

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

In the Matter of Registration No. 3,294,756

INNOVATIVE HEALTHCARE CORPORATION,)

PETITIONER)

vs.)

KHETARPAL LIVING TRUST,)
COMPRISING HARISH KHETARPAL)
AND KIRAN ROMA KHETARPAL,)
BOTH U.S. CITIZENS (CALIFORNIA TRUST),)

RESPONDENT)

PETITION FOR CANCELLATION

Cancellation No. _____

Date of Issue: September 18, 2007

78537034

PETITION FOR CANCELLATION

Innovative Healthcare Corporation, an Oklahoma corporation located and doing business at 8220 Charles Page Blvd., Sand Springs, Oklahoma, 74063, ("Petitioner") believes that it is or will be damaged by the continued registration of the mark shown as Registration No. 3,294,756 and hereby petitions to cancel same.

To the best of Petitioner's knowledge, the name and address of the current owner of the registration ("Respondent") is:

08/28/2008 SWILSON1 00000000 501971 3294756
01 FC:6401 300.00 DA

Khetarpal Living Trust,
Comprising Harish Khetarpal and Kiran Roma Khetarpal
23434 Sagebrush Way
Santa Clarita, CA 91321

EXPRESS MAIL Mailing Label No. EB175510084US

I hereby certify that this paper or fee is being deposited with the United States Postal Services "Express Mail Post Office to Addressee" service under 37 CFR 2.198 on the date indicated and is addressed to Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on August 21, 2008.

Frank J. Catalano



08-21-2008

Description of Respondent's registration: Filed on December 22, 2004, for the mark DENTI-GRIP registered on the Principal Register, in International Class 10 for "medical and dental gloves for medical use by medical professionals," claiming first use on August 1, 2005. The particulars of said registration are attached hereto as Exhibit "A."

As grounds of this Petition, it is alleged that:

1. Petitioner, initially known as INNOVATIVE HEALTHCARE SUPPLY, INC., is the owner of Registration No. 1,910,732 for the mark DENTAL GRIP in connection with the sale of "latex medical examination gloves" with a first use date of March 31, 1993, and the particulars of said Registration are attached hereto as Exhibit "B."

2. Petitioner amended its Certificate of Incorporation on June 25, 2001, changing its name to INNOVATIVE HEALTHCARE CORPORATION. A copy of this amended Certificate is attached hereto as Exhibit "C."

3. Petitioner inadvertently failed to file a Section 8 affidavit for said Registration No. 1,910,732, resulting in said Registration No. 1,910,732 being inadvertently abandoned.

4. Use of the mark DENTAL GRIP by Petitioner in connection with the sale of "latex medical examination gloves" has been valid and continuous from at least said date of first use, being March 31, 1993, to the present, and has not been abandoned.

5. On January 31, 2007, Petitioner filed Application No. 77/095,531 in the United States Patent and Trademark Office for registration of the mark DENTAL GRIP on the Principal Register in International Class 10 for "latex medical examination gloves" asserting the aforesaid first use date established by Petitioner, a copy of said Application being attached hereto as Exhibit "D."

6. In an Office Action dated January 24, 2008, a copy of which is attached hereto as Exhibit "E," the United States Patent and Trademark Office refused Petitioner's Application for registration of its mark DENTAL GRIP because Petitioner's mark DENTAL GRIP, when used in connection with the identified goods and services, so resembles the mark DENTI-GRIP in U.S. Registration No. 3,294,756 as to be likely to cause confusion, to cause mistake.

7. Petitioner's mark DENTAL GRIP is symbolic of extensive good will and consumer recognition built up by Petitioner through a substantial amount of time and effort in advertising and promotion.

8. In view of the similarity of the respective marks, the related nature of the goods of the respective parties, and the refusal by the United States Patent and Trademark Office to register Petitioner's mark DENTAL GRIP based on registration of Respondent's mark DENTI-GRIP, it is alleged that Respondent's registered mark DENTI-GRIP so resembles Petitioner's mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive, and that Petitioner is and will continue to be harmed by the registration of Respondent's mark.

RELIEF REQUESTED

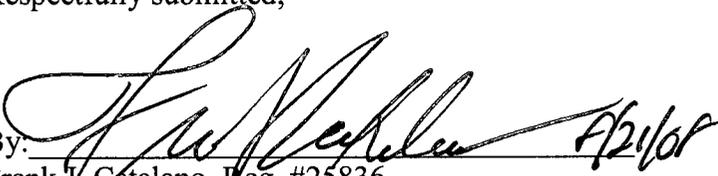
WHEREFORE, Petitioner prays that this Petition for Cancellation be granted in favor of Petitioner and that Registration No. 3,794,756 be cancelled.

Petitioner hereby appoints Frank J. Catalano, Reg. No. 25836, Paul H. Johnson, Reg. No. 19224, Chad M. Hinrichs, Reg. #45836 and Paul E. Rossler, Reg. #60,409, all members of the Bar of the State of Oklahoma and associated with the law firm of Gable & Gotwals, 100 W. 5th Street, 10th Floor, Tulsa, Oklahoma, 74013, to act as attorneys for Petitioner herein, with full

power to prosecute said Petition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts, and to receive official communications with regard to this Petition for Cancellation.

The Commissioner is authorized to charge the fee of \$300.00 for this Petition to Deposit Account No. 50-1971. The Commissioner is also authorized to charge any additional costs or credit any overpayments involving this Petition to Deposit Account No. 50-1971.

Respectfully submitted,

By:  4/21/08

Frank J. Catalano, Reg. #25836

Paul H. Johnson, Reg. #19224

Chad M. Hinrichs, Reg. #45836

Paul E. Rossler, Reg. #60,409

GABLE & GOTWALS

100 West Fifth Street

Tulsa, OK 74103-4217

Telephone: (918) 595-4963

Facsimile: (918) 595-4990

E-mail: iplaw@gablelaw.com

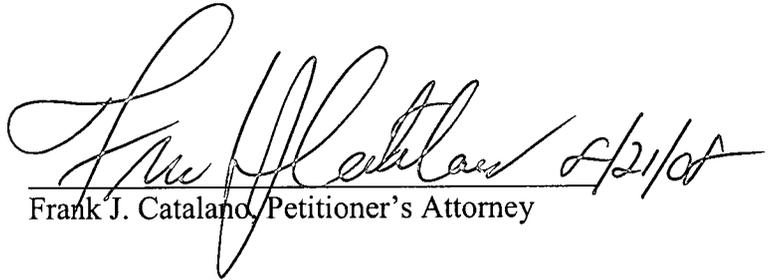
ATTORNEYS FOR PETITIONER

CERTIFICATE OF MAILING

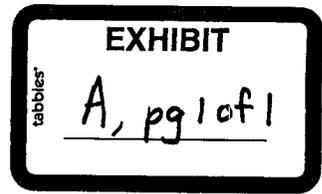
I hereby certify that on this 21st day of August, 2008, a copy of the foregoing Petition for Cancellation was served by first class mail, postage prepaid, addressed to the Respondent at the address shown below:

certified, return receipt requested

Khetarpal Living Trust,
comprising Harish Khetarpal and
Kiran Roma Khetarpal, both U.S.
Citizens (California Trust)
23434 Sagebrush Way
Santa Clarita, CA 91321



Frank J. Catalano, Petitioner's Attorney



Int. Cl.: 10

Prior U.S. Cls.: 26, 39, and 44

Reg. No. 3,294,756

United States Patent and Trademark Office

Registered Sep. 18, 2007

TRADEMARK
PRINCIPAL REGISTER

DENTI-GRIP

KHETARPAL LIVING TRUST, COMPRISING
HARISH KHETARPAL AND KIRAN ROMA
KHETARPAL, BOTH U.S. CITIZENS (CALI-
FORNIA TRUST)
23434 SAGEBRUSH WAY
SANTA CLARITA, CA 91321

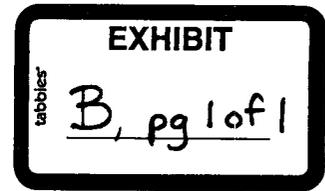
FOR: MEDICAL AND DENTAL GLOVES FOR
MEDICAL USE BY MEDICAL PROFESSIONALS, IN
CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 8-1-2005; IN COMMERCE 8-1-2005.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SN 78-537,034, FILED 12-22-2004.

COLLEEN KEARNEY, EXAMINING ATTORNEY



Int. Cl.: 10

Prior U.S. Cls.: 26, 39, and 44

United States Patent and Trademark Office

Reg. No. 1,910,732

Registered Aug. 8, 1995

**TRADEMARK
PRINCIPAL REGISTER**

DENTAL GRIP

INNOVATIVE HEALTHCARE SUPPLY (OKLA-
HOMA CORPORATION)
1424 E. 17TH PLACE
TULSA, OK 74120

FOR: LATEX MEDICAL EXAMINATION
GLOVES, IN CLASS 10 (U.S. CLS. 26, 39 AND
44).

FIRST USE 3-31-1993; IN COMMERCE
3-31-1993.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DENTAL", APART FROM
THE MARK AS SHOWN.

SN 74-367,807, FILED 3-15-1993.

ESTHER A. BORSUK, EXAMINING ATTOR-
NEY

OFFICE OF THE SECRETARY OF STATE



AMENDED
CERTIFICATE OF INCORPORATION

WHEREAS, the Amended Certificate of Incorporation of

INNOVATIVE HEALTHCARE CORPORATION

has been filed in the office of the Secretary of State as provided by the laws of the State of Oklahoma.

NOW THEREFORE, I, the undersigned, Secretary of State of the State of Oklahoma, by virtue of the powers vested in me by law, do hereby issue this certificate evidencing such filing.

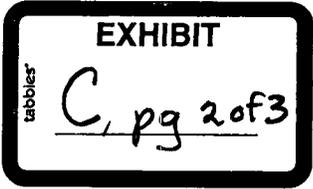
IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the Great Seal of the State of Oklahoma.



Filed in the City of Oklahoma City this 25TH
day of JUNE, 2001.

Mike Hunter
Secretary of State

By: *Edith Kame*



MINIMUM FEE: \$50.00
If the authorized capital is increased in excess of fifty thousand dollars (\$50,000.00), the filing fee shall be an amount equal to one-tenth of one percent (1/10th of 1%) of such increase.

FILE IN DUPLICATE
PRINT CLEARLY

**AMENDED
CERTIFICATE OF INCORPORATION**
(AFTER RECEIPT OF PAYMENT OF STOCK)

TO: OKLAHOMA SECRETARY OF STATE
2300 N. Lincoln Blvd., Room 101, State Capitol Building
Oklahoma City, Oklahoma 73105-4897
(405)-522-4560

PLEASE NOTE: This form **MUST** be filed with a letter from the Oklahoma Tax Commission, Franchise Tax Department, stating that the franchise tax, due yearly, has been paid for the current fiscal year.

The undersigned Oklahoma corporation, for the purpose of amending its certificate of incorporation as provided by Section 1077 of the Oklahoma General Corporation Act, hereby certifies:

1. A. The name of the corporation is:
INNOVATIVE HEALTHCARE SUPPLY, INCORPORATED

B. **As amended:** The name of the corporation has been changed to:
INNOVATIVE HEALTHCARE CORPORATION

(Please Note: The new name of the corporation **MUST** contain one of the following words: **association, company, corporation, club, foundation, fund, incorporated, institute, society, union, syndicate or limited** or one of the abbreviations **co., corp., inc.** or **ltd.**)

2. The name of the registered agent and the street address of the registered office in the State of Oklahoma is:
Mark Reiber 8220 W. Charles Page Blvd. Sand Springs Tulsa 74063-8502

Name of Agent	Street Address	City	County	Zip Code
	(P.O. BOXES ARE <u>NOT</u> ACCEPTABLE)			

3. The duration of the corporation is: Perpetual

4. The aggregate number of the authorized shares, itemized by class, par value of shares, shares without par value, and series, if any, within a class is:

NUMBER OF SHARES	SERIES (If any)	PAR VALUE PER SHARE (Or, if without par value, so state)
COMMON <u>50,000</u>		<u>\$0.10</u>
PREFERRED _____		_____

5. Set forth clearly any and all amendments to the certificate of incorporation which are desired to be made:

That at a meeting of the Board of Directors, a resolution was duly adopted setting forth the foregoing proposed amendment(s) to the Certificate of Incorporation of said corporation, declaring said amendment(s) to be advisable and calling a meeting of the shareholders of said corporation for consideration thereof.

That thereafter, pursuant to said resolution of its Board of Directors, a meeting of the shareholders of said corporation was duly called and held, at which meeting the necessary number of shares as required by statute were voted in favor of the amendment(s).

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed by its President or Vice President and attested by its Secretary or Assistant Secretary, this 15 day of June, 2001.

By Mark Reiber President

Mark Reiber

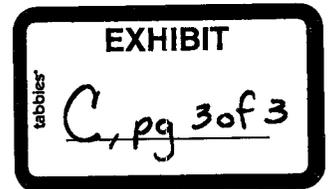
(PLEASE PRINT NAME)

ATTEST:

Amy Reiber
By _____ Secretary

Amy Reiber

(PLEASE PRINT NAME)



(SOS FORM 004-10/98)

Trademark/Service Mark Application, Principal Register

EXHIBIT
 D, pg 1 of 5

Serial Number: 77095531

Filing Date: 01/31/2007

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77095531
MARK INFORMATION	
*MARK	DENTAL GRIP
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	DENTAL GRIP
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
APPLICANT INFORMATION	
*OWNER OF MARK	Innovative Healthcare Corp.
*STREET	8220 Charles Page Blvd.
*CITY	Sand Springs
*STATE (Required for U.S. applicants)	Oklahoma
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	74063
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
*STATE/COUNTRY OF INCORPORATION	Oklahoma
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	010
DESCRIPTION	Latex medical examination gloves.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/31/1993
FIRST USE IN COMMERCE DATE	At least as early as 03/31/1993
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT12\770\955\77095531.xml\APP0003.JPG
SPECIMEN DESCRIPTION	Digitally photographed container of the goods.
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	Applicant was the owner of Registration No. 1910732 for the mark which was inadvertently abandoned for failure to file a Section 8 Affidavit. However, applicant has continuously used the mark since 03/31/1993.
ATTORNEY INFORMATION	
NAME	Frank J. Catalano
ATTORNEY DOCKET NUMBER	006385.00007
FIRM NAME	Gable & Gotwals
STREET	100 W. 5th Street, 10th Floor

CITY	Tulsa
STATE	Oklahoma
COUNTRY	United States
ZIP/POSTAL CODE	74103
PHONE	9185954963
FAX	9185954990
EMAIL ADDRESS	iplaw@gablelaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Paul H. Johnson; Michael E. Sellers; Chad M. Hinrichs
CORRESPONDENCE INFORMATION	
NAME	Frank J. Catalano
FIRM NAME	Gable & Gotwals
STREET	100 W. 5th Street, 10th Floor
CITY	Tulsa
STATE	Oklahoma
COUNTRY	United States
ZIP/POSTAL CODE	74103
PHONE	9185954963
FAX	9185954990
EMAIL ADDRESS	iplaw@gablelaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
SIGNATURE	/fjc-bampa/
SIGNATORY'S NAME	Frank J. Catalano
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	01/31/2007
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Jan 31 12:40:37 EST 2007
TEAS STAMP	USPTO/BAS-208.191.17.178- 20070131124037986242-7709 5531-3605ff6d46c5932ec9c1 cc4eba2191338c5-DA-1722-2 0070131122029857795

EXHIBIT

D, pg 2 of 5

To the Commissioner for Trademarks:

MARK: DENTAL GRIP (Standard Characters, see mark)

The literal element of the mark consists of DENTAL GRIP. The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Innovative Healthcare Corp., a corporation of Oklahoma, having an address of 8220 Charles Page Blvd., Sand Springs, Oklahoma, United States, 74063, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 010: Latex medical examination gloves.

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 010, the mark was first used at least as early as 03/31/1993, and first used in commerce at least as early as 03/31/1993, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Digitally photographed container of the goods.. Specimen File 1

Applicant was the owner of Registration No. 1910732 for the mark which was inadvertently abandoned for failure to file a Section 8 Affidavit. However, applicant has continuously used the mark since 03/31/1993.

The applicant hereby appoints Frank J. Catalano and Paul H. Johnson; Michael E. Sellers; Chad M. Hinrichs of Gable & Gotwals, 100 W. 5th Street, 10th Floor, Tulsa, Oklahoma, United States, 74103 to submit this application on behalf of the applicant. The attorney docket/reference number is 006385.00007.

Correspondence Information: Frank J. Catalano
100 W. 5th Street, 10th Floor
Tulsa, Oklahoma 74103
9185954963(phone)
9185954990(fax)
iplaw@gablelaw.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

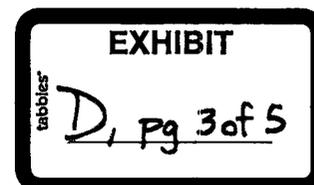
Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /fjc-bampa/ Date Signed: 01/31/2007
Signatory's Name: Frank J. Catalano
Signatory's Position: Attorney of record

RAM Sale Number: 1722
RAM Accounting Date: 01/31/2007

Serial Number: 77095531
Internet Transmission Date: Wed Jan 31 12:40:37 EST 2007
TEAS Stamp: USPTO/BAS-208.191.17.178-200701311240379
86242-77095531-3605ff6d46c5932ec9c1cc4eb
a2191338c5-DA-1722-20070131122029857795



EXHIBIT

tabbles

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DENTAL GRIP

100 Single Use | Ambidextrous | Non-Sterile
 This Product is Made From 100% Nitrile Synthetic Polymer
 And Does Not Contain Natural Latex Proteins

Dental GRIP POWDER-FREE
 Nitrile Dental Gloves

Soft

NON LATEX

XS Size: X-Small
 Re-order #: 390-0008

Dental GRIP Nitrile Dental Gloves

Ultra Soft FORMULATION

Designed FOR DENTISTRY

NON LATEX

Dental GRIP POWDER-FREE
 Nitrile Dental Gloves

Soft

NON LATEX

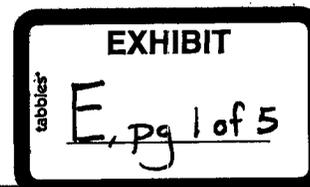
100 Quantity • Ambidextrous • Non-Sterile • Single Use Only
 This Product is Made From 100% Nitrile Synthetic Polymer and Does Not Contain Natural Latex Proteins

100 Single Use | Ambidextrous | Non-Sterile
 This Product is Made From 100% Nitrile Synthetic Polymer
 And Does Not Contain Natural Latex Proteins

100 Single Use | Ambidextrous | Non-Sterile

This Product is Made From 100% Nitrile Synthetic Polymer
 And Does Not Contain Natural Latex Proteins

To: Innovative Healthcare Corp. (iplaw@gablelaw.com)
Subject: TRADEMARK APPLICATION NO. 77095531 - DENTAL GRIP - 006385.00007
Sent: 1/24/2008 3:22:45 PM
Sent As: ECOM116@USPTO.GOV
Attachments: Attachment - 1
Attachment - 2



UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/095531

MARK: DENTAL GRIP

77095531

CORRESPONDENT ADDRESS:

FRANK J. CATALANO
GABLE & GOTWALS
100 W 5TH ST FL 10
TULSA, OK 74103-4240

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Innovative Healthcare Corp.

CORRESPONDENT'S REFERENCE/DOCKET NO:

006385.00007

CORRESPONDENT E-MAIL ADDRESS:

iplaw@gablelaw.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 1/24/2008

PENDING REFERENCE HAS MATURED INTO A REGISTRATION

In the first Office action, the examiner cited a prior pending application and required a disclaimer of DENTAL. Applicant has responded to the Office action by providing the required disclaimer of DENTAL, which hereby accepted and made of record.

The referenced pending application has now registered. Therefore, registration is now refused as follows.

SECTION 2(d) - LIKELIHOOD OF CONFUSION

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods/services, so resembles the mark in U.S. Registration No. 3294756 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registration.

Section 2(d) of the Trademark Act bars registration where a mark so resembles a registered mark, that it is likely, when applied to the goods/services, to cause confusion, or to cause mistake or to deceive. TMEP §1207.01. The Court in *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to consider in determining whether there is a likelihood of confusion. Among these factors are the similarity of the marks as to appearance, sound, meaning and commercial impression and the similarity of the goods/services. The overriding concern is to prevent buyer confusion as to the source of the goods/services. *Miss Universe, Inc. v. Miss Teen U.S.A., Inc.*, 209 USPQ 698 (N.D. Ga. 1980). Therefore, any doubt as to the existence of a likelihood of confusion must be resolved in favor of the registrant. *Lone Star Mfg. Co. v. Bill Beasley, Inc.*, 498 F.2d 906, 182 USPQ 368 (C.C.P.A. 1974).

Comparison of the marks

The examining attorney must compare the marks for similarities in sound, appearance, meaning or connotation. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Similarity in any one of these elements is sufficient to find a likelihood of confusion. *In re Mack*, 197 USPQ 755 (TTAB 1977). TMEP §§1207.01(b) *et seq.*

In this case, the registered mark, DENTI-GRIP, is similar to the applicant's mark, DENTAL GRIP, because the marks appear and sound very

similar. Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. *See e.g., Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §§1207.01(b)(ii) and (b)(iii). In this case, DENTI-GRIP and DENTAL GRIP are similar in sound, appearance, meaning and overall commercial impression because both marks begin with DENT and end with GRIP.

The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The issue is whether the marks create the same overall impression. *Visual Information Institute, Inc. v. Vicon Industries Inc.*, 209 USPQ 179 (TTAB 1980).

The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106 (TTAB 1975); TMEP §1207.01(b).

Comparison of the goods

The goods/services of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods/services come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). TMEP §1207.01(a)(i).

In this case, the registered mark, DENTI-GRIP, covers "Medical and dental gloves for medical use by medical professionals" in International Class 10. Applicant seeks protection of its mark, DENTAL GRIP, for "latex medical examination gloves," which overlap with the goods in the registration. The fact that the goods of the parties may differ is not controlling in determining likelihood of confusion. The issue is not likelihood of confusion between particular goods, but likelihood of confusion as to the source of those goods. *See In re Rexel Inc.*, 223 USPQ 830, 831, (TTAB 1984), and cases cited therein; TMEP §§1207.01 *et seq.* Moreover, the goods are sold through the same channels of trade and to the same consumers, for example, medical professionals.

If the goods or services of the respective parties are closely related, the degree of similarity between marks required to support a finding of likelihood of confusion is not as great as would apply with diverse goods or services. *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992), *cert. denied* 506 U.S. 1034 (1992); *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1987); *ECI Division of E-Systems, Inc. v. Environmental Communications Inc.*, 207 USPQ 443 (TTAB 1980); TMEP §1207.01(b).

When confronted by identical goods bearing almost identical marks, a consumer is likely to have the mistaken belief that the goods originate from the same source. Because this likelihood of confusion exists, registration must be refused.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

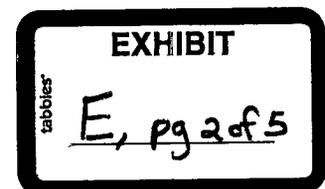
RESPONSE GUIDELINES

Please note that there is no required format or form for responding to this Office action. However, applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the examining attorney; (2) the serial number of this application; (3) the mailing date of this Office action; and, (4) applicant's telephone number.

When responding to this Office action, applicant must make sure to respond in writing to each refusal and requirement raised. If there is a refusal to register the proposed mark, then applicant may wish to argue against the refusal, i.e., explain why it should be withdrawn and why the mark should register. If there are other requirements, then applicant should simply set forth in writing the required changes or statements and request that the Office enter them into the application record. Applicant must also sign and date its response.

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

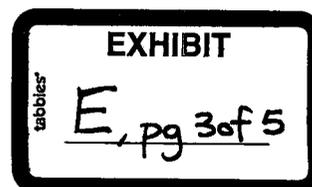
/Marcie R. Frum Milone/
Trademark Examining Attorney
Law Office 116
571-272-9726



RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.



Print: Jan 24, 2008

78537034

DESIGN MARK

Serial Number

78537034

Status

REGISTERED

Word Mark

DENTI-GRIP

Standard Character Mark

Yes

Registration Number

3294756

Date Registered

2007/09/18

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Khetarpal Living Trust, comprising Harish Khetarpal and Kiran Roma Khetarpal, both U.S. citizens TRUST CALIFORNIA 23434 Sagebrush Way Santa Clarita CALIFORNIA 91321

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Medical and dental gloves for medical use by medical professionals. First Use: 2005/08/01. First Use In Commerce: 2005/08/01.

Filing Date

2004/12/22

Examining Attorney

KEARNEY, COLLEEN

Attorney of Record

Joseph C. Andras

EXHIBIT

tabbles

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DENTI-GRIP