

Ex parte
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR RECONSIDERATION

Serial Number: 76/056900

Mark: RATZASS

International Class: 25

Applicant: Terry Rodriguez

RECEIVED
T.M.E.O.
LAW OFFICE 107
2003 MAY 29 A 6: 40

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

Dear Sir:

In response to your Office Action of October 30, 2002, regarding the above-identified application, the applicant hereby responds to the points raised by the examining attorney as follows:

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2003 JUN 10 A 7: 31

1) SUBSTANTIVE REFUSAL: LIKELIHOOD OF CONFUSION

The examining attorney refused registration on the Principal Register on the grounds that the proposed mark was said to be likely to cause confusion with U.S. Registration No. 2282769 for the mark "Rat Sass" as used on clothing and other apparel in IC 25. Three important factors to consider in analyzing marks for likelihood of confusion are appearance, sound, and meaning or connotation.

The applicant's mark consists of the coined word "RATZASS" in combination with a graphic representation of a winged posterior of a rat, as shown below:



The registered mark is "RAT SASS", used in conjunction with clothing in International Class 25.

A comparison of the appearance between the mark "RATZASS" and the mark "Rat Sass" reveals the following differences:

1. Applicant's mark consists of one, coined, word, versus two words as in the registered mark;
2. The applicant's mark accompanies an illustration of a rodent's posterior, and thus providing significantly different connotation or commercial impression;

3. The phrase "rat sass" has a distinct meaning that is not confusingly similar to the meaning provided by the applicant's mark. The word "rat" clearly refers to a rodent, but the word "sass" carries a clear meaning as found in the Merriam-Webster® dictionary, and means to talk impudently or disrespectfully to. Therefore, the meaning of the two marks are clearly different. The fact that they can have a similar sound if not properly enunciated properly should not be the kind of weight that it has been given in this case;
4. A new drawing showing the combined mark is enclosed.

Accordingly, it is submitted that while the two marks can have a similar sound, they are not similar as to appearance, meaning, or connotation.

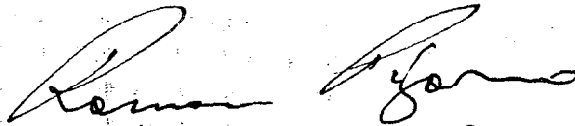
2) SUBSTANTIVE REFUSAL: ORNAMENTATION

The specimens provided indicate that any ornamentation found in the specimen's is merely incidental. The applicant encloses printouts from its Internet® web page where its products are sold. These pages clearly show the use of the mark as a trademark. Importantly, the variety of products (stickers as well as T-shirts) bearing the mark, and the use of the mark with ordering information establishes the ornamental features of the mark as being merely incidental.

3) Conclusion

Having corrected any informalities and clarified and obviated any issues raised by the examining attorney, the applicant has placed this application in condition for publication, and advancement to publication is requested.

Respectfully submitted on this 30th day of April, 2003.

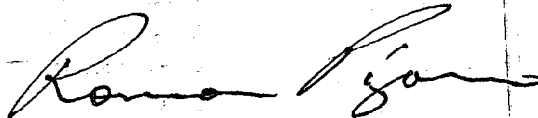


Ramon L. Pizarro, Attorney for Applicant
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513,

on this 30th day of April, 2003.



Ramon L. Pizarro

TRADEMARK DRAWING

Applicant: Terry Rodriguez

Applicant's Business Address: 6775 Clark Drive
Unionville, MI 48767

First Used: October 20, 1999

First Used in Interstate Commerce: December 1, 1999

For: Clothing, especially casual wear such as T-shirts and
the like, in International Class 25.



Shirts

Welcome To Ratzass.Com

by Scritch Bros. Inc.

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How can you give a flying *RATZASS* if you've never had one to give?

NOW YOU CAN!

Personally, I don't give a flying *RATZASS*,

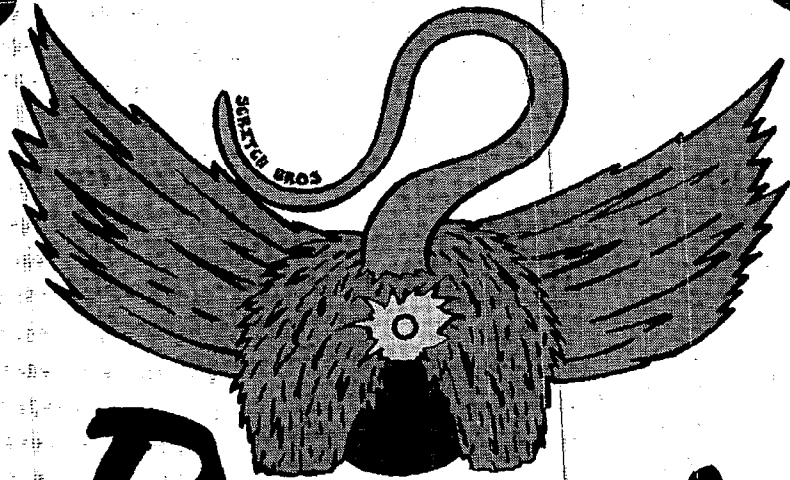
You have to BUY mine!

You decide what you give a *RATZASS* about or not.

Remember, when all else fails...

LOWER YOUR STANDARDS

I DON'T GIVE A FLYING



Ratzass

WWW.RATZASS.COM

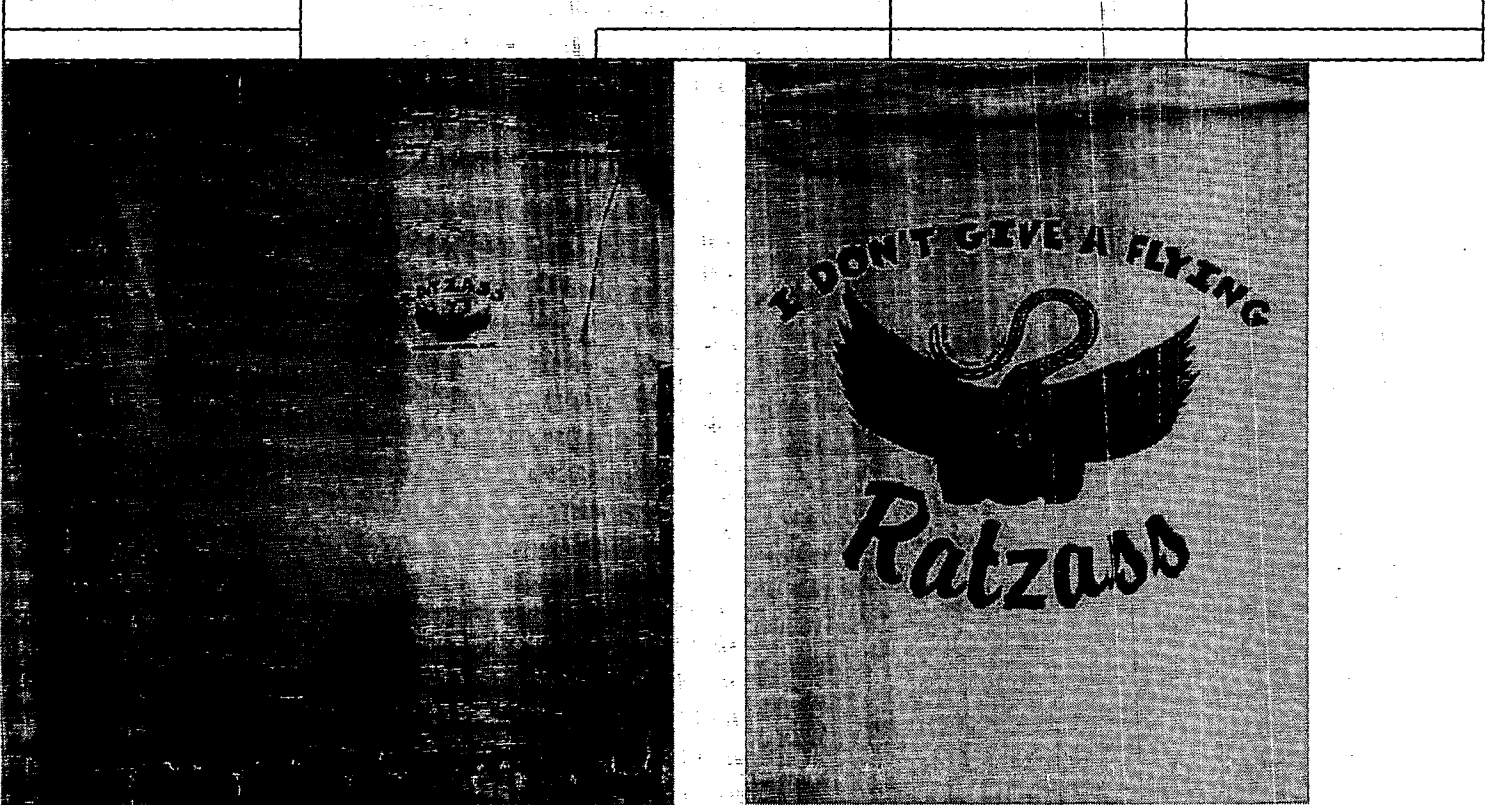
This site offers wonderful merchandise that you can proudly display to your friends, family, co-workers, boss or anyone else you'd like to tell off.



Give a RATZASS Choose HERE!

Ratzass.Com SHIRTS

Sizes come in Small, Medium, Large, Extra Large, and Extra Extra Large
Shirt Cost is \$22.00 US Dollars and includes 48 state shipping.
Email us if you would like to buy one



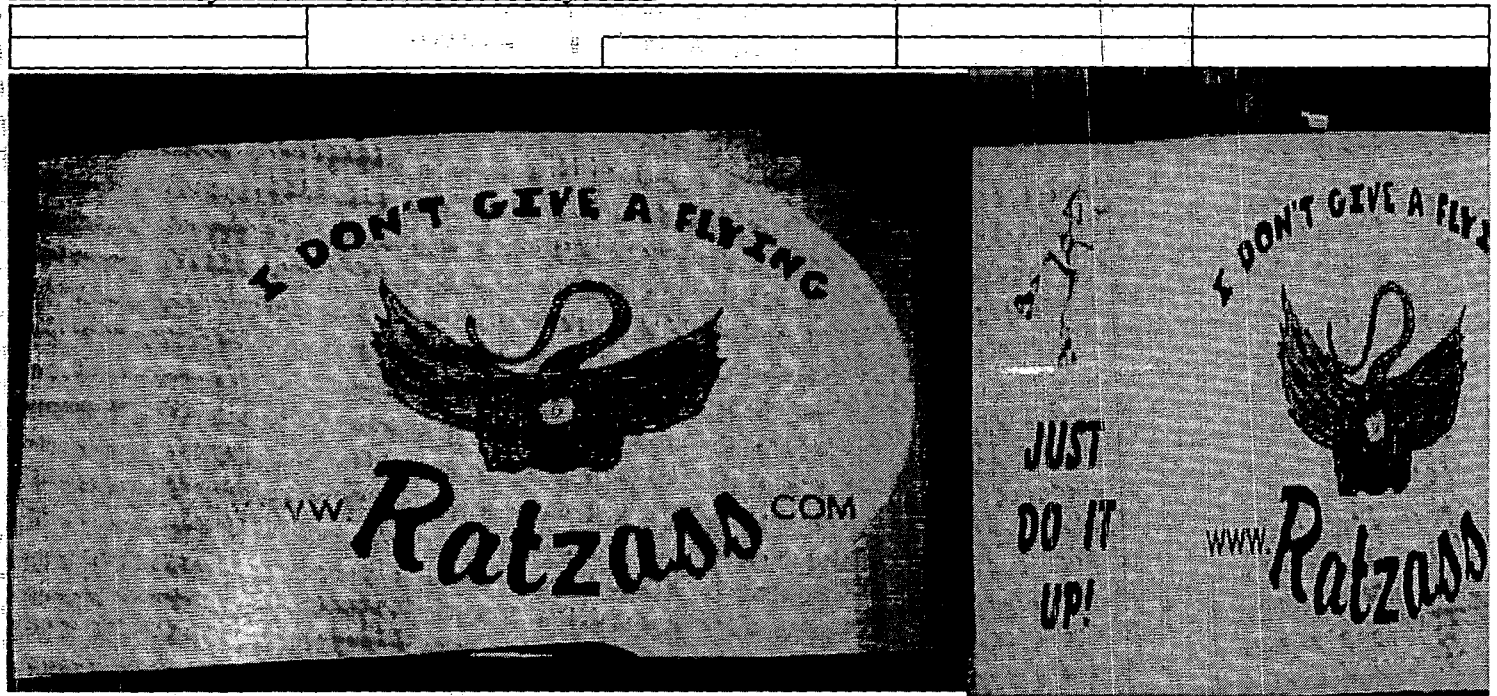
This site offers wonderful merchandise that you can proudly display to your friends, family, co-workers, boss or anyone else you'd like to tell off.

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Give a RATZASS Choose HERE!

Ratzass.Com Stickers

Sticker Cost is \$7.00 US Dollars for both and includes 48 state shipping.
Email us if you would like to buy one



This site offers wonderful merchandise that you can proudly display to your friends, family, co-workers, boss or anyone else you'd like to tell off.

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