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

Proceeding	86215732
Applicant	Aqualung International SA
Applied for Mark	IMPULSE
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Submission	Motion to Set Aside the Appeal Dismissal and to Accept A Late-Filed Brief
Attachments	IMPULSE - Motion to Set Aside Appeal Dismissal and Accept Late-Filed Brief 12042015.pdf(183391 bytes) Impulse Snorkel_3 (1).pdf(186974 bytes) Impulse Snorkel_1.pdf(96483 bytes) Impulse Snorkel_2 (1).pdf(103108 bytes)
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Date	12/04/2015

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

Application Serial No. 86215732
Applicant: Aqualung International SA

Motion to Set Aside the Appeal Dismissal and to Accept a Late-Filed Brief

Notice is hereby given that Aqualung International SA appealed to the Trademark Trial and Appeal Board the refusal to register the mark depicted in Application Serial No. 86215732. Applicant filed a request for reconsideration of the refusal to register, and requested suspension of the appeal pending consideration of the request by the Examining Attorney. The refusal to register has been appealed as to the following class of goods/services: - Class 009. First Use: 1989/01/01 First Use In Commerce: 1989/01/01 All goods and services in the class are appealed, namely: Snorkels.

Subsequently, the Trademark Trial and Appeal Board terminated the appeal of a final refusal to register the mark and returned the application to the Examining Attorney for further action. Applicant submits this motion and respectfully requests that the Board set aside the dismissal and please allow Applicant's Brief to respond to the Examining Attorney's refusal.

The Examining Attorney's refusal was maintained on the following bases: Section 2(d) likelihood of confusion refusal and specimen refusal. Applicant re-asserts its contention that there will not be a likelihood of confusion associated with its mark and the Registration 3172883 because the goods involved are in different channels of trade. In addition, Applicant, with the filing of this motion is also filing a new specimen in support of its application. Notwithstanding the foregoing, Applicant further asserts that its mark is entitled to trademark protection in spite of the current Registration 3172883 (owner referred to herein as "Registrant") due to the fact that Applicant's first use and first use in commerce occurred as early as 1989 – prior to the Registrant's use or marketing of its mark.

By filing of this motion, Applicant also files a new specimen and is attached with this filing.

For the aforesaid reasons, Applicant respectfully submits this motion and requests that the appeal be reinstated and reviewed for further consideration.

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Application Serial No. 86215732
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Motion to Set Aside the Appeal Dismissal and to Accept a Late-Filed Brief

Respectfully submitted,

/Donald R. Naylor, Jr./

12/04/2015

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U N O A N S N O R

IMPULSE® KEY FEATURES

- 1) Large, unrestricted intake bore delivers expanded volume of air, and significantly reduces resistance when purging
- 2) Patented one-way annular drain valve in upper cone opens and allows any splashed-in water to exit prior to reaching mouthpiece
- 3) Snap-on keeper accepts mask strap without removing, slides along barrel for comfortable placement of mask
- 4) Barrel ergonomically contoured for correct positioning of mouthpiece and a substantial reduction in drag
- 5) Smooth-bore silicone flex tubing rotates away from face when using SCUBA equipment
- 6) Patented Comfo-Bite silicone mouthpiece reduces jaw fatigue
- 7) Reservoir located below the mouthpiece keeps breathing path clear of excess water
- 8) Self-draining purge valve readily expels most residual water



Snorkels



FLEX IMPULSE

- Integrates all the dry-breathing technology incorporated in the Impulse®
- Adds the advantage of large-bore silicone flex tubing at bottom of barrel— allows mouthpiece to drop away from face when switching to scuba
- Variety of colors available

IMPULSE®

- Traditional model of the best selling snorkel in the world
- Incorporates patented annular drain valve in fluted cone
- Comfo-Bite® silicone mouthpiece
- Mouthpiece housing swivels 360°; incorporates residual water reservoir and self-draining purge valve
- Variety of colors available

AQUARIUS

- Large volume, ergonomically contoured, smooth-bore barrel
- Snap-on mask keeper
- Smooth-bore flex section allows mouthpiece to drop away from face when switching to scuba
- Comfo-Bite® silicone mouthpiece
- Incorporates residual water reservoir and self-draining purge valve
- Variety of colors available

AIR

- Large-volume, soft-tube design
- Barrel ergonomically contoured for correct positioning of mouthpiece and substantial reduction in drag
- Snap-on keeper accepts mask strap
- Incorporates twin purge valves
- Comfo-Bite® silicone mouthpiece
- Variety of colors available



snorkels



impulse

- Traditional model of the best-selling snorkel in the world
- Comfo-Bite™ silicone mouthpiece
- Mouthpiece housing swivels 360°; incorporates residual water reservoir and self-draining purge valve



flex impulse

- Integrates all the dry-breathing technology incorporated in the Impulse
- Flexible tubing allows mouthpiece to drop away from face when switching to SCUBA



aquarius

- Smooth-bore flex section allows mouthpiece to drop away from face when switching to SCUBA
- Comfo-Bite™ silicone mouthpiece
- Incorporates residual water reservoir and self-draining purge valve



air dry

- Soft tube
- Twin purge valve
- Comfo-Bite™ mouthpiece
- Splash guard top



air

- Soft tube
- Silicone mouthpiece

