

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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mcf/ BUTLER

Mailed: March 13, 2008

Concurrent Use No. 94002124

Woodstock's Enterprises, Inc.  
(Oregon)

(Application Nos. 76199098  
and 76199099)

v.

Woodstock's Pizza, Inc.  
(substituted for Woodstock's  
Pizza, LLC as defendant)

(Registration No. 2425957)

Concurrent use applicant, Woodstock's Enterprises, Inc. (hereinafter Woodstock Oregon) seeks concurrent use registrations for the marks WOODSTOCK'S<sup>1</sup> and SLICE OF WOODSTOCK'S,<sup>2</sup> both for "restaurant services." Woodstock Oregon identifies its territory as "the area comprising the entire United States, except the State of California."

As an exception to its exclusive right to use its marks, Woodstock Oregon names Woodstock's Pizza, Inc. (hereinafter Woodstock California), owner of record of the registered mark

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<sup>1</sup> Application Serial No. 76199098, filed on January 23, 2001, claiming a date of first use anywhere of December 31, 1981 and a date of first use in commerce of November 8, 1988,

<sup>2</sup> Application Serial No. 76199099, filed on January 23, 2001, claiming a date of first use anywhere and a date of first use in commerce of September 1999.

WOODSTOCK'S for "restaurant services."<sup>3</sup> Woodstock Oregon identifies Woodstock California's territory as "the state of California."

After the commencement of this proceeding, it came to the attention of the Board that the parties were previously involved in Concurrent Use No. 94001171. The Board determined in such case that the parties were entitled to concurrent use registrations. Concurrent Use Registration No. 2425957 issued to Woodstock California and Woodstock Oregon's Registration No. 1614417 was geographically restricted in accordance with the findings in Concurrent Use No. 94001171.

On November 28, 2007, in view of the determination made in Concurrent Use No. 94001171, the Board allowed the parties time to show cause why the Board should not terminate this concurrent use proceeding, failing which the Board would forward the subject concurrent use applications for issuance of registrations based on the Board's decision in Concurrent Use No. 94001171, and amend Woodstock Oregon's applications to note that concurrent use registration is based on the prior Board proceeding.

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<sup>3</sup>Registration No. 2425957, issued on October 13, 1992. The registration contains a statement of concurrent use restriction "to the territory comprising the State of California." The named exception is Woodstock's Enterprises, Inc., concurrent use applicant herein, as owner of Registration No. 1614417 (which is restricted to "the territory comprising the entire United States except the State of California").

No word has been heard from either party. Accordingly, the concurrent use statements for application Serial Nos. 76199098 and 76199099 are each amended as follows:

Registration limited to "the area comprising the entire United States except the State of California" pursuant to Concurrent Use Proceeding No. 94001171. Concurrent Use Registration with Registration No. 2425957.

In view thereof, concurrent use registration is granted to Woodstock Oregon for its two applications.<sup>4</sup>

**DECISION:**

Applicant, Woodstock's Enterprises, Inc. is entitled to registration of its marks WOODSTOCK'S (Application Serial No. 76199098) and SLICE OF WOODSTOCK'S (Application Serial No. 76199099) for "restaurant services," for the area consisting of "the area comprising the entire United States, except the State of California" based on the Board's decision in Concurrent Use No. 94001171.

*By the Trademark Trial  
and Appeal Board*

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<sup>4</sup> There is no need to amend Woodstock California's registration, because, as noted previously, the concurrent use statement restricting registrant's use to the State of California is of record based on the prior Board proceeding.