

TTAB

**UNITED STATES PATENT AND TRADEMARK  
OFFICE**  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: March 23, 2004

HANSEN MANUFACTURING COMPANY  
2650 Shop Road  
Columbia, SC 292094600

**Cancellation No. 92043074**  
Reg. No. 2275109

Wendy K. Marsh  
McKee, Voorhees & Sease  
801 Grand Avenue, Suite 3200  
Des Moines, IA 50309

TRI/MARK Corporation

V.

HANSEN MANUFACTURING COMPANY

**Tamika Whitsey, Legal Assistant:**

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof.  
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the



Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov](http://www.uspto.gov).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

**Discovery and testimony periods are set as follows:**

Discovery period to open:	<b>April 12, 2004</b>
Discovery period to close:	<b>October 09, 2004</b>
30-day testimony period for party in position of plaintiff to close:	<b>January 07, 2005</b>
30-day testimony period for party in position of defendant to close:	<b>March 08, 2005</b>
15-day rebuttal testimony period for plaintiff to close:	<b>April 22, 2005</b>

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may

be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

TTAB

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

TRI/MARK CORPORATION	)
	)
	)
Petitioner,	)
	)
v.	) CANCELLATION NO. _____
	)
HANSEN MANUFACTURING COMPANY	)
	)
Respondent.	)
	)

U. S. Registration No.:	2,275,109
Date Registered:	September 7, 1999
Mark:	Product design only

**Box TTAB: FEE**  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513



**03-16-2004**  
U.S. Patent & TMO/TM Mail Rpt Dt #22

**PETITION FOR CANCELLATION**

Tri/Mark Corporation (hereinafter referred to as "Petitioner"), an Iowa corporation, having an address of 500 Bailey Avenue, P.O. Box 350, New Hampton, Iowa 50659, believes that it will be damaged by Registration No. 2,275,109 issued September 7, 1999 to Hansen Manufacturing Company ("hereinafter referred to as "Respondent"), having an address of 2650 Shop Road, Columbia, South Carolina 29209, and hereby Petitions to cancel the same. A copy of Registration No. 2,275,109 is attached as Exhibit 1. Petitioner respectfully

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requests the Board make this registration of record for purposes of this proceeding pursuant to 37 C.F.R. § 2.122(d)(1).

As grounds of this Petition, it is alleged that:

1. Respondent's alleged mark has not become distinctive of the respondent's goods in commerce and no customer recognition of said product design as a valid mark identifying only respondent has been achieved.

2. Respondent's alleged mark is functional since the registered feature is essential to the use or purpose of the product and/or it affects the cost or quality of the goods of the registration. Further, Respondent's competitors need to copy the registered feature in order to compete effectively.

3. Respondent's alleged mark has not been used as a trademark. TMEP § 1202.03.

4. Respondent's alleged mark is a mutilation of the unitary design for which registration was originally sought.

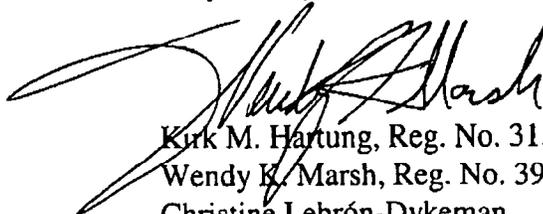
5. Respondent's registration should not have been issued in that, during prosecution, Respondent's amendments to the description and the drawing of the alleged mark materially altered the character of the alleged mark. 37 C.F.R. § 2.72; TMEP § 807.14(a); Trademark Act Section 7(d).

6. Petitioner is likely to be damaged by this improperly issued registration since Petitioner is engaged in the sale of the same or similar products and Petitioner has an interest in using Respondent's alleged mark functionally and in a non-trademark manner in its business.

WHEREFORE, Petitioner prays that Registration No. 2,275,109 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

Accompanying the duplicate signed copies of this Petition for Cancellation is the required filing fee of \$300.00. If this fee is not sufficient, please consider this a request to debit Deposit Account No. 26-0084.

Respectfully submitted,



Kirk M. Hartung, Reg. No. 31,021  
Wendy K. Marsh, Reg. No. 39,705  
Christine Lebrón-Dykeman  
McKEE, VOORHEES & SEASE  
801 Grand Avenue, Suite 3200  
Des Moines, Iowa 50309  
Telephone: (515) 288-3667

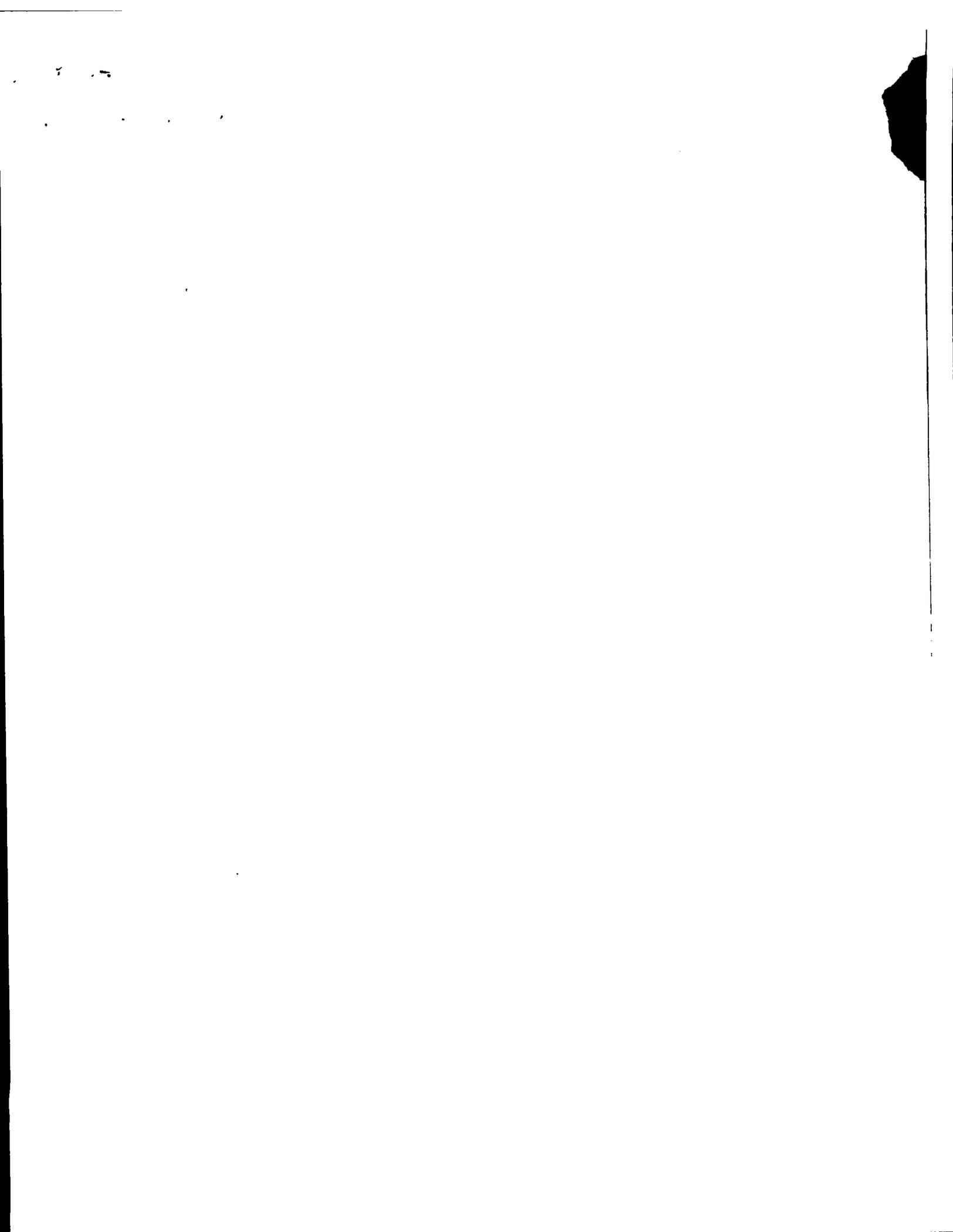
Filed: March 16, 2004

#### CERTIFICATE OF MAILING

I hereby declare that the attached Petition for Cancellation has been filed by depositing the same with the U.S. Postal Service "Post Office to Addressee" Express Mail service prior to 5:00 p.m. (Express Mail Certificate No. EL987135272US) this 16<sup>th</sup> day of March, 2004 to:

Assistant Commissioner for Trademarks  
Box TTAB  
2900 Crystal Drive  
Arlington, VA 22202-3514





Int. Cl.: 12

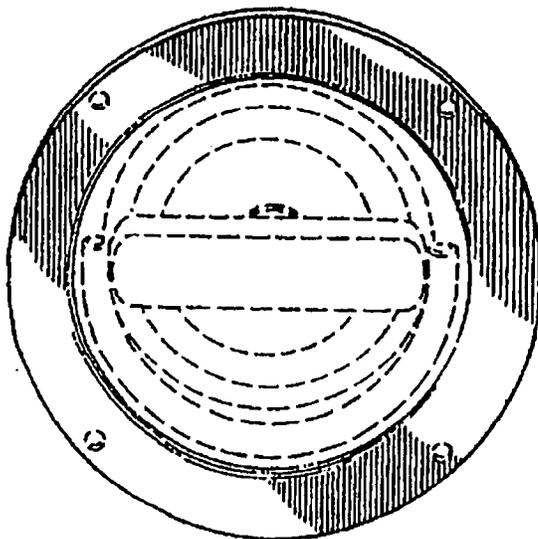
Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

**United States Patent and Trademark Office**

Reg. No. 2,275,109

Registered Sep. 7, 1999

**TRADEMARK  
PRINCIPAL REGISTER**



HANSEN MANUFACTURING COMPANY (ILLINOIS CORPORATION)  
2650 SHOP ROAD  
COLUMBIA, SC 292094600

FOR: VEHICLE HANDLE ASSEMBLY FOR DOORS OF EMERGENCY VEHICLES AND FIRE TRUCKS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 0-0-1940; IN COMMERCE 0-0-1940.

THE DOTTED LINING IN THE DRAWING SHOWS THE POSITION OF THE MARK ON THE GOODS AND IS NOT PART OF THE

MARK. THE OTHER LINING IS FOR SHADING PURPOSES ONLY AND DOES NOT INDICATE COLOR.

THE MARK CONSISTS OF THE SUBSTANTIALLY CIRCULAR OUTER PERIPHERY OF THE FLANGE OF THE VEHICLE HANDLE ASSEMBLY.

SEC. 2(F).

SER. NO. 75-094,072, FILED 4-25-1996.

BARBARA GAYNOR, EXAMINING ATTORNEY

**EXHIBIT**

1

MOVES LEFT 40  
NOT DELIVERABLE  
UNABLE TO FOR  
ATTEMPTED NOT  
UNCLAIMED  
NO SUCH STREET  
INSUFFICIENT

LS

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HANSEN MANUFACTURING COMPANY  
2650 SHOP ROAD  
COLUMBIA, SC 292094600

