checkbox"/> UnbeatableSale.com (3) <input type="checkbox"/> Wayfair.com (49)</p> <p>Special Offers <input type="checkbox"/> Reduced Price (3) <input type="checkbox"/> Rollback (5)</p> <p>Color <input type="checkbox"/> Beige (1) <input type="checkbox"/> Black (35) <input type="checkbox"/> Blue (1) <input type="checkbox"/> Brown (11) <input type="checkbox"/> Clear (1) <input type="checkbox"/> Gray (5) <input type="checkbox"/> Green (10) <input type="checkbox"/> Multicolor (24) <input type="checkbox"/> Other (5)</p> |  <p>Wingscapes BirdCam Mounting Arm</p> <p>• Adjusts to angles of -60, -30, 0, 30 and 60 degrees • Easy to operate • Can swivel 360 degrees</p> <p>Online \$24.00 List Price: \$29.95 You save: \$5.95 (20%) Preorder</p> <p>• Free Shipping</p> |
|  <p>Stealth Cam 12V Battery Box</p> <p>★★★★★ (32) Completely weatherproof, and comes with an AC charger</p> <p>Online \$39.99</p> <p>• Free shipping on orders over \$50 • Free store pickup as soon as 11/08 with site to store</p> | |
|  <p>Moultrie Deluxe Camera Tree Mount</p> <p>★★★★★ (3) • Compatible with most game cameras • Adjusts to virtually any position for perfect aim • Easy to set up</p> <p>Online \$25.20 List Price: \$29.96 You save: \$4.66 (16%)</p> <p>• Free shipping on orders over \$50 • Free store pickup as soon as 11/08 with site to store</p> | |
|  <p>Moultrie 4GB SD Memory Card</p> <p>• Store 4GB of info • Reuse memory card without losing quality • Use in all SDHC compatible devices</p> <p>Online \$16.58 List Price: \$24.99 You save: \$8.41 (34%)</p> <p>• Free shipping on orders over \$50</p> | |
| <p>Recently Viewed Items You don't have any recently viewed items</p> <p>Popular in Game Cameras Moultrie</p> |  <p>Moultrie Game Spy Pay As You Go Cellular Modem</p> <p>• Automatically upload images • View and save images into galleries • Flexible plans available</p> <p>Online \$121.13 List Price: \$149.99 You save: \$28.86 (19%)</p> <p>• Free Shipping • Free store pickup as soon as 11/08 with site to store</p> |

- Moultrie
- Ir Cameras
- Wildgame Cameras
- Trail Cameras
- Game Cameras
- Stealth Cam
- Bushnell Cameras
- Moultrie Feeders



Moultrie 2GB SD Memory Card
★★★★★ (1)

- Store 2GB of info
- Reuse memory card without losing quality
- Use in all SDHC compatible devices

Online
\$12.49
List Price: ~~\$14.99~~
You save: \$2.50 (17%)

- Free shipping on orders over \$50
- Free store pickup as soon as 11/08 with **site to store**



Moultrie Game Spy L-50 5.0MP Low Glow Infrared Digital Game/Trail Camera
★★★★★ (24)

- 5.0 megapixels
- 50' flash
- Temperature, time and date on every photo

Online
\$59.97

- Free store pickup as soon as 11/08 with **site to store**



Moultrie Deluxe I Handheld Viewer with 4.3" Screen
★★★★★ (10)

- View images and videos in the field
- 4.3" LCD viewing screen
- Requires 4 AA Batteries (not included)

Online
\$102.57
List Price: ~~\$139.99~~
You save: \$37.42 (27%)

- Free Shipping
- Free store pickup as soon as 11/08 with **site to store**



Moultrie Game Spy M-100 IR Mini 6.0 Megapixel Digital Game Camera

Online
\$199.99

- Free Shipping

- 6.0 megapixels
- Up to 1 year battery life
- Operates on 4 or 8 AA batteries (not included)



Moultrie Game Spy Deluxe 2.8" LCD Handheld Picture Viewer
★★★★★ (26)

Online
\$49.78
List Price: ~~\$79.99~~
You save: \$30.21 (38%)

- Free shipping on orders over \$50
- Free store pickup as soon as 11/08 with **site to store**

- View images and videos on the go