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

U.S. APPLICATION SERIAL NO. 86255489

MARK: PIP



CORRESPONDENT ADDRESS:

ANN MCCAMEY

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1801 CENTURY PARK E STE 1920

LOS ANGELES, CA 90067-2326

GENERAL TRADEMARK INFORMATION:

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

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APPLICANT: Developed Research for Irrigation Produc ETC.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

ann@ruttenbergiplaw.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 9/9/2015

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. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement(s) and/or refusal(s) made final in the Office action dated February

21, 2015 are maintained and continue to be final: Section 2(d) Refusal – Likelihood of Confusion. See TMEP §§715.03(a)(ii)(B), 715.04(a).

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.

Specifically, applicant argues that the owner of the cited registration has abandoned its trademark due to nonuse, arguing that applicant can find no evidence of the mark used since 2006. However, a trademark or service mark registration on the Principal Register is prima facie evidence of the validity of the registration and the registrant's exclusive right to use the mark in commerce in connection with the specified goods. See 15 U.S.C. §1057(b); TMEP §1207.01(d)(iv).

Thus, **evidence and arguments that constitute a collateral attack on a cited registration, such as information or statements regarding a registrant's nonuse of its mark, are not relevant during ex parte prosecution.** See *In re Dixie Rests.*, 105 F.3d 1405, 1408, 41 USPQ2d 1531, 1534-35 (Fed. Cir. 1997); *In re Peebles Inc.*, 23 USPQ2d 1795, 1797 n.5 (TTAB 1992); TMEP §1207.01(d)(iv). Such evidence and arguments may, however, be pertinent to a formal proceeding before the Trademark Trial and Appeal Board to cancel the cited registration.

Similarly, applicant maintains that its mark and the mark of registrant have different meaning, and are therefore distinct. However, in this case, the marks are identical. What applicant and/or registrant intend the mark to mean does not alter the sound, appearance, or commercial impression of the mark itself. Thus, this argument is not persuasive.

Similarly, applicant argues that the goods are distinct, arguing that registrant's goods are limited to the sump pumps and non-clog pumps applicant has identified in registrant's manuals, and maintaining that these goods have nothing to do with agriculture. Again, however, when analyzing an applicant's and registrant's goods for similarity and relatedness, that **determination is based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use.** See *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); see also *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002). Here, the description of the goods of registrant includes goods such as centrifugal pumps. The attached evidence from The Home Depot, Flotec, Goulds Water Technology, Ewing and Pentair, along with the previously attached evidence, demonstrates that pumps, including centrifugal

pumps, are commonly used in agricultural irrigation. Indeed, The Home Depot evidence explains, “Centrifugal pumps installed above the water level are the most commonly used type (of irrigation pump).” Thus, the goods of applicant are complementary to the goods of registrant. The previously attached evidence further demonstrates that not only are irrigation units commonly sold in the same channels of trade as pumps, such as those of registrant, but that such pumps actually are sold by the distributors who sell applicant’s goods.

Finally, the trademark examining attorney has attached evidence from the USPTO’s X-Search database consisting of a representative sample of third-party marks registered for use in connection with the same or similar goods as those of both applicant and registrant in this case. This evidence shows that the goods listed therein, namely, agricultural irrigation units and pumps, including the pumps of registrant, are of a kind that may emanate from a single source under a single mark. *See In re Anderson*, 101 USPQ2d 1912, 1919 (TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/chrisreams/

Trademark Examining Attorney

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- Air Cooled Engine Drive (1)
- 4" Submersibles (2)
- Jet Pumps (1)
- Utility Pumps (6)



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SPRINKLER CENTRALIZED PUMP FAQ

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Sprinkler & Centralized Pump FAQ

1. What is a centralized pump system?

A centralized pump system is a fire protection system where a single pump supplies water to multiple sprinkler heads. This system is typically used in large commercial buildings, hotels, and multi-story residential structures. It allows for a more efficient and cost-effective design compared to individual pump systems for each floor or zone.

2. How does a centralized pump system work?

The system consists of a central pump, a network of pipes, and multiple sprinkler heads. The pump is connected to a main supply line, which then branches out to various risers. Each riser serves a specific floor or zone, and the sprinkler heads are connected to these risers. When a head is activated, water is pumped from the central pump to the specific head, providing the necessary pressure for fire suppression.

3. What are the advantages of a centralized pump system?

Centralized pump systems offer several advantages, including: reduced water loss due to fewer pumps; simplified piping and installation; easier maintenance and testing; and the ability to serve multiple floors or zones from a single pump, which can be more cost-effective than multiple individual pumps.

4. What are the disadvantages of a centralized pump system?

Disadvantages include: the potential for higher initial costs due to the complexity of the piping and pump; the need for a larger pump and piping system to serve multiple zones; and the risk of a single point of failure at the central pump, which could affect the entire system.

5. How is a centralized pump system tested?

Testing is performed to ensure the system is capable of providing the required flow and pressure. This typically involves a flow test where a specific number of heads are opened simultaneously to simulate a fire event. The test measures the pump's performance and the system's ability to maintain adequate pressure throughout the network.

6. What are the key components of a centralized pump system?

The key components include: the central pump; the main supply line; risers for each floor or zone; and the individual sprinkler heads. Additionally, there are control valves, pressure gauges, and piping that connect these components into a functional network.

7. How do I choose the right pump for my system?

Choosing the right pump involves several factors: the total number of heads to be served; the height of the building; the required flow rate; and the available water supply. It's essential to consult with a fire protection engineer to determine the specific requirements and select a pump that meets or exceeds those needs.

8. What are the common issues with centralized pump systems?

Common issues include: air in the system causing pump cavitation; leaks in the piping; and pump failure. Regular maintenance, including testing and inspection, is crucial to identify and address these issues before they become major problems.

9. How often should a centralized pump system be tested?

Testing should be performed at least once a year, or more frequently if the system is used in a high-risk environment. The test should be conducted by a qualified professional to ensure accuracy and safety.

10. What are the safety considerations for centralized pump systems?

Safety considerations include: ensuring the pump is properly installed and maintained; using appropriate piping materials and fittings; and following all relevant codes and standards. Proper training and certification of personnel involved in the system's operation and maintenance are also critical.

11. How do I maintain a centralized pump system?

Maintenance tasks include: regular inspection of the pump and piping; testing the system; and replacing any worn or damaged components. Keeping detailed records of all maintenance activities is important for tracking the system's performance over time.

12. What are the code requirements for centralized pump systems?

Code requirements vary by jurisdiction but generally include: minimum pump capacity; piping standards; and testing procedures. It's essential to consult the local fire code and NFPA standards to ensure compliance with all applicable regulations.

13. How do I troubleshoot a centralized pump system?

Troubleshooting steps include: checking the pump's power supply; inspecting the piping for leaks or blockages; testing the pump's performance; and consulting with a professional if the issue is complex or persistent.



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Irrigation Pumps

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Every time your sprinkler heads pop up and begin to water your lawn to ensure that it stays green and lush, a pump is responsible for supplying them with the water they need. A crucial but sometimes overlooked component of any irrigation system, pumps are available in different designs, allowing you to find the right one for your particular lawn configuration.

There are a number of technical features such as capacity, power and efficiency that will play a large role in determining your selection. Consider the following questions as you design your irrigation system:

- What performance considerations are most important?
- What features would you like to have available?

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Type, Performance and Installation

In addition to providing water for lawn sprinkling applications, pumps can boost water pressure for washing cars, boats, farm equipment and more. Heavy-duty units can be used to irrigate gardens, remove water, protect against fires and for a host of other applications. They may draw on water from a lake, creek, well or municipal water supply. Pumps may be fueled by electricity, gasoline or even propane. Consider how extensive your watering needs are, where you plan to draw water from and how much power you will need when selecting the ideal pump for your irrigation system.

Surface Centrifugal Pumps: Centrifugal pumps installed above the water level are the most commonly used type. They must be filled with water, or primed, prior to operation and can draw water from reservoirs, lakes, streams and wells. Centrifugal units use a rapidly spinning impeller to push water through the pump. Priming is required because they cannot suck air on their own, they can only provide suction for water.

Centrifugal pumps offer a wide range of capacities while providing a fairly constant flow rate. They offer an economical choice, though their efficiency and capacity may be somewhat limited compared to other pump types.

- May be installed either horizontally or vertically
- Horizontal installations may allow for easier inspection and maintenance
- Make sure joints and connections are airtight to ensure optimum operation
- May be powered by electricity or diesel fuel

Submersible Pumps: Unlike surface pumps, submersible pumps are installed completely underwater, motor and all. They function in a manner similar to a multistage centrifugal pump. The pump is often cylindrical, making it ideal for placement inside a well. Because they are already underwater, submersible pumps tend to operate with greater efficiency than other pumps. They may feature dry motors, which are constructed to prevent water from getting in, or wet motors, which function even when water is running through them.

- Submersible pumps do not need to be primed and are generally low maintenance.

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