



TRADEMARK APPLICATION
0124-0350US1

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bradshaw International
Serial No.: 77/188,309
Filed: May 23, 2007
Mark: HARMONY
Examining
Attorney: Erin Falk, Law Office 101
Attention: **Box Responses, No Fee**

AMENDMENT

Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

November 3, 2008

Sir:

In response to the Trademark Attorney's Office Action dated May 1, 2008, the following amendment and remarks are respectfully submitted in connection with the above-identified application.

IN THE APPLICATION

Please amend the identification of goods to read:

"Bakeware not for use in the aviation industry," in International Class 021

DOCUMENTS

Consent Agreement



11-03-2008

REMARKS

Applicant thanks the Trademark Attorney for the very thorough consideration given the present application. Applicant respectfully requests that the Trademark Attorney reconsider her refusal to register the mark based upon the amendment and remarks herein.

The Trademark Examining Attorney continued here refusal on the grounds that the proposed mark is likely to cause confusion with the mark HARMONY in Registration No. 2,984,430. However, because the applicant's bakeware products and the goods in connection with which the cited mark are registered are used in very different industries, as expressly defined in the amendment to the goods herein, and are distributed through very different channels of trade, applicant and the registrant agree that there is no likelihood of confusion between the two, and have executed a Consent Agreement, a copy of which is submitted herewith.

In view of the fact that both parties agree there is no likelihood of confusion between the mark, Applicant submits that there is no likelihood of confusion between the cited marks and the proposed mark, and the refusal should be withdrawn.

There being no other issues raised in the Office Action, applicant believes that the present application is in condition for publication. An early Notice of Publication is respectfully requested.

Please charge any fees or credit any overpayment pursuant to 37 CFR § 2.6 to Deposit Account No. 02-2448.

If the Examiner has any questions concerning this application, the Examiner is requested to contact Robert J. Kenney at (703) 205-8000 in the Washington, D.C. area.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: _____

Robert J. Kenney

P.O. Box 747

Falls Church, VA 22040-0747

CONSENT TO USE AND REGISTRATION

This agreement, made this 9th day of September 2008, by and between Bradshaw International, Inc., (hereinafter "Bradshaw"), a California corporation, having a principal place of business at 9404 Buffalo Avenue, Rancho Cucamonga, California, 91730, and de Ster ACS Holding, B.V., (hereinafter "de Ster") a Netherlands corporation, having a principal place of business at Leeuwenvaldaewag 16, 1382 LX Weesp, Netherlands.

WHEREAS, de Ster is the owner of United States Trademark Registration No. 2,984,430 for the mark HARMONY (the "de Ster mark") for "household utensils, namely, pots and pan scrapers, rolling pins, spatulas, turners, and whisks; plastic tableware, namely, table plates, goblets, bowls, and dishes; basins; serving trays not of precious metals for household purposes; beverage ware; lunch boxes; paper towel dispensers; electric and non-electric toothbrushes; articles for cleaning purposes, namely, brooms, dusting brushes, pot cleaning brushes, and polishing rags; garbage cans," in International Class 021, as well as a variety of other goods in International Classes 016, 020, and 024; and

WHEREAS, Bradshaw has a desire to use and register the mark "HARMONY" for "bakeware, not for use in the aviation industry," (the "Bradshaw mark"); and

WHEREAS, the parties wish to resolve any potential disputes with regard to the use and registration of their respective marks;

NOW, THEREFORE, in consideration of the sum of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

- 1. The parties believe that there is no likelihood of confusion or conflict between the de Ster mark and the Bradshaw mark, in view of the differences in the goods/services of the parties and the differing channels of trade therefore; specifically in that the de Ster mark is used primarily in connection with goods in the aviation

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industry; which are unrelated to the Bradshaw goods in connection with which the HARMONY mark is to be used and registered, to wit; bakeware not for use in the aviation industry;

2. The parties hereto also agree that they will cooperate to identify any instances of confusion between the de Star mark and the Bradshaw mark and immediately take steps to correct any mistake or confusion as to the source, affiliation or sponsorship of the goods sold in connection with the mark(s) in issue;

3. In consideration of the parties' belief as set forth in the paragraphs above, as well as the undertaking set forth in paragraph 2, above, de Star consents to the use and registration by Bradshaw of the mark "HARMONY" for bakeware not for use in the aviation industry;

4. de Star will take no action to interfere with the use and registration of the HARMONY mark by Bradshaw.

In witness whereof, the parties hereto set their hands hereto on the date first written above.

De Star ACS Holding B.V.

By: 

Title: Director, President & CEO

Bradshaw International, Inc.

By: 

Title: VICE PRESIDENT