

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77602355
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION (no change)	
ARGUMENT(S)	
Please see the actual argument text attached within the Evidence section.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	http://gate/PDF/RFR/2010/03/02/20100302213937386592-77602355-001_001/evi_68110175167-213456045_..T08352_responseOA2.pdf
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	\\TICRS\EXPORT9\IMAGEOUT9\776\023\77602355\xml1\RFR0008.JPG
DESCRIPTION OF EVIDENCE FILE	Remarks and Affidavit Evidence
SIGNATURE SECTION	

RESPONSE SIGNATURE	/Michael D. Volk Jr./
SIGNATORY'S NAME	Michael D. Volk Jr.
SIGNATORY'S POSITION	Attorney of record, Arizona bar member
DATE SIGNED	03/02/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Mar 02 21:39:37 EST 2010
TEAS STAMP	USPTO/RFR-68.110.175.167- 20100302213937386592-7760 2355-460b84e9c6217e5ff484 898e7647aa3a451-N/A-N/A-2 0100302213456045573

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. 77602355 has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Please see the actual argument text attached within the Evidence section.

EVIDENCE

Evidence in the nature of Remarks and Affidavit Evidence has been attached.

Original PDF file:

http://tgate/PDF/RFR/2010/03/02/20100302213937386592-77602355-001_001/evi_68110175167-213456045_...T08352_responseOA2.pdf

Converted PDF file(s) (7 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Michael D. Volk Jr./ Date: 03/02/2010

Signatory's Name: Michael D. Volk Jr.

Signatory's Position: Attorney of record, Arizona bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77602355

Internet Transmission Date: Tue Mar 02 21:39:37 EST 2010

TEAS Stamp: USPTO/RFR-68.110.175.167-201003022139373

86592-77602355-460b84e9c6217e5ff484898e7

647aa3a451-N/A-N/A-20100302213456045573

REMARKS/ARGUMENTS

The Final Office Action mailed 9/3/2009, has been reviewed and the remarks of the Office carefully considered. A notice of appeal, the related fee, and a request for reconsideration are submitted herewith. Applicant respectfully requests favorable reconsideration in view of the below evidence and remarks.

Likelihood of Confusion

In this application, the only issue that remains is that the Office perceives a likelihood of confusion between the applied-for mark and U.S. Registration No. 2,959,016. Applicant respectfully submits that in this case there should be no perceived likelihood of confusion between Applicant's mark and the Registrant's mark because the goods/services are dissimilar and there is evidence that there has been no actual confusion (for many years) between the respective marks.

Applicant respectfully submits that the Registrant's goods/services are dissimilar to those of the Applicant. A dissimilarity in the nature of the goods/services is a factor against finding a likelihood of confusion. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973).

It is respectfully submitted that the Registrant's mark is related to *locomotive components, namely, fuel pumps, oil pumps, oil pumps for use in motors and engines, suction pumps, water pumps for use in motors and engines*, as stated in the registration. It is respectfully submitted that the particular items identified in the registration do not appear related to Applicant's services such that a likelihood of confusion would be perceived. It is reasonable for the Office to find that the applied-for services are not related to the items listed in the registration because *fuel pumps, oil pumps, oil pumps for use in motors and engines, suction pumps, water pumps for use in motors and engines* do not appear related to Applicant's aerospace engineering services and engineering services relating to life support in extreme-environments (*i.e.*, design, research, development and testing services in the field of environmental control systems, life support systems and thermal control systems).

Further, it is respectfully submitted that evidence submitted herewith is indicia that there has been no actual confusion between the marks. Absence of actual confusion is a factor against finding a likelihood of confusion. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973).

Applicant submits herewith an affidavit by Mr. Frank Moring Jr., a senior editor for Aviation Week and Space Technology ("Aviation Week") and a 20-year veteran in the aerospace journalism field who is highly familiar with those entities involved in the aerospace engineering industry. As the affidavit states, "Aviation Week is regarded as the largest information and services provider to the global commercial, defense, maintenance/repair/overhaul (MRO), space, and business aviation communities. Aviation Week plays a critical role in connecting industry professionals worldwide."

Mr. Moring's affidavit states that, from his personal knowledge and belief, the Registrant (Associated Resources, Inc./Paragon Products, LLC) is not connected with the aerospace industry. Mr. Moring further states that, from his personal knowledge and belief, he is not aware of any instance of confusion from those in the aerospace industry between the mark "Paragon" registered by Associated Resources, Inc., for use in connection with "Locomotive components, namely, fuel pumps, oil pumps, oil pumps for use in motors and engines, suction pumps, water pumps for use in motors and engines" in International Class 007 and "engineering services" in International Class 042, and the applied-for mark "Paragon" by Paragon Space Development Corporation for use in connection with aerospace engineering services. It is respectfully submitted that this lack of actual confusion factors against finding a likelihood of confusion.

Another factor that is associated with finding that there is no likelihood of confusion is the length of time during there has been concurrent use without evidence of actual confusion. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973).

In the present case, the Registrant's registration certificate states that the first use in commerce was 1-1-1998. Per the affidavit of Frank Moring (having a 20-year career in the aerospace industry), there is indicia that the marks have co-existed and that there has been no actual confusion between the marks since 1998. It is respectfully submitted that this factor supports a finding that there is no likelihood of confusion.

Applicant respectfully requests that the Office favorably reconsider the refusal to register the mark and find that there is no likelihood of confusion between the marks at least for the reasons that Applicant's applied-for services are not related to "locomotive components, namely, fuel pumps, oil pumps, oil pumps for use in motors and engines, suction pumps, water pumps for use in motors and engines", that there is indicia that there has been no actual confusion among the marks, and that there is indicia that the marks have been concurrently used for a long period of time without confusion (since 1998).

For at least the reasons advanced above, Applicant respectfully requests withdrawal of the refusal to register under § 2(d) and respectfully requests approval of the mark for publication.

If the Examiner would like to discuss any issues in this application by telephonic interview, applicant's undersigned attorney respectfully invites such a discussion. Applicant's undersigned attorney is reachable at (602) 263-9200.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
 APPLICANT : Paragon Space Development Corporation
 MARK : PARAGON
 SERIAL NO. : 77/602,355
 FILING DATE : 10/28/2008
 ATTY. DOCKET NO. : T08352

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

AFFIDAVIT BY FRANK MORRING JR.

STATE OF _____)
 DISTRICT OF COLUMBIA)
 COUNTY OF _____)

Being first duly sworn, the undersigned states and affirms, on personal knowledge and belief, as follows:

1) I, Frank Morring Jr., am currently a senior editor for Aviation Week and Space Technology, a publication of Aviation Week, a division of The McGraw-Hill Companies, Inc., 1221 Avenue of the Americas, New York, NY 10020.

2) Upon information and belief, Aviation Week is regarded as the largest information and services provider to the global commercial, defense, maintenance/repair/overhaul (MRO), space, and business aviation communities. Aviation Week plays a critical role in connecting industry professionals worldwide.

3) I am an experienced journalist with at least 35 years of experience. For at least the last 20 years I have specialized in aerospace journalism.

4) My "bio" from the Aviation Week website states, "Frank has been a journalist for 35 years, specializing in aerospace for the over 20 years. Frank joined AVIATION WEEK in 1989 as a defense/space reporter and senior space technology editor. In 2007 he was named deputy managing editor/space, responsible for coordinating space coverage across all bureaus and publications. Frank began his career working for his hometown daily in Huntsville, Alabama, and moved to Washington in 1979 as correspondent for the Birmingham Post-Herald. He later covered the Cold War Pentagon for Scripps-Howard News Service. Frank received a degree in comparative literature from Dartmouth College."

5) In my role as a senior editor for Aviation Week, and others, over at least the last 20 years, I am now extraordinarily familiar with the aerospace industry and have a comprehensive knowledge of the aerospace industry including the aerospace engineering industry.

6) I have been familiar with the above-referenced applicant, Paragon Space Development Corporation, and its services for at least the last _____ years.

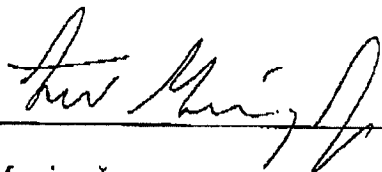
7) I have reviewed the attached documents (EXHIBIT A) relating to U.S. Trademark Registration Number 2,959,016, registered June 7, 2005, for the trademark "Paragon" issued to Associated Resources, Inc., P.O. Box 940757, Simi Valley, CA 93094 (now apparently Paragon Products, LLC, 4475 Golden Foothill Parkway, El Dorado Hills, CA 95762), used in connection with "Locomotive components, namely, fuel pumps, oil pumps, oil pumps for use in motors and engines, suction pumps, water pumps for use in motors and engines" in International Class 007 and "engineering services" in International Class 042.

8) From my experience, neither Associated Resources, Inc., nor Paragon Products, LLC, are connected with the aerospace industry.

9) Further, from my experience, I am not aware of any instance of confusion from those in the aerospace industry between the mark "Paragon" registered by Associated Resources, Inc., for use in connection with "Locomotive components, namely, fuel pumps, oil pumps, oil pumps for use in motors and engines, suction pumps, water pumps for use in motors and engines" in International Class 007 and "engineering services" in International Class 042 and the applied-for mark "Paragon" by Paragon Space Development Corporation for use in connection with aerospace engineering services.

10) Further affiant sayeth not.

Date: 19 Feb. 2010

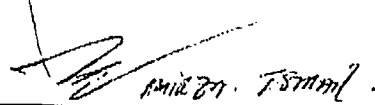
Signed: 

Name: Frank Moring Jr.
Senior Editor
Aviation Week and Space Technology

2010

(Seal)

Subscribed and sworn (or affirmed) before me this 19TH day of FEBRUARY,


Notary Public

Int. Cls.: 7 and 42

Prior U.S. Cls.: 13, 19, 21, 23, 31, 34, 35, 100 and 101

Reg. No. 2,959,016

United States Patent and Trademark Office

Registered June 7, 2005

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

PARAGON

ASSOCIATED RESOURCES, INC. (WYOMING CORPORATION)
POST OFFICE BOX 940757
SEMI VALLEY, CA 93094

FOR: ENGINEERING SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FOR: LOCOMOTIVE COMPONENTS, NAMELY, FUEL PUMPS, OIL PUMPS, OIL PUMPS FOR USE IN MOTORS AND ENGINES, SUCTION PUMPS, WATER PUMPS FOR USE IN MOTORS AND ENGINES, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

FIRST USE 1-1-1998; IN COMMERCE 1-1-1998.

SER. NO. 76-505,116, FILED 4-9-2003.

FIRST USE 1-1-1998; IN COMMERCE 1-1-1998.

ROBIN CHOSID, EXAMINING ATTORNEY



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Assignments on the Web > [Trademark Query](#)

Trademark Assignment Abstract of Title

Total Assignments: 2

Serial #: 76505116 Filing Dt: 04/09/2003 Reg #: 2959016 Reg. Dt: 06/07/2005

Registrant: Associated Resources, Inc.

Mark: PARAGON

Assignment: 1

Reel/Frame: 3791/0093 Received: 06/06/2008 Recorded: 06/06/2008 Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ASSOCIATED RESOURCES, INC.

Exec Dt: 06/04/2008

Entity Type: CORPORATION

Citizenship: WYOMING

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: PARAGON PRODUCTS, LLC
4475 GOLDEN FOOTHILL PARKWAY
EL DORADO HILLS, CALIFORNIA 95762

Correspondent: WINSTON & STRAWN LLP
1700 K STREET, N.W.
ALLAN A. FANUCCI, PATENT DEPARTMENT
WASHINGTON, DC 20006-3817

Assignment: 2

Reel/Frame: 3796/0512 Received: 06/16/2008 Recorded: 06/16/2008 Pages: 10

Conveyance: SECURITY AGREEMENT

Assignor: PARAGON PRODUCTS, LLC

Exec Dt: 06/10/2008

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: MISSOURI

Assignee: FIRST BANK
550 MONTGOMERY STREET, 10TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111

Correspondent: SANDRA P. THOMPSON
18400 VON KARMAN AVENUE, SUITE 800
IRVINE, CA 92612

Search Results as of: 12/15/2009 06:53 PM
if you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350,
Web Interface last modified: October 18, 2008 v.2.0.2

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