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

Proceeding	77840784
Applicant	R.S.V.P. International, Inc.
Applied for Mark	R.S.V.P. INTERNATIONAL, INC
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Date	08/11/2011

In re R.S.V.P. International, Inc.

Serial No. 77/840,784

Filed: 10/03/2009

ESTAA387471

### APPLICANT'S REPLY BRIEF

The Examining Attorney argues that since the term RSVP appears first in Applicant's mark, it should be the focus of the comparison of the two marks.

However, the third party registrations of record establish that the term RSVP is in current use by at least two third parties on goods closely related to each other, i.e. on flatware in Registration No. 2,919,304 and on dinnerware in Registration No. 3,597,275. As the files of those registrations show, the parties mutually acquiesced in the respective uses by each other.

Accordingly, the RSVP term of Registration No. 3,597,275 is entitled to only a narrow scope of protection, *General Mills Inc. v. Kellogg Co.* 3 USPQ2d 1442 (8<sup>th</sup> Cir 1987).

Here, Applicant seeks registration of RSVP INTERNATIONAL, with the latter term having acquired distinctiveness, and for goods different in character i.e., hand tools for various kitchen uses vs flatware.

Accordingly, since the RSVP term is relatively weak in this field and only entitled to a narrow scope of protection, it should not be given the broad protection which the Examining Attorney seeks, i.e., extended to cover use on only remotely related goods which are substantially different in character, i.e., kitchen tools vs flatware and to cover a mark which is substantially different due to acquired distinctiveness of the second term INTERNATIONAL. The relationship

between flatware and dinnerware of the third party registrations is much closer than with the hand tools of the present application, yet the USPTO issued both registration for the identical mark as to these registrations.

The Examining Attorney argues that Applicant has conceded that the goods are related as to “specialty forks” but Applicant has deleted those goods from the listing in the application in the response filed on June 18, 2010.

Since the mark and the goods are significantly different from the cited registration, the refusal should be reversed as the term RSVP of the registered mark should not be given broad protection in view of the use of the same mark by another party on similar goods.

Dated: August 11, 2011

Respectfully submitted,

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