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Proceeding/Serial No: **77932193**

Filed: 7/7/2011

Title: **REQUEST FOR RECONSIDERATION AFTER**
FINAL ACTION

Part **1** of **1**

77932193

Request for Reconsideration after Final Action

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| SERIAL NUMBER | 77932193 |
| LAW OFFICE ASSIGNED | LAW OFFICE 106 |
| MARK SECTION (no change) | |
| ARGUMENT(S) | <p>This correspondence is being sent responsive to the Office Action dated January 7, 2011 in the above-referenced matter.</p> <p style="text-align: center;"><u>REFUSAL UNDER SECTION 2(D)</u></p> <p>The issue is not whether the actual goods are likely to be confused but, rather, whether there is a likelihood of confusion as to the source of the goods. In re Shell Oil Co., 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993), and cases cited therein. Each case must be decided on its own facts. Applicant respectfully submits that the facts presented herewith indicate that there is no likelihood of confusion as to the source of the goods.</p> <p>The Court of Appeals for the Federal Circuit has provided that the basic principle in determining confusion between marks is that marks must be compared in their entireties and must be considered in connection with the particular goods or services for which they are used. It follows from that principle that likelihood of confusion cannot be predicated on dissection of a mark, that is, on only part of a mark. On the other hand, in articulating reasons for reaching a conclusion on the issue of confusion, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entireties.</p> <p>In In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), the Court of Customs and Patent Appeals discussed the factors relevant to a determination of likelihood of confusion. The issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods or services, however other factors listed in du Pont should also be considered as relevant evidence is provided herewith and contained in the record. See In re Majestic Distilling Co., 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003) ("Not all of the DuPont factors may be relevant or of equal weight in a given case, and 'any one of the factors may</p> |

control a particular case,” quoting *In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Dissimilarity of the Marks

Under *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973), the first factor requires examination of “the similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression.” The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison, but whether the marks are sufficiently similar that there is a likelihood of confusion as to the source of the goods or services. When considering the similarity of the marks, “[a]ll relevant facts pertaining to appearance, sound, and connotation must be considered before similarity as to one or more of those factors may be sufficient to support a finding that the marks are similar or dissimilar.” *Recot, Inc. v. M.C. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1899 (Fed. Cir. 2000). In evaluating the similarities between marks, the emphasis must be on the recollection of the average purchaser who normally retains a general, rather than specific, impression of trademarks. *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975).

In the newspaper industry, paper newspapers and electronic newspapers are commonly sought and relied upon based upon the source of newspapers, and that source is typically based upon a geographic identifier. Examples of such include newspapers that are provided under the mark HUNTERDON OBSERVER (US Registration No. 3571003 – Hunterdon being a county in New Jersey), THE CHARLOTTE OBSERVER (US Registration No. 2674218 – Charlotte being a city in North Carolina), Bushwick Observer (US Registration No. 3751826), THE SAN ANTONIO OBSERVER (US Registration No. 3722072 – San Antonio being a city in Texas), DALLAS OBSERVER (US Registration No. 2263300 – Dallas being a city in Texas), and THE NEW YORK OBSERVER (US Registration No. 1465450). The registration of THE SAN ANTONIO OBSERVER and the DALLAS OBSERVER show that even multiple newspapers provided under “observer” marks can still be distinguished as to their source due to the inclusion of graphical identifiers, namely “San Antonio” and “Dallas”.

In the present case, Applicant’s mark is dissimilar to the cited mark as to appearance since Applicant’s mark does not include the designs (lines, bands or bars) of the cited mark. Further, Applicant’s mark is dissimilar to the cited mark in terms of sound and commercial impression due to the geographical identifier “DE UTAH”. Applicant respectfully submits that the inclusion of the geographical identifier “DE UTAH” underscores to the consumer the source of the goods provided under Applicant’s mark.

It is a general rule that likelihood of confusion is not avoided between otherwise confusingly similar marks merely by adding or deleting a house mark or matter that is descriptive or suggestive of the named goods or services. Sometimes, the rule is expressed in terms of the dominance of the common term. Therefore, if the dominant portion of both marks is the same, then confusion may be likely notwithstanding peripheral differences. See, e.g., *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005) (VEUVE ROYALE for

sparkling wine found likely to be confused with VEUVE CLICQUOT and VEUVE CLICQUOT PONSARDIN for champagne, noting that the presence of the “strong distinctive term [VEUVE] as the first word in both parties’ marks renders the marks similar, especially in light of the largely laudatory (and hence non-source identifying) significance of the word ROYALE”).

However, exceptions to the above-stated general rule regarding additions or deletions to marks may arise if: (1) the marks in their entireties convey significantly different commercial impressions; or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted. See, e.g., *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 73 USPQ2d 1350 (Fed. Cir. 2004) (RITZ and THE RITZ KIDS create different commercial impressions); *Bass Pro Trademarks, L.L.C. v. Sportsman’s Warehouse, Inc.*, 89 USPQ2d 1844 (TTAB 2008) (Board found no likelihood of confusion between the word and design marks BASS PRO SHOPS SPORTSMAN’S WAREHOUSE (with SPORTSMAN’S WAREHOUSE disclaimed) and SPORTSMAN’S WAREHOUSE (with all wording disclaimed) for essentially the same retail store services); *In re Farm Fresh Catfish Co.*, 231 USPQ 495 (TTAB 1986) (CATFISH BOBBERS (with “CATFISH” disclaimed) for fish held not likely to be confused with BOBBER for restaurant services); *In re Shawnee Milling Co.*, 225 USPQ 747 (TTAB 1985) (GOLDEN CRUST for flour held not likely to be confused with ADOLPH’S GOLD’N CRUST and design (with “GOLD’N CRUST” disclaimed) for coating and seasoning for food items); *In re S.D. Fabrics, Inc.*, 223 USPQ 54 (TTAB 1984) (DESIGNERS/FABRIC (stylized) for retail fabric store services held not likely to be confused with DAN RIVER DESIGNER FABRICS and design for textile fabrics).

In the present case, the inclusion of the geographical identifier “DE UTAH” in Applicant’s mark conveys a significantly different commercial impression as to the source of the goods. Moreover, the matter common to the marks, namely “EL OBSERVADOR” (or “THE OBSERVER” in English) is not likely to be perceived by purchasers as distinguishing source because it is a diluted term that is commonly used in the newspaper industry (such as STAR, HERALD, POST, NEWS, SUN, GAZETTE, TIMES, EXAMINER, etc.).

When assessing the likelihood of confusion between compound word marks, one must determine whether a portion of the word mark is dominant in terms of creating the commercial impression. Applicant respectfully submits that the inclusion of the geographical identifier “DE UTAH” in Applicant’s mark is a dominant factor in conveying a significantly different commercial impression as to the source of the goods.

If the common element of two marks is “weak” in that it is generic, descriptive, or highly suggestive of the named goods or services, consumers typically will be able to avoid confusion unless the overall combinations have other commonality. See, e.g., *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986) (BED & BREAKFAST REGISTRY for making lodging reservations for others in private homes held not likely to be confused with BED & BREAKFAST INTERNATIONAL for room booking agency services); *The U.S. Shoe Corp. v. Chapman*, 229 USPQ 74 (TTAB 1985) (COBBLER’S OUTLET for shoes held not likely to be confused with CALIFORNIA COBBLERS (stylized) for shoes); *In re Istituto Sieroterapico E Vaccinogeno, Toscano “SCLAVO” S.p.A.*, 226

USPQ 1035 (TTAB 1985) (ASO QUANTUM (with "ASO" disclaimed) for diagnostic laboratory reagents held not likely to be confused with QUANTUM I for laboratory instrument for analyzing body fluids). See also TMEP §1207.01(b)(ix). Applicant respectfully submits that the matter common to the marks, namely "EL OBSERVADOR" (or "THE OBSERVER" in English) is weak because it is a diluted term that is commonly used in the newspaper industry (such as STAR, HERALD, POST, NEWS, SUN, GAZETTE, TIMES, EXAMINER, etc.).

When the marks at issue are both design marks, the similarity of the marks must be decided primarily on the basis of visual similarity. In this situation, consideration must be given to the fact that a purchaser's recollection of design marks is often of a general and hazy nature. See, e.g., Red Carpet Corp. v. Johnstown American Enterprises Inc., 7 USPQ2d 1404 (TTAB 1988) (stylized house design for "management of real estate properties for others" held not likely to be confused with stylized house design for real estate brokerage services); In re United Service Distributors, Inc., 229 USPQ 237 (TTAB 1986) (silhouette of two profiles facing right within a teardrop background for "distributorship services in the field of health and beauty aids" held likely to be confused with silhouette of two profiles facing left within an oval background for skin cream); Ocean Spray Cranberries, Inc. v. Ocean Garden Products, Inc., 223 USPQ 1027 (TTAB 1984) (abstract circular design mark for seafood held not likely to be confused with oval breaking wave design for various food items including juices and fruits); In re Steury Corp., 189 USPQ 353 (TTAB 1975) (design comprised of three generally horizontal bars for boats and camper trailers held likely to be confused with design comprised of two generally horizontal bars for boats and campers); Matsushita Electric Industrial Co., Ltd. v. Sanders Associates, Inc., 177 USPQ 720 (TTAB 1973) (triangular arrow design within a square border for various items of electrical and electronic equipment held likely to be confused with triangular arrow design for various items of electrical and electronic components and equipment).

Third-Party Registrations and Evidence of Third-Party Use

Generally, the existence of third-party registrations cannot justify the registration of another mark that is so similar to a previously registered mark as to create a likelihood of confusion, or to cause mistake, or to deceive. Third-party registrations may be relevant to show that the mark or a portion of the mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services. See, e.g., AMF Inc. v. American Leisure Products, Inc., 474 F.2d 1403, 1406, 177 USPQ 268, 269-70 (C.C.P.A. 1973); Plus Products v. Star-Kist Foods, Inc., 220 USPQ 541, 544 (TTAB 1983). Properly used in this limited manner, third-party registrations are similar to dictionaries showing how language is generally used. See, e.g., Specialty Brands, Inc. v. Coffee Bean Distributors, Inc., 748 F.2d 669, 675, 223 USPQ 1281, 1285 (Fed. Cir. 1984); Tektronix, Inc. v. Daktronics, Inc., 534 F.2d 915, 917, 189 USPQ 693, 694-95 (C.C.P.A. 1976); In re Melville Corp., 18 USPQ2d 1386, 1388 (TTAB 1991); In re Dayco Products-Eagle Motive Inc., 9 USPQ2d 1910, 1911 (TTAB 1988); In re J.M. Originals Inc., 6 USPQ2d 1393, 1394 (TTAB 1987); United Foods Inc. v. J.R. Simplot Co., 4 USPQ2d 1172, 1174 (TTAB 1987).

To make registrations of record, soft copies of the registrations or the electronic equivalent thereof (i.e.,

printouts or electronic copies of the registrations taken from the electronic search records of the USPTO) must be submitted. *Raccioppi v. Apogee Inc.*, 47 USPQ2d 1368 (TTAB 1998); *In re Smith & Mehaffey*, 31 USPQ2d 1531, 1532 n.3 (TTAB 1994); *Weyerhaeuser Co. v. Katz*, 24 USPQ2d 1230 (TTAB 1992); *In re Hub Distributing, Inc.*, 218 USPQ 284 (TTAB 1983). See TMEP §710.03. Applicant hereby submits printouts of registrations taken from the electronic search records of the USPTO.

Evidence of third-party use falls under the sixth du Pont factor – the “number and nature of similar marks in use on similar goods.” *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, this evidence “is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.” *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1373, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).

Applicant respectfully submits that the Principal Register currently includes HUNTERDON OBSERVER (US Registration No. 3571003), THE CHARLOTTE OBSERVER (US Registration No. 2674218), Bushwick Observer (US Registration No. 3751826), THE SAN ANTONIO OBSERVER (US Registration No. 3722072), DALLAS OBSERVER (US Registration No. 2263300), THE NEW YORK OBSERVER (US Registration No. 1465450), and OBSERVER (US Registration No. 2847371). Moreover, Applicant respectfully submits that OBSERVER (US Registration No. 2847371) and the cited reference (US Registration No. 1768624) are both on the Principal Register, that both include a design or stylized portion, and that (as provided in the translation of the cited mark) “the English translation of the words ‘EL OBSERVADOR’ in the mark is ‘The Observer’.”

Moreover, Applicant respectfully submits that “STAR” (English) or “ESTRELLA” (Spanish) is also a term, like “OBSERVER” (English) or “OBSERVADOR” (Spanish), which is commonly used in the newspaper industry. And, there exists on the Principal Register “LA ESTRELLA” (US Registration No. 3479026), “LA ESTRELLA DE TUCSON” (US Registration No. 3134110), “THE INDIANAPOLIS STAR” (US Registration No. 2781575), “STAR” (US Registration No. 1224966), and other “STAR” marks in association with newspapers.

Applicant respectfully submits that the inclusion of a geographical identifier, such as “DE UTAH” in Applicant’s mark, allows the consumer to know the source of the goods (newspaper) and eliminates any likelihood of confusion as to the source of the goods.

Conclusion

Applicant thanks the Examining Attorney for her consideration and time extended in the telephonic interview. This response is believed to address all of the issues raised by the Examining Attorney. This application is now believed to be in condition for registration. Applicant appreciates the consideration given to this correspondence. All correspondence regarding this application should be directed to the attention of the Attorney for the Applicant.

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| DESCRIPTION OF EVIDENCE FILE | scanned copies of USPTO records, dictionary definitions, translations, and Internet pages |
| SIGNATURE SECTION | |
| RESPONSE SIGNATURE | /David B. Tingey/ |
| SIGNATORY'S NAME | David B. Tingey |
| SIGNATORY'S POSITION | Attorney of Record, Utah bar member |
| DATE SIGNED | 07/07/2011 |
| AUTHORIZED SIGNATORY | YES |
| CONCURRENT APPEAL NOTICE FILED | YES |
| FILING INFORMATION SECTION | |
| SUBMIT DATE | Thu Jul 07 23:40:39 EDT 2011 |
| TEAS STAMP | USPTO/RFR-207.225.193.114 -20110707234039203066-779 32193-480793696c178f7acaa 5ddc8054123365cb-N/A-N/A- 20110707233104074289 |

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **77932193** has been amended as follows:

ARGUMENT(S)

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

This correspondence is being sent responsive to the Office Action dated January 7, 2011 in the above-referenced matter.

REFUSAL UNDER SECTION 2(D)

The issue is not whether the actual goods are likely to be confused but, rather, whether there is a likelihood of confusion as to the source of the goods. In *re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993), and cases cited therein. Each case must be decided on its own facts. Applicant respectfully submits that the facts presented herewith indicate that there is no likelihood of confusion as to the source of the goods.

The Court of Appeals for the Federal Circuit has provided that the basic principle in determining confusion between marks is that marks must be compared in their entireties and must be considered in connection with the particular goods or services for which they are used. It follows from that principle that likelihood of confusion cannot be predicated on dissection of a mark, that is, on only part of a mark. On the other hand, in articulating reasons for reaching a conclusion on the issue of confusion, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entireties.

In *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), the Court of Customs and Patent Appeals discussed the factors relevant to a determination of likelihood of confusion. The issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods or services, however other factors listed in *du Pont* should also be considered as relevant evidence is provided herewith and contained in the record. See *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003) ("Not all of the *DuPont* factors may be relevant or of equal weight in a given case, and 'any one of the factors may control a particular case,'" quoting *In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Dissimilarity of the Marks

Under *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973), the first factor requires examination of "the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression." The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison, but whether the marks are sufficiently similar that there is a likelihood of confusion as to the source of the goods or services. When considering the similarity of the marks, "[a]ll relevant facts pertaining to appearance, sound, and connotation must be considered before similarity as to one or more of those factors may be sufficient to support a finding that the marks are similar or dissimilar." *Recot, Inc. v. M.C. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1899 (Fed. Cir. 2000). In evaluating the similarities between marks, the emphasis must be on the recollection of the average purchaser who normally retains a general, rather than specific, impression of trademarks. *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB

1975).

In the newspaper industry, paper newspapers and electronic newspapers are commonly sought and relied upon based upon the source of newspapers, and that source is typically based upon a geographic identifier.

Examples of such include newspapers that are provided under the mark HUNTERDON OBSERVER (US Registration No. 3571003 – Hunterdon being a county in New Jersey), THE CHARLOTTE OBSERVER (US Registration No. 2674218 – Charlotte being a city in North Carolina), Bushwick Observer (US Registration No. 3751826), THE SAN ANTONIO OBSERVER (US Registration No. 3722072 – San Antonio being a city in Texas), DALLAS OBSERVER (US Registration No. 2263300 – Dallas being a city in Texas), and THE NEW YORK OBSERVER (US Registration No. 1465450). The registration of THE SAN ANTONIO OBSERVER and the DALLAS OBSERVER show that even multiple newspapers provided under “observer” marks can still be distinguished as to their source due to the inclusion of graphical identifiers, namely “San Antonio” and “Dallas”.

In the present case, Applicant’s mark is dissimilar to the cited mark as to appearance since Applicant’s mark does not include the designs (lines, bands or bars) of the cited mark. Further, Applicant’s mark is dissimilar to the cited mark in terms of sound and commercial impression due to the geographical identifier “DE UTAH”. Applicant respectfully submits that the inclusion of the geographical identifier “DE UTAH” underscores to the consumer the source of the goods provided under Applicant’s mark.

It is a general rule that likelihood of confusion is not avoided between otherwise confusingly similar marks merely by adding or deleting a house mark or matter that is descriptive or suggestive of the named goods or services. Sometimes, the rule is expressed in terms of the dominance of the common term. Therefore, if the dominant portion of both marks is the same, then confusion may be likely notwithstanding peripheral differences. See, e.g., *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005) (VEUVE ROYALE for sparkling wine found likely to be confused with VEUVE CLICQUOT and VEUVE CLICQUOT PONSARDIN for champagne, noting that the presence of the “strong distinctive term [VEUVE] as the first word in both parties’ marks renders the marks similar, especially in light of the largely laudatory (and hence non-source identifying) significance of the word ROYALE”).

However, exceptions to the above-stated general rule regarding additions or deletions to marks may arise if: (1) the marks in their entireties convey significantly different commercial impressions; or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted. See, e.g., *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 73 USPQ2d 1350 (Fed. Cir. 2004) (RITZ and THE RITZ KIDS create different commercial impressions); *Bass Pro Trademarks, L.L.C. v. Sportsman’s Warehouse, Inc.*, 89 USPQ2d 1844 (TTAB 2008) (Board found no likelihood of confusion between the word and design marks BASS PRO SHOPS SPORTSMAN’S WAREHOUSE (with SPORTSMAN’S WAREHOUSE disclaimed) and SPORTSMAN’S WAREHOUSE (with all wording disclaimed) for essentially the same retail store services); *In re Farm Fresh Catfish Co.*, 231 USPQ 495 (TTAB 1986) (CATFISH BOBBERS (with “CATFISH” disclaimed) for fish held not likely to be confused with BOBBER for restaurant services); *In re Shawnee Milling Co.*, 225 USPQ 747 (TTAB 1985) (GOLDEN CRUST for flour held not likely to be confused with ADOLPH’S GOLD’N

CRUST and design (with "GOLD'N CRUST" disclaimed) for coating and seasoning for food items); In re S.D. Fabrics, Inc., 223 USPQ 54 (TTAB 1984) (DESIGNERS/FABRIC (stylized) for retail fabric store services held not likely to be confused with DAN RIVER DESIGNER FABRICS and design for textile fabrics).

In the present case, the inclusion of the geographical identifier "DE UTAH" in Applicant's mark conveys a significantly different commercial impression as to the source of the goods. Moreover, the matter common to the marks, namely "EL OBSERVADOR" (or "THE OBSERVER" in English) is not likely to be perceived by purchasers as distinguishing source because it is a diluted term that is commonly used in the newspaper industry (such as STAR, HERALD, POST, NEWS, SUN, GAZETTE, TIMES, EXAMINER, etc.).

When assessing the likelihood of confusion between compound word marks, one must determine whether a portion of the word mark is dominant in terms of creating the commercial impression. Applicant respectfully submits that the inclusion of the geographical identifier "DE UTAH" in Applicant's mark is a dominant factor in conveying a significantly different commercial impression as to the source of the goods.

If the common element of two marks is "weak" in that it is generic, descriptive, or highly suggestive of the named goods or services, consumers typically will be able to avoid confusion unless the overall combinations have other commonality. See, e.g., In re Bed & Breakfast Registry, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986) (BED & BREAKFAST REGISTRY for making lodging reservations for others in private homes held not likely to be confused with BED & BREAKFAST INTERNATIONAL for room booking agency services); The U.S. Shoe Corp. v. Chapman, 229 USPQ 74 (TTAB 1985) (COBBLER'S OUTLET for shoes held not likely to be confused with CALIFORNIA COBBLERS (stylized) for shoes); In re Istituto Sieroterapico E Vaccinogeno, Toscano "SCLAVO" S.p.A., 226 USPQ 1035 (TTAB 1985) (ASO QUANTUM (with "ASO" disclaimed) for diagnostic laboratory reagents held not likely to be confused with QUANTUM I for laboratory instrument for analyzing body fluids). See also TMEP §1207.01(b)(ix). Applicant respectfully submits that the matter common to the marks, namely "EL OBSERVADOR" (or "THE OBSERVER" in English) is weak because it is a diluted term that is commonly used in the newspaper industry (such as STAR, HERALD, POST, NEWS, SUN, GAZETTE, TIMES, EXAMINER, etc.).

When the marks at issue are both design marks, the similarity of the marks must be decided primarily on the basis of visual similarity. In this situation, consideration must be given to the fact that a purchaser's recollection of design marks is often of a general and hazy nature. See, e.g., Red Carpet Corp. v. Johnstown American Enterprises Inc., 7 USPQ2d 1404 (TTAB 1988) (stylized house design for "management of real estate properties for others" held not likely to be confused with stylized house design for real estate brokerage services); In re United Service Distributors, Inc., 229 USPQ 237 (TTAB 1986) (silhouette of two profiles facing right within a teardrop background for "distributorship services in the field of health and beauty aids" held likely to be confused with silhouette of two profiles facing left within an oval background for skin cream); Ocean Spray Cranberries, Inc. v. Ocean Garden Products, Inc., 223 USPQ 1027 (TTAB 1984) (abstract circular design mark for seafood held not likely to be confused

with oval breaking wave design for various food items including juices and fruits); *In re Steury Corp.*, 189 USPQ 353 (TTAB 1975) (design comprised of three generally horizontal bars for boats and camper trailers held likely to be confused with design comprised of two generally horizontal bars for boats and campers); *Matsushita Electric Industrial Co., Ltd. v. Sanders Associates, Inc.*, 177 USPQ 720 (TTAB 1973) (triangular arrow design within a square border for various items of electrical and electronic equipment held likely to be confused with triangular arrow design for various items of electrical and electronic components and equipment).

Third-Party Registrations and Evidence of Third-Party Use

Generally, the existence of third-party registrations cannot justify the registration of another mark that is so similar to a previously registered mark as to create a likelihood of confusion, or to cause mistake, or to deceive. Third-party registrations may be relevant to show that the mark or a portion of the mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services. See, e.g., *AMF Inc. v. American Leisure Products, Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269-70 (C.C.P.A. 1973); *Plus Products v. Star-Kist Foods, Inc.*, 220 USPQ 541, 544 (TTAB 1983). Properly used in this limited manner, third-party registrations are similar to dictionaries showing how language is generally used. See, e.g., *Specialty Brands, Inc. v. Coffee Bean Distributors, Inc.*, 748 F.2d 669, 675, 223 USPQ 1281, 1285 (Fed. Cir. 1984); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 917, 189 USPQ 693, 694-95 (C.C.P.A. 1976); *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991); *In re Dayco Products-Eagle Motive Inc.*, 9 USPQ2d 1910, 1911 (TTAB 1988); *In re J.M. Originals Inc.*, 6 USPQ2d 1393, 1394 (TTAB 1987); *United Foods Inc. v. J.R. Simplot Co.*, 4 USPQ2d 1172, 1174 (TTAB 1987).

To make registrations of record, soft copies of the registrations or the electronic equivalent thereof (i.e., printouts or electronic copies of the registrations taken from the electronic search records of the USPTO) must be submitted. *Raccioppi v. Apogee Inc.*, 47 USPQ2d 1368 (TTAB 1998); *In re Smith & Mehaffey*, 31 USPQ2d 1531, 1532 n.3 (TTAB 1994); *Weyerhaeuser Co. v. Katz*, 24 USPQ2d 1230 (TTAB 1992); *In re Hub Distributing, Inc.*, 218 USPQ 284 (TTAB 1983). See TMEP §710.03. Applicant hereby submits printouts of registrations taken from the electronic search records of the USPTO.

Evidence of third-party use falls under the sixth du Pont factor – the “number and nature of similar marks in use on similar goods.” *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, this evidence “is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.” *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1373, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).

Applicant respectfully submits that the Principal Register currently includes HUNTERDON OBSERVER (US Registration No. 3571003), THE CHARLOTTE OBSERVER (US Registration No. 2674218), Bushwick Observer (US Registration No. 3751826), THE SAN ANTONIO OBSERVER (US Registration No. 3722072), DALLAS OBSERVER (US Registration No. 2263300), THE NEW YORK OBSERVER (US Registration No. 1465450), and OBSERVER (US Registration No. 2847371). Moreover, Applicant

respectfully submits that OBSERVER (US Registration No. 2847371) and the cited reference (US Registration No. 1768624) are both on the Principal Register, that both include a design or stylized portion, and that (as provided in the translation of the cited mark) "the English translation of the words 'EL OBSERVADOR' in the mark is 'The Observer'."

Moreover, Applicant respectfully submits that "STAR" (English) or "ESTRELLA" (Spanish) is also a term, like "OBSERVER" (English) or "OBSERVADOR" (Spanish), which is commonly used in the newspaper industry. And, there exists on the Principal Register "LA ESTRELLA" (US Registration No. 3479026), "LA ESTRELLA DE TUCSON" (US Registration No. 3134110), "THE INDIANAPOLIS STAR" (US Registration No. 2781575), "STAR" (US Registration No. 1224966), and other "STAR" marks in association with newspapers.

Applicant respectfully submits that the inclusion of a geographical identifier, such as "DE UTAH" in Applicant's mark, allows the consumer to know the source of the goods (newspaper) and eliminates any likelihood of confusion as to the source of the goods.

Conclusion

Applicant thanks the Examining Attorney for her consideration and time extended in the telephonic interview. This response is believed to address all of the issues raised by the Examining Attorney. This application is now believed to be in condition for registration. Applicant appreciates the consideration given to this correspondence. All correspondence regarding this application should be directed to the attention of the Attorney for the Applicant.

EVIDENCE

Evidence in the nature of scanned copies of USPTO records, dictionary definitions, translations, and Internet pages has been attached.

Original PDF file:

evi 207225193114-233104074 . Evidence 1.pdf

Converted PDF file(s) (43 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

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SIGNATURE(S)

Request for Reconsideration Signature

Signature: /David B. Tingey/ Date: 07/07/2011

Signatory's Name: David B. Tingey

Signatory's Position: Attorney of Record, Utah 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: 77932193

Internet Transmission Date: Thu Jul 07 23:40:39 EDT 2011

TEAS Stamp: USPTO/RFR-207.225.193.114-20110707234039

203066-77932193-480793696c178f7acaa5ddc8

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Typed Drawing

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| Word Mark | THE CHARLOTTE OBSERVER |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: newspapers for general circulation. FIRST USE: 19160403. FIRST USE IN COMMERCE: 19160403 |
| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 76292966 |
| Filing Date | July 31, 2001 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | October 22, 2002 |
| Registration Number | 2674218 |
| Registration Date | January 14, 2003 |
| Owner | (REGISTRANT) KR U.S.A., Inc. CORPORATION DELAWARE 50 West San Fernando Street San Jose CALIFORNIA 95113 (LAST LISTED OWNER) MCCLATCHY U.S.A., INC. CORPORATION DELAWARE 2100 Q STREET SACRAMENTO CALIFORNIA 95816 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL-2(F) |
| Affidavit Text | SECT 15. SECT 8 (6-YR). |
| Live/Dead Indicator | LIVE |

07-31-2001

U.S. Patent & TMO/TM Mail Rpt 04 #74

DIAL REPORT: 5 PAGES OF COVERAGE 8A-12A

The Charlotte Observer

www.charlotte.com

THURSDAY, APRIL 12, 2001

50c

Homeward bound

China's release of plane crew punctuates Bush's N.C. visit

Bush praises
N.C. education,
stresses value
of accountability

By TIM HORTON,
JIM MORRILL
and MARK JOHNSON
Staff Writers

Events both local and international converged to give Wednesday's whirlwind visit by President Bush global importance and a distinct N.C. flavor.

Hours before Bush landed at Charlotte/Douglas International Airport, the United States and China announced they had agreed on the release of two dozen members of a

U.S. Navy spy-plane crew detained in China for 11 days.

"These have been difficult days for all the families, and they are a reminder of the sacrifices all our men and women in uniform and their families make every day," Bush said.

"These have been difficult days for all the families, and they are a reminder of the sacrifices all our men and women in uniform and their families make every day," Bush said.



Freed crew back
in U.S. territory;
next stop is
Hawaii, reunions

By PHILIP P. FINE
and JOHN FORDREY
Washington Post

HANCOU, China — China released the 24 American service personnel detained on Hainan Island for 11 days, and the Americans swiftly flew off in a chartered U.S. airliner.

The plane landed at Andersen Air Force Base on the mid-Pacific island of Guam shortly before midnight EDT. After a layover of four or five hours, during which they can eat, shower and telephone their families, the 24 will be headed for debriefings in Hawaii and the promise of being reunited with their families by Easter.

Their departure from Hainan, agreed upon after tortuous trans-Pacific negotiations, is a landmark

INSIDE

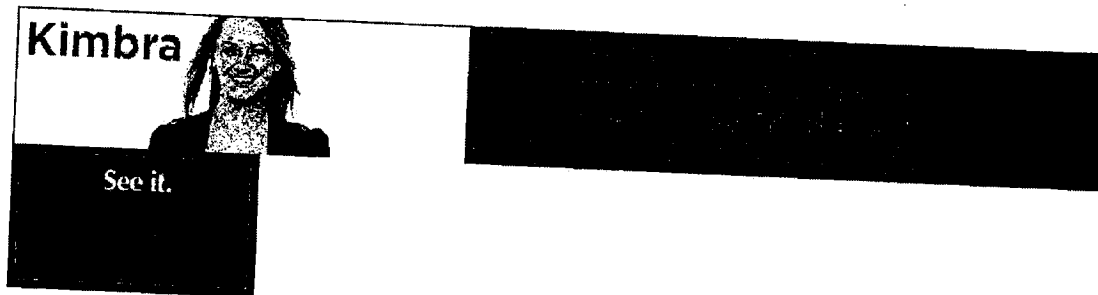
■ The standoff has ended but its effect on U.S.-China relations may be lasting.

■ Part of the matter from the U.S. to China.

Specimen: THE CHARLOTTE OBSERVER
Class: 16
Goods: Newspapers for general circulation.


KR U.S.A.
50 West San Fernando Street
San Jose, California 95113




76292966



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HUNTERDON OBSERVER

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|------------------------------------|--|
| Word Mark | HUNTERDON OBSERVER |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: Newspaper. FIRST USE: 19870817. FIRST USE IN COMMERCE: 19870817 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 76686861 |
| Filing Date | February 15, 2008 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | November 25, 2008 |
| Registration Number | 3571003 |
| Registration Date | February 10, 2009 |
| Owner | (REGISTRANT) Penn Jersey Advance, Inc. CORPORATION DELAWARE 44 E. Veteran's Memorial Drive Somerville NEW JERSEY 08876 |
| Attorney of Record | ERIC E. GISOLFI |
| Disclaimer | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HUNTERDON" APART FROM THE MARK AS SHOWN |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |
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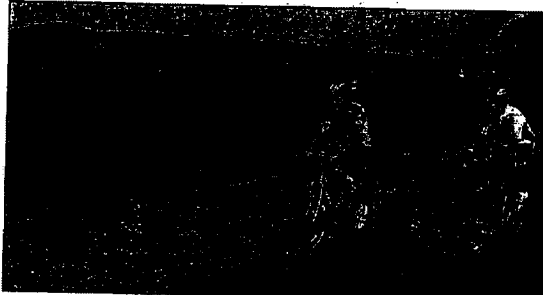
Saturday, October 20, 2007 • 64 Pages

The 'big idea': Plant 1 million trees

By Elizabeth Peterson
What started as a fairly simple idea — two guys on bikes planting trees — has branched into a one-million-tree, four-thousand-mile trip with its own non-profit organization, Planting America Inc.

Matt Cortina, 19, and Grant Gardner, 20, both of Raritan Township, decided to ride their bicycles 4,200 miles in a trip that will take them from Yorktown, Va. to Florence, Ore. Along the way, they intend to plant one million trees.

The two Hunterdon Central High School alumni don't describe themselves



Grant Gardner (in red) and Matt Cortina take a ride around the Round Valley Reservoir. The trip

Hiking club offers outdoor treks

The Hunterdon Hiking Club, a group affiliated with the county Department of Parks and Recreation, has planned several hikes for late this month.

Today, Saturday, Oct. 20, 8 a.m., the group will hike on Beaufort Mountain Ridge in northern NJ, a 6-mile trek of varied terrain with significant ups and downs. Driving time is roughly 90 minutes. Meet at the Clinton commuter lot. Contact the leader at 238-0034.

Next Saturday, Oct. 27, 9:30 a.m. meet at the Whitehouse Firehouse on Old Route 28 for a 5-mile trek on Rockaway Creek Greenway. The trail is wooded, with riverside



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The Columbia Gazetteer of North America. 2000.

Hunterdon

Hunterdon, county (437 sq mi/1,132 sq km; 1990 pop. 107,776), W.N.J., bounded W by Delaware R.; Ⓞ Flemington; 40°34'N 74°55'W. Agr. area (poultry, produce, corn, grain, fruit, dairy products) that is rapidly suburbanizing as an outer suburb; mfg. (food products, paper, printing,



dairy prods.) that is rapidly suburbanizing as an outer suburb; mfg. (food prods., paper, printing, publishing, chemicals, plastics prods., metal prods., electronic equip., measuring and controlling devices). Includes Voorhees State Park. Drained by the Musconetcong R. and by South Branch of Raritan R. Musconetcong Mt. is in W. Co. formed 1714.

Capital city or county seat is shown by the symbol ○

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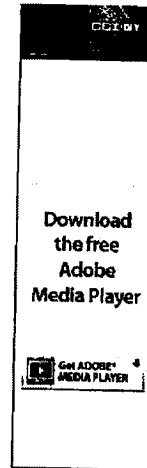
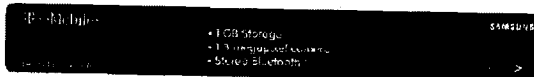
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Bushwick Observer

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| Word Mark | BUSHWICK OBSERVER |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: Newspapers. FIRST USE: 19940501. FIRST USE IN COMMERCE: 19940501 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 77779572 |
| Filing Date | July 13, 2009 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | December 8, 2009 |
| Registration Number | 3751826 |
| Registration Date | February 23, 2010 |
| Owner | (REGISTRANT) Ridgewood Bushwick Senior Citizens Council, Inc CORPORATION NEW YORK 555 Bushwick Avenue Brooklyn NEW YORK 11206 |
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| Word Mark | THE SAN ANTONIO OBSERVER |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: newspaper. FIRST USE: 19950311. FIRST USE IN COMMERCE: 19950311 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 77736650 |
| Filing Date | May 14, 2009 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | September 22, 2009 |
| Registration Number | 3722072 |
| Registration Date | December 8, 2009 |
| Owner | (REGISTRANT) Observer Newspaper Group, Inc. CORPORATION TEXAS 3427 Belgium Lane San Antonio TEXAS 78219 |
| Attorney of Record | Ted D. Lee |
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Sherry Logan is the editor of the San Antonio Observer.

Telephone number: 210.212.6397

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700 N SAINT MARYS ST STE 1500
SAN ANTONIO, TX 78205-3541

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Observer Newspaper Group,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:** T-8199.5

CORRESPONDENT E-MAIL ADDRESS:

EXAMINER'S AMENDMENT

ISSUE/MAILING DATE:

OFFICE SEARCH: The examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

AMENDMENT: In accordance with the authorization granted by Ted Lee on August 13, 2009, the application has been AMENDED as indicated below. Please advise the undersigned examining attorney immediately if there is an objection to the amendment. Otherwise, no response is necessary. TMEP §707.

If the identification of goods and/or services has been amended, please note that any future amendments must be in accordance with 37 C.F.R. §2.71(a) and TMEP §1402.07(e).

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TMEP §1213.08(a)(i).

/ses/

Shaila E. Settles

Trademark Examining Attorney

Law Office 114

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shaila.settles@uspto.gov

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| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 75561627 |
| Filing Date | September 29, 1998 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | April 27, 1999 |
| Registration Number | 2263300 |
| Registration Date | July 20, 1999 |
| Owner | (REGISTRANT) NEW TIMES, INC. CORPORATION ARIZONA 1201 East Jefferson Street Phoenix ARIZONA 85034 (LAST LISTED OWNER) VILLAGE VOICE MEDIA HOLDINGS, LLC LIMITED LIABILITY COMPANY DELAWARE 1201 EAST JEFFERSON STREET PHOENIX ARIZONA 85034 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | John L. Hay |

Type of Mark TRADEMARK
Register PRINCIPAL-2(F)-IN PART
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20081008.
Renewal 1ST RENEWAL 20081008
Live/Dead Indicator LIVE
Distinctiveness Limitation Statement as to "DALLAS"

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Thu., Jul 7 '11 @ 4:58PM

Kessler Theater To Highlight Crate
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Five
Quintessential
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The Mavericks Finally Fought Back, and They Have the Title to Prove It
Mark Cuban, Dirk Nowitzki and the Mavs shed labels and the Miami Heat on the way to their first NBA championship.

CITY ATE

Bijoux's Scott Gottlich Unloads
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Help Us Dish Up
Some of Dallas'
Best Food
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On John Wiley Price's Strange
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Five Great Leslie Nielsen Moments
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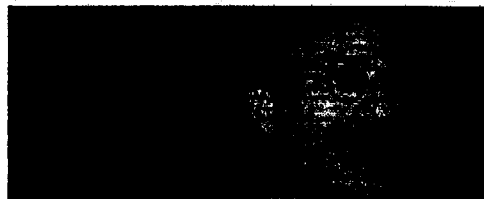
Are You Ready For Some (College)
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Thu., Jun 30 '11 @ 9:48AM

Why We Love
Sports in
America: 2011
By Richie Whitt

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News »



Bad Company: Price a
Plenty of Enablers.

By Patrick Williams Thursday, Jul 7

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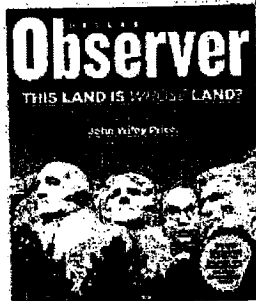
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True Crime Report Danielle Blankenship Allegedly Killed Her Cat By Blowing Heroin Smoke at It
07/07/11 7:05pm

Take of the Town Crackdown: Kent, Washington Raids Cannabis Dispensaries
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Centro-matic Offer Up a...
by Pete Freedman

Will Johnson is nothing if not prolific. Starting with the 1995 release of...
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The Violationist Highlight The Web
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Restaurants »



Ketchup, Uptown's New Burger...
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Ketchup, the neighborhood burger bar in cuisine-crowded Uptown, welcomes... [More >>](#)

Nammi: Trickle at the 1
By Alice Laussade Thursday, J

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By Emily Wise Miller Thursday,

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Movies »



Horrible Bosses Sings the...
by Karina Longworth

There's a scene in Horrible Bosses in which Jennifer Aniston, playing a...
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Larry Crowne: Unbelieving
By Mark Olsen Thursday, Jun 3

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Arts »



Shakespeare Dallas' Summer...
by Elaine Liner

Like fireworks and fire ants, Shakespeare in the park is part of the summer...
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In Five Women Wearing Bridesmaids From Hell
By Elaine Liner Thursday, Jun 2

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By Elaine Liner Thursday, Jun 6

The Ads »

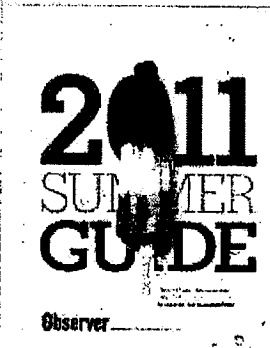
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If you want to know what's happening in Dallas, keep your eye on the Observer. Over the past eighteen years, the Dallas Observer has grown from a small weekly to a major force in this city, where the paper is known for its hard-edged investigative stories about government, politics and business, as well as its pointed, provocative coverage of sports, music and the arts. In recent years, the Observer has collected numerous journalism awards, including the Missouri Lifestyle Journalism Award for general excellence, which lauded the paper for the compelling package it puts out each week. And Dallas readers agree: Every Wednesday, 100,000 copies land on newsstands around the city—and disappear within hours.



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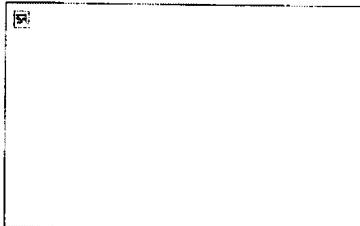
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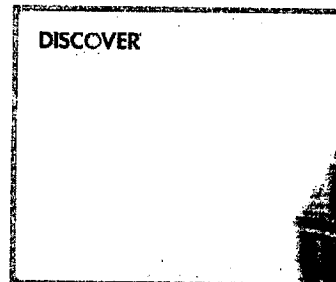
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| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 73657301 |
| Filing Date | April 27, 1987 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | August 25, 1987 |
| Change in Registration | CHANGE IN REGISTRATION HAS OCCURRED |
| Registration Number | 1465450 |
| Registration Date | November 17, 1987 |
| Owner | (REGISTRANT) NEW YORK OBSERVER COMPANY, THE CORPORATION DELAWARE 54 EAST 64TH STREET NEW YORK NEW YORK 10021 (LAST LISTED OWNER) THE NEW YORK OBSERVER, LLC LIMITED LIABILITY COMPANY NEW YORK 321 West 44th Street 6th Floor New York NEW YORK 10036 |
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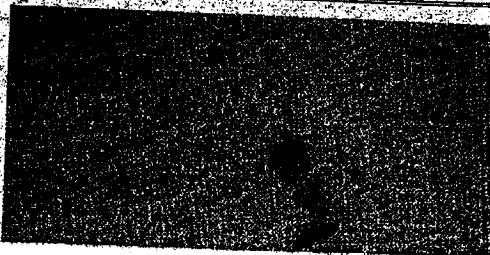
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Canada To Allow Exporting of Gas On Iroquois Line

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Approval Seen as Big Step
For Pipeline Proposal by
Utility Consortium

BY BETSYA EDELMAN



Thomaston Sees Rate of Growth As Increasing

Some Residents and
Officials Concerned

By DOUGLAS P. CLEMENTS

THOMASTON—Some town officials and residents here are expressing concern about the pace of Thomaston's growth. In the last three months of 1987, 56 new buildings had been approved in the hamlet's Village and

Plans Progressing To Sell Acreage At Goldens Hill

BRIDGEWATER, ROXBURY

Farm Owners Have Already
Sold 151 Acres; Plans
For Another 438

By BARBARA LOEBNER

FRIDAY, APRIL 17, 1953

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| Serial Number | 72232668 |
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OCTOBER 2, 2006

American Observer

A SUPPLEMENT TO JUNIOR SCHOLASTIC

America at a Crossroads

Which party will control Congress after the midterm elections?

For six years, Republicans have controlled the White House and both houses of Congress. But Democrats are hoping for a comeback in this fall's midterm elections.

As the November 7 Election Day approaches, Republican incumbents (current office holders) are nervous. Why? The public's confidence in President George W. Bush, a Republican, is at an all-time low. According to recent polls, fewer than 40 percent of Americans think that he is doing a good job. Also, history shows that Americans like balance in government. When a President is halfway through his first or second term, voters often put the opposing party in control of Congress.

"Bugged Pretty Badly"

The war in Iraq accounts for only some of the President's popularity problems. Political analyst Charles Cook cites "a million efficient things" to explain Americans' discontent. Cook points out that the President has overspent the federal budget, putting the country deep into debt. People are unhappy with the federal government's slow response to Hurricane Katrina, and the price of gas has increased.



As midterm elections approach, both parties are running hard for victory. That means control of Congress.

In recent months, the President has repeatedly defended his administration's policies. He also has defended one of his most controversial decisions—to invade Iraq. "Some politicians look at our efforts in Iraq and see a diversion from the war on terror," the President said recently. "That would come as news to Osama bin Laden, who proclaimed that the third World War is raging in Iraq."

But polls point to Americans wanting a new direction. Many political analysts say that voters will put the brakes on the President by voting Democratic. "Democrats are attempting to seize the moment," says journalist Gwen Hill. "[They] are a force recovering the six seats they need to win back the Senate, and the 15 seats they need to claim the House."

Republicans say that will not happen. Representa-



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| Serial Number | 75817999 |
| Filing Date | October 7, 1999 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Supplemental Register Date | November 6, 2000 |
| Registration Number | 3059658 |
| Registration Date | February 14, 2006 |
| Owner | (REGISTRANT) NEW YORK OBSERVER COMPANY, INC, THE CORPORATION NEW YORK 54 E. 64TH ST. NEW YORK NEW YORK 10021 (LAST LISTED OWNER) POLYGRAVITY MEDIA, LLC LIMITED COMPANY NEW JERSEY C/O THE KUSHNER COMPANIES 26 COLOMBIA TURNPIKE FLORHAM PARK NEW JERSEY 07932 |
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| | IC 041. US 100 101 107. G & S: Entertainment in the nature of on-going radio and television programs in the field of professional wrestling; providing a website on global computer networks in the field of professional wrestling. FIRST USE: 19991100. FIRST USE IN COMMERCE: 19991100 |
| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 75816629 |
| Filing Date | October 30, 1999 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | January 23, 2001 |
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| Registration Date | April 17, 2001 |
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Observer

| | |
|--------------------------|---|
| Word Mark | OBSERVER |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: Newspapers. FIRST USE: 19630103. FIRST USE IN COMMERCE: 19630201 |
| Mark Drawing Code | (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM |
| Serial Number | 76520981 |
| Filing Date | June 2, 2003 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | March 9, 2004 |
| Registration Number | 2847371 |
| Registration Date | June 1, 2004 |
| Owner | (REGISTRANT) Observer & Eccentric Newspapers, Inc. CORPORATION MICHIGAN 36251 Schoolcraft Livonia MICHIGAN 48105 (LAST LISTED OWNER) FEDERATED PUBLICATIONS, INC. CORPORATION DELAWARE 7950 JONES BRANCH DRIVE MCLEAN VIRGINIA 22107 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | Suzanne M. Underwald |

Prior Registrations 1653619
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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observer

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observador

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observador(a) masculino(femenino)

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DICTIONARY

observer

Definition

ob·serv·er [əb zúrvər]

ob·serv·ers Plural

NOUN

1. **somebody who sees or watches something:** somebody who observes something that is happening
2. **nonparticipating witness:** somebody who acts as a witness to an event, often officially and at the invitation of the participants
3. **somebody observing ceremony or obeying law:** somebody who duly celebrates a religious ceremony or ritual, or complies with a rule or law
4. **AIR FORCE aircraft identifier:** somebody trained in identifying aircraft
5. **MILITARY watcher of enemy movements:** a soldier who watches enemy movements or directs artillery fire

Thesaurus

NOUN

Synonyms: spectator, witness, viewer, onlooker, bystander, eyewitness

NOUN

Antonyms: participant

Translations

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star

Translation

estrella

Dictionary

1. sustantivo also person estrella femenino
2. verbo transitivo (pretérito y participio pasado **starred**) of movie **estar** protagonizado por
3. verbo intransitivo (pretérito y participio pasado **starred**) in movie: **Depardieu starred in ...** Depardieu protagonizó ...

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star

Translation

estrella

Dictionary

1. sustantivo also person *estrella femenino*
2. verbo transitivo (*pretérito y participio pasado starred*) of movie *estar protagonizado por*
3. verbo intransitivo (*pretérito y participio pasado starred*) in movie: *Depardieu starred in ...* Depardieu protagonizó ...

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 (Use the "Back" button of the Internet Browser to return to TESS)LA ESTRELLA DE
TUCSON

| | |
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| Word Mark | LA ESTRELLA DE TUCSON |
| Translations | The English translation of LA ESTRELLA DE is THE STAR OF. |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: Newspapers. FIRST USE: 20041020. FIRST USE IN COMMERCE: 20041020 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 78495073 |
| Filing Date | October 5, 2004 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1B |
| Published for Opposition | September 13, 2005 |
| Registration Number | 3134110 |
| Registration Date | August 22, 2006 |
| Owner | (REGISTRANT) Pulitzer, Inc. CORPORATION DELAWARE 201 N. Harrison, Suite 600 Davenport IOWA 52801 (LAST LISTED OWNER) STAR PUBLISHING COMPANY CORPORATION ARIZONA 201 N. HARRISON, SUITE 600 DAVENPORT IOWA 52801 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | Christopher J. Curran |

Prior Registrations 2606488;2802765
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE TUCSON APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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CIUDAD

Seca madre lágrimas de Iraqíes

■ Escribo libro para ayudar
a niños afectados en guerra

12



Reconocen a maestro de UA en Guadalajara

■ Contribuyó en la creación
de leyes que rigen el TLC

18



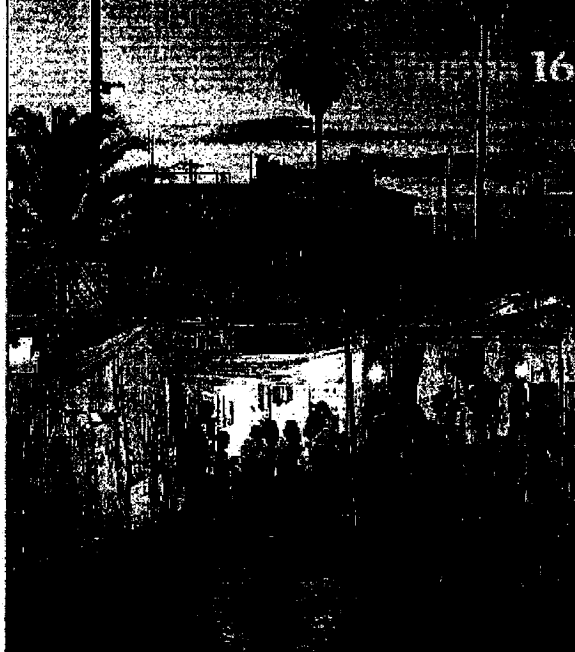
LA ESTRELLA DE TUCSON

Del 31 de mayo al 6 de junio del 2006 • Año 2, No. 85

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El Sur en la frontera

Acerca de la distancia Sonora y Oaxaca



Muestra Gloria Trevi su nueva envoltura

■ Llegó igual de atrevida
pero más delgada

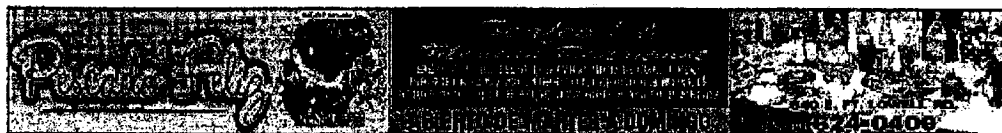
8

Desprecia Ferro a mexicanas por bigotonas

■ Dice que sólo Salma
Hayek es bonita

8

Una edición de
Arizona Daily Star



To: Pulitzer, Inc. (TRADEMARKS@LRLAW.COM)
Subject: TRADEMARK APPLICATION NO. 78495073 - LA ESTRELLA DE TUCSON - 42534-1
Sent: 5/9/2005 1:09:56 PM
Sent As: ECOM110@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/495073

APPLICANT: Pulitzer, Inc.

78495073

CORRESPONDENT ADDRESS:

JENNIFER A. VAN KIRK
LEWIS AND ROCA LLP
40 N CENTRAL AVE STE 1900
PHOENIX, AZ 85004-4446

RETURN ADDRESS:

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

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

MARK: LA ESTRELLA DE TUCSON

CORRESPONDENT'S REFERENCE/DOCKET NO : 42534-1

CORRESPONDENT EMAIL ADDRESS:
TRADEMARKS@LRLAW.COM

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and email address.

Serial Number 78/495073

EXAMINER'S AMENDMENT

SEARCH TMEP §704.02 The trademark examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d).

Advisory – Amendments to Goods/Services: If the goods and/or services have been amended below, any future amendments must be in accordance with 37 C.F.R. §2.71(a) and TMEP §1402.07(e).

Amendments Authorized: As authorized by Christy L.E. Hubbard 602.262.5311, on May 09, 2005, the application is amended as noted below. *If applicant disagrees with or objects to any of the amendments below, please notify the undersigned trademark examining attorney immediately.* Otherwise, no response is necessary. TMEP §707.

DISCLAIMER . Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a).

No claim is made to the exclusive right to use **TUCSON** from the mark as shown.

TRANSLATION 37 C.F.R. §2.61(b); TMEP §809.

The following translation statement is added to the record:

The English translation of the wording "LA ESTRELLA DE" is "THE STAR OF."

The present application will proceed to publication in the *Official Gazette*.

/LEB/ Linda E. Blohm, Trademark Examining Attorney

571.272.9129, Law Office 110

Facsimile 571.273.9110

For inquiries or questions about this office action, please contact the assigned examining attorney.

NOTICE: FEE CHANGE

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

(1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or

(2) \$375 per international class if filed on paper.

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

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LA ESTRELLA

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| Word Mark | LA ESTRELLA |
| Translations | The foreign wording in the mark translates into English as THE STAR. |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: Newspapers for general circulation. FIRST USE: 20070323. FIRST USE IN COMMERCE: 20070323 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 77200163 |
| Filing Date | June 7, 2007 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | May 20, 2008 |
| Registration Number | 3479026 |
| Registration Date | August 5, 2008 |
| Owner | (REGISTRANT) McClatchy U.S.A., Inc. CORPORATION DELAWARE 2100 Q Street Sacramento CALIFORNIA 95816 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | Tsan Abrahamson |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |

Live/Dead Indicator LIVE

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...el fin del mundo

tiempo a la pantalla grande. La tercera parte de El Señor de los Cielos. Ver Tiempo Libre



La Gran Final

Pachuca y América van por el título.

Ver Destino Deportivo



GRAT

La Estrella

Metroplex de Dallas/Fort Worth, Texas. Semana del 25 al 31 de mayo de 2007. www.diariolaestrella.com



AGENCIA REGIDORA
Womne Ortega es la gobernadora electa.

MÉXICO | 15A

Gana Yucatán

El PRI, con Womne Ortega, le arrebató al PAN la gubernatura de forma arrolladora



TRAGEDIA | QUEJA

Una madre denuncia acoso de investigad

POR JAVI TORRES
ESPECIAL LA ESTRELLA

DALLAS — Una fotografía de la memoria de un no celular y remembranzas sas es todo lo que quedó a la de Leo Pacheco. Durante de décadas vivió el salvado: pas un incendio que destruyó su "Ni la policía ni los de la tía nos permitieron ver el

To: McClatchy U.S.A., Inc. (trademarks@cobaltlaw.com)
Subject: TRADEMARK APPLICATION NO. 77200163 - LA ESTRELLA -
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UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/200163

MARK: LA ESTRELLA

77200163

CORRESPONDENT ADDRESS:

TSAN ABRAHAMSON
COBALT LLP
819 BANCROFT WAY
BERKELEY, CA 94710-2226

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: McClatchy U.S.A., Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

McClatchy/LA

CORRESPONDENT E-MAIL ADDRESS:

trademarks@cobaltlaw.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 9/19/2007

The examining attorney has reviewed the referenced application and has determined the following.

Mark is Likely to Cause Confusion

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration Nos. 3136887, 3134110, 2977603, 2824279 and 1224966 as to be likely to cause confusion, or to cause mistake, or to deceive. TMEP section 1207. See the enclosed registration.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

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Analysis of Applicant's Mark and Registered Mark

First, a comparison of the respective marks show that they are comprised either in whole or significant part of the term "ESTRELLA" or "STAR." Accordingly, the dominant portion of applicant's mark, "ESTRELLA," is similar in sound, appearance, connotation and commercial impression to Registration No. 2977603's mark "DIARIO LA ESTRELLA" and star designs and Registration No. 3134110's mark "LA ESTRELLA DE TUCSON."

According to the doctrine of foreign equivalents, an applicant may not register foreign words or terms if the English-language equivalent has been previously registered for related products or services and the consumer would be likely to translate the foreign word into its English equivalent. *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1377, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Perez*, 21 USPQ2d 1075 (TTAB 1991); *In re American Safety Razor Co.*, 2 USPQ2d 1459 (TTAB 1987); *In re Ithaca Industries, Inc.*, 230 USPQ 702 (TTAB 1986); *In re Hub Distributing, Inc.*, 218 USPQ 284 (TTAB 1983); TMEP §1207.01(b)(vi). Accordingly, the dominant portion of applicant's mark, "LA ESTRELLA" which translates to "THE STAR," [1] is considered similar in sound, appearance, connotation and commercial impression to Registration No. 2824579's mark "THE STAR PRESS," and Registration No. 1224966's mark "THE STAR." Similarity in any one of these elements

alone is sufficient to find a likelihood of confusion. *In re Mack*, 197 USPQ 755 (TTAB 1977).

Second, a comparison of the applicant's goods, "circulars containing the printed advertisements of others' products and services bundled together for common distribution," to the registrant's goods shows the relationship between them. A "circular" is defined as a paper (as a leaflet) intended for wide distribution.

[2] The registrations are for newspapers.

The examining attorney must determine whether there is a likelihood of confusion on the basis of the goods identified in the application and registration. If the application or cited registration describes the goods broadly and there are no limitations as to their nature, type, channels of trade or classes of purchasers, it is presumed that the application and registration encompass all goods of the type described, that they move in all normal channels of trade, and that they are available to all potential customers. *Canadian Imperial Bank of Commerce v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987); *Paula Payne Products Co., v. Johnson Publishing Co., Inc.*, 473 F.2d 901, 177 USPQ 76 (CCPA 1973); *In re Elbaum*, 211 USPQ 639 (TTAB 1981). The applicant's identification of a circular to include advertisements is seen to include newspapers.

The examining attorney must consider any goods in the registrant's normal fields of expansion to determine whether the registrant's goods or services are related to the applicant's identified goods or services under Section 2(d). *In re General Motors Corp.*, 196 USPQ 574 (TTAB 1977). Accordingly, the mark is likely to cause consumer confusion as to source.

Prior Pending Application

The examining attorney encloses information regarding pending Application Serial No. 78-461921. The filing date of the referenced application precedes the applicant's filing date. There may be a likelihood of confusion between the marks under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). If the referenced application matures into a registration, the examining attorney may refuse registration in this case under Section 2(d). 37 C.F.R. Section 2.83; TMEP section 1208.01. This application may be suspended pending the disposition of the above earlier-filed application. The examining attorney encloses information regarding pending Application Serial No. 78-461921.

If the applicant believes that there is no potential conflict between this application and the earlier-filed application, the applicant may present arguments relevant to the issue in a request to allow the application to proceed. The election to file or not to file such a request at that time in no way limits the applicant's right to address this issue at a later point.

Title of Single Work

Registration is refused because the proposed mark, as used on the specimen of record, is used only as the title of a single creative work, namely, the title of a specific printed newspaper; it does not function as a trademark to identify and distinguish applicant's goods from those of others and to indicate their source. Trademark Act Sections 1, 2 and 45, 15 U.S.C. §§1051-1052 and 1127; *In re Cooper*, 254 F.2d 611, 117 USPQ 396 (C.C.P.A. 1958); see *In re Scholastic, Inc.*, 23 USPQ2d 1774, (TTAB 1992); TMEP §1202.08. Single creative works include works in which the content does not change, whether that work is in printed, recorded or electronic form.

Applicant may respond to this refusal by submitting evidence that the proposed mark is used to identify a series, rather than a single work. The name for a series of creative works indicates that each work in the

series comes from the same source as the others. *Scholastic*, 23 USPQ2d at 1776. Evidence of a series includes copies of at least two different book covers or packaging for prerecorded works (not two copies of the same work) showing the mark as a source identifier for the series as well as distinguishing the mark from the individual titles of the works. *Id.*

If applicant cannot satisfy the requirement for evidence of a series, applicant may amend the Section 1(a) filing basis (use in commerce) to Section 1(b) (intent to use), and the refusal will be withdrawn. However, should applicant amend the basis to Section 1(b), registration cannot be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use along with evidence of use on a series. 15 U.S.C. §1051(c); 37 C.F.R. §§2.76, 2.88; TMEP Chapter 1100.

In order to amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **"Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application."** 15 U.S.C. §1051(b); 37 C.F.R. §§2.34(a)(2) and 2.35(b)(1); TMEP §806.01(b).

The following is a properly worded declaration under 37 C.F.R. Section 2.20:

"The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true."

The signature should include the title of the signatory and the date the declaration was signed.

Other Considerations

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration. If applicant chooses to respond to the refusal to register, the following issues must also be addressed.

Translation Required

The applicant must submit an English translation of all foreign wording in the mark. 37 C.F.R. Section 2.61(b); TMEP section 809.

If the applicant has any questions or needs assistance in responding to this office action, please telephone the assigned examining attorney.

/Jason F. Turner/
Examining Attorney
Law Office 108
(571) 272-9353
(571) 273-9108 (Fax for Official Responses)

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office Action should be filed using the Office's Response to Office action form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

^[1] See attached.

^[2] MERRIAM-WEBSTER ONLINE (www.Merriam-Webster.com) copyright 2002 by Merriam-Webster, Incorporated. Included within Merriam-Webster Online is: Merriam-Webster Online Dictionary copyright © 2002 by Merriam-Webster, Incorporated.

Print: Sep 19, 2007

73182128

DESIGN MARK

Serial Number
73182128

Status
REGISTERED AND RENEWED

Word Mark
THE STAR

Standard Character Mark
No

Registration Number
1224966

Date Registered
1983/01/25

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner
AMERICAN MEDIA OPERATIONS, INC. CORPORATION DELAWARE 1000 American
Media Way Boca Raton FLORIDA 33464-100

Goods/Services
Class Status -- ACTIVE. IC 016. US 038. G & S: Weekly Newspaper.
First Use: 1975/11/18. First Use In Commerce: 1975/11/18.

Prior Registration(s)
1050044

Lining/Stippling Statement
The drawing is lined for the color red, however, color is not a
feature of the mark.

Filing Date
1978/08/04

Examining Attorney
UNKNOWN

Attorney of Record

Print: Sep 19, 2007

73182128

LO-MAE LAI CHUECOS



Print: Sep 19, 2007

76460204

DESIGN MARK

Serial Number
76460204

Status
REGISTERED

Word Mark
THE STAR PRESS

Standard Character Mark
No

Registration Number
2824579

Date Registered
2004/03/23

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(1) TYPED DRAWING

Owner
Media West - INI, Inc. CORPORATION DELAWARE 50 West Liberty Street,
Suite 802 Bank of America Plaza Reno NEVADA 89501

Goods/Services
Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.
G & S: newspapers for general circulation containing topics of
general interest. First Use: 1996/05/20. First Use In Commerce:
1996/05/20.

Disclaimer Statement
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PRESS" APART FROM THE
MARK AS SHOWN.

Filing Date
2002/10/11

Examining Attorney
BLOHM, LINDA E.

Attorney of Record
Suzanne M. Underwald

THE STAR PRESS

Print: Sep 18, 2007

76540137

DESIGN MARK

Serial Number
76540137

Status
REGISTERED

Word Mark
DIARIO LA ESTRELLA

Standard Character Mark
No

Registration Number
2977603

Date Registered
2005/07/26

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner
KNIGHT RIDDER, INC. CORPORATION FLORIDA 50 WEST SAN FERNANDO STREET
SAN JOSE CALIFORNIA 95113

Goods/Services
Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.
G & S: Spanish language newspaper for general circulation. First
Use: 2003/09/02. First Use In Commerce: 2003/09/02.

Disclaimer Statement
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DIARIO" APART FROM THE
MARK AS SHOWN.

Translation Statement
The English translation of the mark is "the daily star."

Filing Date
2003/08/13

Examining Attorney
KON, ELISSA GARBER

Print: Sep 19, 2007

76540137

Attorney of Record

Tsan Abrahamson, Katherine Spelman, Sophie Cohen, Lara Kehoe Hoffman,
Molly Garhart



Print: Sep 19, 2007

78461821

DESIGN MARK

Serial Number
78461821

Status
THIRD EXTENSION - GRANTED

Word Mark
STAR EN ESPAÑOL

Standard Character Mark
Yes

Type of Mark
TRADEMARK; SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(4) STANDARD CHARACTER MARK

Owner
American Media Operations, Inc. CORPORATION DELAWARE 1000 American
Media Way Boca Raton FLORIDA 334641000

Goods/Services
Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.
G & S: Weekly magazine, in Spanish.

Goods/Services
Class Status -- ACTIVE. IC 042. US 100 101. G & S: Computer
services, namely, providing online magazines, in Spanish, in the field
of news and entertainment.

Prior Registration(s)
1224966;2484118;2751537

Disclaimer Statement
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "en Español" APART FROM
THE MARK AS SHOWN.

Translation Statement
The foreign wording in the mark translates into English as "in
Spanish."

Filing Date
2004/08/04

Examining Attorney

Print: Sep 19, 2007

78461921

CORDOVA, RAUL

Attorney of Record
Lo-Mae Lai Chuecos

Star en Español

Print: Sep 19, 2007

78495073

DESIGN MARK

Serial Number
78495073

Status
REGISTERED

Word Mark
LA ESTRELLA DE TUCSON

Standard Character Mark
Yes

Registration Number
3134110

Date Registered
2006/08/22

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(4) STANDARD CHARACTER MARK

Owner
Pulitzer, Inc. CORPORATION DELAWARE 201 N. Harrison, Suite 600
Davenport IOWA 52801

Goods/Services
Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.
G & S: Newspapers. First Use: 2004/10/20. First Use In Commerce:
2004/10/20.

Prior Registration(s)
2606488;2802765

Disclaimer Statement
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE TUCSON APART FROM THE
MARK AS SHOWN.

Translation Statement
The English translation of LA ESTRELLA DE is THE STAR OF.

Filing Date
2004/10/05

Print: Sep 19, 2007

78495073

Examining Attorney
BLOHM, LINDA E.

Attorney of Record
Christopher J. Curran

LA ESTRELLA DE TUCSON

To: McClatchy U.S.A., Inc. (trademarks@cobaltlaw.com)
Subject: TRADEMARK APPLICATION NO. 77200163 - LA ESTRELLA -
McClatchy/LA
Sent: 9/19/2007 4:31:11 PM
Sent As: ECOM108@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 9/19/2007 FOR
APPLICATION SERIAL NO. 77200163

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://portal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77200163&doc_type=OOA&ma
(or copy and paste this URL into the address field of your browser), or visit
<http://portal.uspto.gov/external/portal/tow> and enter the application serial number to access the
Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 9/19/2007.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**

Response to Office Action

The table below presents the data as entered.

| Input Field | Entered |
|---|----------------|
| SERIAL NUMBER | 77200163 |
| LAW OFFICE ASSIGNED | LAW OFFICE 108 |
| MARK SECTION (no change) | |
| ARGUMENT(S) | |
| <p>Applicant McClatchy USA, Inc. ("Applicant") responds to the Examining Attorney's Office Action dated September 19, 2007 as follows:</p> <p>I. INFORMALITIES</p> <p>The Examining Attorney has requested Applicant provide a translation of all non-English terms in LA ESTRELLA ("Applicant's Mark" or the "Mark"). The Examining Attorney has also requested that Applicant provide an additional specimen or other evidence showing that Applicant's Mark is used in connection with a series of publications.</p> <p>A. Translation</p> <p>Applicant's Mark, LA ESTRELLA, is translated as "THE STAR."</p> <p>B. Specimen of Use</p> <p>Applicant respectfully suggests that the current specimen of use is sufficient to support the description of goods, and to establish the periodical or "series" nature of the publication. The paper, formerly called, DIARIO LA ESTRELLA (Reg. 2,498,247), is distributed Tuesday through Friday (Diario La Estrella is now distributed weekly). See, Exhibit A (article, noting the daily distribution).</p> <p>II. NO LIKELIHOOD OF CONFUSION</p> <p>The Examining Attorney has refused to register the Mark under Section 2(d) on the ground that he believes the mark so resembles the Cited Mark as to be likely to cause confusion, to cause mistake or to deceive.</p> <p>The cited registrations (collectively the "Cited Marks") are in International Class 16: THE STAR & Design (U.S. Registration No. 1,224,966) owned by American Media Operations, Inc., for a "weekly newspaper"; THE STAR PRESS & Design (U.S. Registration No. 2,824,579) owned by Media West -- INI, Inc. for "newspapers for general circulation containing topics of general interest" (the "Cited English Marks"); LA ESTRELLA DE TUCSON (U.S. Registration No. 3,134,110) owned by Pulitzer,</p> | |

Inc. for "newspapers." (the "Cited Spanish Mark").

The Examining Attorney also cited DIARIO LA ESTRELLA & Design (which translates to "The Daily Star") (U.S. Registration No. 2498247) for "Spanish language newspaper for general circulation." This registration, however, is owned by Applicant. See Exhibit B, copy of USPTO Assignment Record. With regard to the Cited Spanish Mark, Applicant attaches hereto as Exhibit C, a copy of the co-existence agreement between Applicant and owner of the Cited Spanish Mark, in which both parties agree that market factors present in this case, do not give rise to confusion or likelihood of confusion. Given the foregoing, Applicant submits that the refusals regarding these two marks will be withdrawn by Examiner and accordingly, Applicant will address the remaining two Cited English Marks listed in the paragraph above.

With regard to the remaining Cited Marks, Applicant submits that the marks are distinct and that its application should proceed to registration because in the actual commercial context in which the marks are used, they are distinct.

A. APPLICANT'S MARK IS NOT LIKELY TO BE CONFUSED WITH THE CITED MARKS

The Examining Attorney states that the Cited Marks are confusingly similar to Applicant's mark LA ESTRELLA. Applicant submits that the market factors relevant in this instance make confusion unlikely.

It is well-settled trademark law that the only proper setting to evaluate likelihood of confusion is not through the prism of theoretical comparisons, but in the marketplace. In re E.I. DuPont DeNemours & Co., 476 F.2d 1357, 1360-1361 (C.C.P.A. 1973). As the TMEP properly instructs, the question of confusion concerns "not . . . the nature of the mark, but . . . its effect 'when applied to the goods of the applicant'." The only relevant application is made in the marketplace. The words 'when applied' do not refer to a mental exercise, but to all of the known circumstances surrounding the use of the mark." In re E.I. DuPont DeNemours & Co., supra, at 1360-1361.

As the Examining Attorney has pointed out, courts look to a number of factors in the marketplace to determine likelihood of confusion. They include the similarity of the goods, channels of trade, commercial impression, and other issues. AMF, Inc. v. Sleekcraft Boats, 599 F.2d 341, 348-349 (9th Cir. 1979); TMEP §1207.01. Applicant respectfully submits that the Cited Marks are not likely to be confused with Applicant's Mark and should not be bars to registration because, considered in their entirety, the marks convey a distinct commercial impression that makes confusion between them unlikely.

B. APPLICANT'S MARK AND THE CITED MARKS ARE USED TO IDENTIFY DISTINCT GOODS

Even when marks are identical, the TTAB routinely holds that no confusion exists if goods are not related in such a way that the same persons would believe they originate from the same source. TMEP 1207.1(a)(i). Such is the case here. Applicant's Mark is used in connection with a Spanish language circular that is marketed in and around the state of Texas. In contrast, the Cited English Marks are for English speaking papers for general circulation outside the Texas area. The Cited Spanish Mark, according to its website, is for "high density Hispanic Neighborhoods in Tucson and Southern Arizona." In all cases, the goods are sufficiently distinct.

The Cited English Mark THE STAR PRESS is a daily paper directed at Muncie, Indiana residents,

available by subscription and on newsstands, distributed in and around Muncie, Indiana, and is printed in English. See Exhibit D.

The Cited English Mark THE STAR, is for a tabloid gossip magazine, glossy in form, written in English, and sold by subscription and on newsstands to those interested in celebrity gossip.

In contrast, Applicant's Mark, LA ESTRELLA, is a Spanish-only newspaper distributed to Spanish speaking adults in and around the Dallas Area. It does not reach Indiana, and it is not a gossip/celebrity tabloid.

The foregoing distinction among goods bearing the same mark is by itself sufficient to find no confusion. Case law supports a finding that confusion is further reduced when those goods and services travel in distinct channels of trade, as they must necessarily do in this case. *Electronic Design & Sales, Inc. v. Electronic Data Systems Corp.*, 954 F.2d 713, 21 U.S.P.Q.2d 1388 (Fed. Cir. 1992) (software products with the same name that are sold in different channels of trade not confusing); *Astra Pharmaceutical Products, inc. v. Beckman Instruments, Inc.*, 718 F.2d 1201, 220 U.S.P.Q. 786 (1st Cir. 1983) (pharmaceuticals and blood analyzing equipment, both bearing the mark ASTRA, both sold to and used in hospitals not likely to be confused). See also *Sears, Roebuck and Co.*, 2 U.S.P.Q.2d 1312 (T.T.A.B. 1987) (CROSS-OVER for brassieres and CROSSOVER for ladies' sportswear were not confusingly similar, even though both were for women clothing). See, also, *Attrezi LLC v. Maytag Corp.*, 436 F.3d 32 (when goods are not competitive more is required to prove confusion);

In the present case, the Cited English Marks are for daily papers, while Applicant's Mark travels only in Spanish-speaking areas, and is marketed to people who are interested in information in and around the Dallas Fort Worth area.

C. APPLICANT AND REGISTRANTS OPERATE THROUGH DISTINCT MARKETING CHANNELS AND MARKET TO DISTINCT CONSUMER GROUPS

Applicant's Hispanic-only, Texas-focused marketing channels are distinct from Registrants' respective marketing channels. Goods and services that are marketed through distinct marketing channels, such as Applicant's and Registrants', serve to further reduce confusion. *AMF, Inc. v. Sleekcraft Boat*, 599 F.2d 341, 204 U.S.P.Q. 808 (9th Cir. 1979) (distinct marketing channels reduce likelihood of confusion.) The TMEP instructs that "if the goods or services in question are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely." TMEP 1207.01(a)(i). See also, *Local Trademarks, Inc. v. Handy Boys Inc.*, 16 U.S.P.Q.2d 1156 (T.T.A.B. 1990) (finding LITTLE PLUMBER for drain opener not confusingly similar to LITTLE PLUMBER and Design for advertising services related to plumbing, because marketing channels were distinct).

Here, THE STAR PRESS is marketed in and around the Muncie, Indiana metropolitan area (a population purported to have a Hispanic population of 1.44%). THE STAR reaches English speaking readers at national chain stores and check-out counters interested in celebrity gossip. Applicant's paper is distributed in Spanish to the non-English speaking community in and around the Dallas, Texas area. Both geographic distinctions, and distinction relating to content suggest no confusion is likely.

D. THE PTO ROUTINELY RECOGNIZES THE UNIQUE DISTINCTIONS BETWEEN

PUBLICATIONS

The distinctions between printed publications, however minute, do convey a distinct commercial impression recognizable by consumers. *Standard Brands, Inc. v. RJR Foods, Inc.*, 192 U.S.P.Q. 383 (T.T.A.B. 1976) (consumers educated in a specific industry come to recognize even minute distinctions in marks). The unique distribution nature of the news and magazine industry, coupled in this case, with the clear distinction between the marks visually, and the focus on markets that speak a different language make confusion unlikely. The uniqueness of the news media / magazine industry is not lost on the PTO, which routinely registers identical, or nearly identical marks, provided there is sufficient distinction between them. In Applicant's case the products are delivered in different languages under a different mark; they are distributed through different marketing and trade channels, and provide different goods under marks that are visually, aurally, and commercially distinct support a finding that the marks are not likely to be confused. Similar marks have been allowed to coexist in conjunction with different types of publications, for example:

1. STAR (Reg. No. 1,224,966) a Cited Mark owned by American Media Operations, Inc. for "weekly newspaper" in Class 16; and

2. STAR (App. No. 76/185,172; allowed 11/28/2006) owned by Star Television Productions for, among other goods and services, "printed matter, namely, newspapers and periodicals, books and magazines relating to television, entertainment, operation of satellite television and computer" in Class 16.

3. THE STAR (Reg. No. 1,224,966), owned by American Media Operations, Inc., for a "weekly newspaper" in Class 16.

4. THE STAR PRESS & Design (U.S. Registration No. 2,824,579) owned by Media West - INI, Inc. for "newspapers for general circulation containing topics of general interest" in Class 16.

(Applicant notes the foregoing are all English publications)

5. SUN (Reg. 2,199,246) owned by American Media Operations, Inc. for "publication, namely, a weekly entertainment newspaper containing stories about the fantastic, bizarre and paranormal" in Class 16; and

6. SUN NEWS (Reg. 3,094,707) owned by K. R. USA, Inc. for "daily newspaper containing current news; editorials and feature articles" in Class 16.

7. SALON (Reg. 3,074,139) owned by Salon Media Group for "on-line electronic magazine services focusing on international arts, culture, ideas, books, music, multimedia, politics and conversation, accessible via global or non-global computer network" in Class 42; and

8. SALON NEWS (Reg. 1,806,882) owned by Advanstar Communications for a "periodical magazine relating to the beauty shop business" in Class 16.

9. TRIBUNE (Reg. 3,119,579) owned by Scranton Times, for "newspapers" in Class 16; and

10. TRIBUNE (Reg. 3,318,133) owned by McClatchy Management Services for "newspapers for general circulation" in Class 16.

As with the foregoing examples, Applicant's advertising circular LA ESTRELLA and Registrants' marks for newspapers and gossip magazine respectively, can coexist within the "publications" marketplace.

III. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Examining Attorney reconsider and withdraw the refusal to register the mark LA ESTRELLA. Applicant submits that this application is in condition for registration, and respectfully requests that the application be passed to publication.

EVIDENCE SECTION

| EVIDENCE FILE NAME(S) | |
|-------------------------------------|---|
| ORIGINAL PDF FILE | evi 75147139133-204739411 . Exhibit A. tab.pdf |
| CONVERTED PDF FILE(S) (11 pages) | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0002.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0003.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0004.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0005.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0006.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0007.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0008.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0009.JPG |
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| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0011.JPG |
| | \\TICRS2\EXPORT15\772\001\77200163\xml1\ROA0012.JPG |
| DESCRIPTION OF EVIDENCE FILE | exhibits A-D for written arguments |

ADDITIONAL STATEMENTS SECTION

| | |
|-------------|--|
| TRANSLATION | "The foreign wording in the mark translates into English as THE STAR." |
|-------------|--|

SIGNATURE SECTION

| | |
|----------------------|----------------------|
| RESPONSE SIGNATURE | /Lara Kehoe Hoffman/ |
| SIGNATORY'S NAME | Lara Kehoe Hoffman |
| SIGNATORY'S POSITION | Attorney of record |
| DATE SIGNED | 03/19/2008 |
| AUTHORIZED SIGNATORY | YES |

FILING INFORMATION SECTION

| | |
|-------------|--|
| SUBMIT DATE | Wed Mar 19 20:55:17 EDT 2008 |
| | USPTO/ROA-75.147.139.133- 20080319205517219860-7720 |

TEAS STAMP

0163-4209fa3ab557e144bd33
5bef8ca4737f68b-N/A-N/A-2
0080319204739411535

PTO Form 1957 (Rev. 9/2005)
OMB No. 0651-0050 (Exp. 9/2009)

Response to Office Action
To the Commissioner for Trademarks:

Application serial no. 77200163 has been amended as follows:

ARGUMENT(S)

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

Applicant McClatchy USA, Inc. ("Applicant") responds to the Examining Attorney's Office Action dated September 19, 2007 as follows:

I. INFORMALITIES

The Examining Attorney has requested Applicant provide a translation of all non-English terms in LA ESTRELLA ("Applicant's Mark" or the "Mark"). The Examining Attorney has also requested that Applicant provide an additional specimen or other evidence showing that Applicant's Mark is used in connection with a series of publications.

A. Translation

Applicant's Mark, LA ESTRELLA, is translated as "THE STAR."

B. Specimen of Use

Applicant respectfully suggests that the current specimen of use is sufficient to support the description of goods, and to establish the periodical or "series" nature of the publication. The paper, formerly called, DIARIO LA ESTRELLA (Reg. 2,498,247), is distributed Tuesday through Friday (Diario La Estrella is now distributed weekly). See, Exhibit A (article, noting the daily distribution).

II. NO LIKELIHOOD OF CONFUSION

The Examining Attorney has refused to register the Mark under Section 2(d) on the ground that he believes the mark so resembles the Cited Mark as to be likely to cause confusion, to cause mistake or to deceive.

The cited registrations (collectively the "Cited Marks") are in International Class 16: THE STAR & Design (U.S. Registration No. 1,224,966) owned by American Media Operations, Inc., for a "weekly newspaper"; THE STAR PRESS & Design (U.S. Registration No. 2,824,579) owned by Media West - INI, Inc. for "newspapers for general circulation containing topics of general interest" (the "Cited

English Marks"); LA ESTRELLA DE TUCSON (U.S. Registration No. 3,134,110) owned by Pulitzer, Inc. for "newspapers." (the "Cited Spanish Mark").

The Examining Attorney also cited DIARIO LA ESTRELLA & Design (which translates to "The Daily Star") (U.S. Registration No. 2498247) for "Spanish language newspaper for general circulation." This registration, however, is owned by Applicant. See Exhibit B, copy of USPTO Assignment Record. With regard to the Cited Spanish Mark, Applicant attaches hereto as Exhibit C, a copy of the co-existence agreement between Applicant and owner of the Cited Spanish Mark, in which both parties agree that market factors present in this case, do not give rise to confusion or likelihood of confusion. Given the foregoing, Applicant submits that the refusals regarding these two marks will be withdrawn by Examiner and accordingly, Applicant will address the remaining two Cited English Marks listed in the paragraph above.

With regard to the remaining Cited Marks, Applicant submits that the marks are distinct and that its application should proceed to registration because in the actual commercial context in which the marks are used, they are distinct.

A. APPLICANT'S MARK IS NOT LIKELY TO BE CONFUSED WITH THE CITED MARKS

The Examining Attorney states that the Cited Marks are confusingly similar to Applicant's mark LA ESTRELLA. Applicant submits that the market factors relevant in this instance make confusion unlikely.

It is well-settled trademark law that the only proper setting to evaluate likelihood of confusion is not through the prism of theoretical comparisons, but in the marketplace. In *re* E.I. DuPont DeNemours & Co., 476 F.2d 1357, 1360-1361 (C.C.P.A. 1973). As the TMEP properly instructs, the question of confusion concerns "not . . . the nature of the mark, but . . . its effect 'when applied to the goods of the applicant'." The only relevant application is made in the marketplace. The words 'when applied' do not refer to a mental exercise, but to all of the known circumstances surrounding the use of the mark." In *re* E.I. DuPont DeNemours & Co., *supra*, at 1360-1361.

As the Examining Attorney has pointed out, courts look to a number of factors in the marketplace to determine likelihood of confusion. They include the similarity of the goods, channels of trade, commercial impression, and other issues. *AMF, Inc. v. Sleekcraft Boats*, 599 F.2d 341, 348-349 (9th Cir. 1979); TMEP §1207.01. Applicant respectfully submits that the Cited Marks are not likely to be confused with Applicant's Mark and should not be bars to registration because, considered in their entireties, the marks convey a distinct commercial impression that makes confusion between them unlikely.

B. APPLICANT'S MARK AND THE CITED MARKS ARE USED TO IDENTIFY DISTINCT GOODS

Even when marks are identical, the TTAB routinely holds that no confusion exists if goods are not related in such a way that the same persons would believe they originate from the same source. TMEP 1207.1(a)(i). Such is the case here. Applicant's Mark is used in connection with a Spanish language circular that is marketed in and around the state of Texas. In contrast, the Cited English Marks are for English speaking papers for general circulation outside the Texas area. The Cited Spanish Mark, according to its website, is for "high density Hispanic Neighborhoods in Tucson and Southern Arizona." In all cases, the goods are sufficiently distinct.

The Cited English Mark THE STAR PRESS is a daily paper directed at Muncie, Indiana residents,

available by subscription and on newsstands, distributed in and around Muncie, Indiana, and is printed in English. See Exhibit D.

The Cited English Mark THE STAR, is for a tabloid gossip magazine, glossy in form, written in English, and sold by subscription and on newsstands to those interested in celebrity gossip.

In contrast, Applicant's Mark, LA ESTRELLA, is a Spanish-only newspaper distributed to Spanish speaking adults in and around the Dallas Area. It does not reach Indiana, and it is not a gossip/celebrity tabloid.

The foregoing distinction among goods bearing the same mark is by itself sufficient to find no confusion. Case law supports a finding that confusion is further reduced when those goods and services travel in distinct channels of trade, as they must necessarily do in this case. *Electronic Design & Sales, Inc. v. Electronic Data Systems Corp.*, 954 F.2d 713, 21 U.S.P.Q.2d 1388 (Fed. Cir. 1992) (software products with the same name that are sold in different channels of trade not confusing); *Astra Pharmaceutical Products, inc. v. Beckman Instruments, Inc.*, 718 F.2d 1201, 220 U.S.P.Q. 786 (1st Cir. 1983) (pharmaceuticals and blood analyzing equipment, both bearing the mark ASTRA, both sold to and used in hospitals not likely to be confused). See also *Sears, Roebuck and Co.*, 2 U.S.P.Q.2d 1312 (T.T.A.B. 1987) (CROSS-OVER for brassieres and CROSSOVER for ladies' sportswear were not confusingly similar, even though both were for women clothing). See, also, *Attrezi LLC v. Maytag Corp.*, 436 F.3d 32 (when goods are not competitive more is required to prove confusion);

In the present case, the Cited English Marks are for daily papers, while Applicant's Mark travels only in Spanish-speaking areas, and is marketed to people who are interested in information in and around the Dallas Fort Worth area.

C. APPLICANT AND REGISTRANTS OPERATE THROUGH DISTINCT MARKETING CHANNELS AND MARKET TO DISTINCT CONSUMER GROUPS

Applicant's Hispanic-only, Texas-focused marketing channels are distinct from Registrants' respective marketing channels. Goods and services that are marketed through distinct marketing channels, such as Applicant's and Registrants', serve to further reduce confusion. *AMF, Inc. v. Sleekcraft Boat*, 599 F.2d 341, 204 U.S.P.Q. 808 (9th Cir. 1979) (distinct marketing channels reduce likelihood of confusion.) The TMEP instructs that "if the goods or services in question are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely." TMEP 1207.01(a)(i). See also, *Local Trademarks, Inc. v. Handy Boys Inc.*, 16 U.S.P.Q.2d 1156 (T.T.A.B. 1990) (finding LITTLE PLUMBER for drain opener not confusingly similar to LITTLE PLUMBER and Design for advertising services related to plumbing, because marketing channels were distinct).

Here, THE STAR PRESS is marketed in and around the Muncie, Indiana metropolitan area (a population purported to have a Hispanic population of 1.44%). THE STAR reaches English speaking readers at national chain stores and check-out counters interested in celebrity gossip. Applicant's paper is distributed in Spanish to the non-English speaking community in and around the Dallas, Texas area. Both geographic distinctions, and distinction relating to content suggest no confusion is likely.

D. THE PTO ROUTINELY RECOGNIZES THE UNIQUE DISTINCTIONS BETWEEN PUBLICATIONS

The distinctions between printed publications, however minute, do convey a distinct commercial impression recognizable by consumers. *Standard Brands, Inc. v. RJR Foods, Inc.*, 192 U.S.P.Q. 383 (T.T.A.B. 1976) (consumers educated in a specific industry come to recognize even minute distinctions in marks). The unique distribution nature of the news and magazine industry, coupled in this case, with the clear distinction between the marks visually, and the focus on markets that speak a different language make confusion unlikely. The uniqueness of the news media / magazine industry is not lost on the PTO, which routinely registers identical, or nearly identical marks, provided there is sufficient distinction between them. In Applicant's case the products are delivered in different languages under a different mark; they, are distributed through different marketing and trade channels, and provide different goods under marks that are visually, aurally, and commercially distinct support a finding that the marks are not likely to be confused. Similar marks have been allowed to coexist in conjunction with different types of publications, for example:

- ® STAR (Reg. No. 1,224,966) a Cited Mark owned by American Media Operations, Inc. for "weekly newspaper" in Class 16; and
- ® STAR (App. No. 76/185,172; allowed 11/28/2006) owned by Star Television Productions for, among other goods and services, "printed matter, namely, newspapers and periodicals, books and magazines relating to television, entertainment, operation of satellite television and computer" in Class 16.
- ® THE STAR (Reg. No. 1,224,966), owned by American Media Operations, Inc., for a "weekly newspaper" in Class 16.
- ® THE STAR PRESS & Design (U.S. Registration No. 2,824,579) owned by Media West - INI, Inc. for "newspapers for general circulation containing topics of general interest" In Class 16.

(Applicant notes the foregoing are all English publications)

- ® SUN (Reg. 2,199,246) owned by American Media Operations, Inc. for "publication, namely, a weekly entertainment newspaper containing stories about the fantastic, bizarre and paranormal" in Class 16; and
- ® SUN NEWS (Reg. 3,094,707) owned by K. R. USA, Inc. for "daily newspaper containing current news; editorials and feature articles" in Class 16.
- ® SALON (Reg. 3,074,139) owned by Salon Media Group for "on-line electronic magazine services focusing on international arts, culture, ideas, books, music, multimedia, politics and conversation, accessible via global or non-global computer network" in Class 42; and
- ® SALON NEWS (Reg. 1,806,882) owned by Advanstar Communications for a "periodical magazine relating to the beauty shop business" in Class 16.
- ® TRIBUNE (Reg. 3,119,579) owned by Scranton Times, for "newspapers" in Class 16; and
- ® TRIBUNE (Reg. 3,318,133) owned by McClatchy Management Services for "newspapers for general circulation" in Class 16.

As with the foregoing examples, Applicant's advertising circular LA ESTRELLA and Registrants' marks for newspapers and gossip magazine respectively, can coexist within the "publications" marketplace.

III. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Examining Attorney reconsider and withdraw the refusal to register the mark LA ESTRELLA. Applicant submits that this application is in

condition for registration, and respectfully requests that the application be passed to publication.

EVIDENCE

Evidence in the nature of exhibits A-D for written arguments has been attached.

Original PDF file:

evi 75147139133-204739411 . Exhibit A tab.pdf

Converted PDF file(s) (11 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

Evidence-7

Evidence-8

Evidence-9

Evidence-10

Evidence-11

ADDITIONAL STATEMENTS

Translation

"The foreign wording in the mark translates into English as THE STAR."

SIGNATURE(S)

Response Signature

Signature: /Lara Kehoe Hoffman/ Date: 03/19/2008

Signatory's Name: Lara Kehoe Hoffman

Signatory's Position: Attorney of record

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.

Serial Number: 77200163

Internet Transmission Date: Wed Mar 19 20:55:17 EDT 2008

TEAS Stamp: USPTO/ROA-75.147.139.133-200803192055172

19860-77200163-4209fa3ab557e144bd335bef8

ca4737f68b-N/A-N/A-20080319204739411535

Exhibit A
Office Action Response
Serial No. 77/200,163

Spanish Dailies Face Off in Dallas

By Mindy Charski

Publication: Adweek

Date: Tuesday, August 12 2003

Center on Urban & Metropolitan Policy and the Pew Hispanic Center.

Diario La Estrella is expanding its content to offer more news, features, sports and classifieds. The free paper will be published Tuesday through Saturday and will have a daily circulation of 25,000 (*Al Dia* will initially print 40,000 copies). It will be circulated through both home delivery and on racks in Dallas and Fort Worth.

Exhibit B
Office Action Response
Serial No. 77/200,163



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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: 76540137

Filing Dt: 08/13/2003

Reg #: 2977603

Reg. Dt: 07/26/2005

Registrant: Star-Telegram Operating, Ltd.

Mark: DIARIO LA ESTRELLA

Assignment: 1

Reel/Frame: 3502/0384

Received: 03/16/2007

Recorded: 03/16/2007

Pages: 12

Conveyance: MERGER

Assignor: KNIGHT RIDDER, INC.

Exec Dt: 06/27/2006

Entity Type: CORPORATION

Citizenship: FLORIDA

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: THE MCCLATCHY COMPANY

2100 Q STREET

SACRAMENTO, CALIFORNIA 95816

Correspondent: TSAN ABRAHAMSON/COBALT LLP

819 BANCROFT WAY

BERKELEY, CA 94710

Assignment: 2

Reel/Frame: 3496/0260

Received: 03/08/2007

Recorded: 03/08/2007

Pages: 4

Conveyance: NUNC PRO TUNC ASSIGNMENT

Assignor: ABC MEDIA, LLC

Exec Dt: 03/05/2007

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: FLORIDA

Assignee: KNIGHT RIDDER, INC.

50 WEST SAN FERNANDO STREET

SAN JOSE, CALIFORNIA 95113

Correspondent: TSAN ABRAHAMSON/COBALT LLP

819 BANCROFT WAY

BERKELEY, CA 94710

Assignment: 3

Reel/Frame: 3544/0763

Received: 05/17/2007

Recorded: 05/17/2007

Pages: 7

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE ASSIGNOR AND ASSIGNEE PREVIOUSLY RECORDED ON REEL 003496 FRAME 0260. ASSIGNOR(S) HEREBY CONFIRMS THE MARK DIARIO LA ESTRELLA AND DESIGN WAS MISTAKENLY INCLUDED ON THE ASSIGNMENT AND ATTACHES A CORRECT ASSIGNMENT.

Assignor: STAR TELEGRAM OPERATING, LTD.

Exec Dt: 05/16/2007

Entity Type: LIMITED PARTNERSHIP

Citizenship: TEXAS

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MCCLATCHY U.S.A., INC.

2100 Q STREET

SACRAMENTO, CALIFORNIA 94710

Correspondent: TSAN ABRAHAMSON/COBALT LLP

819 BANCROFT WAY

BERKELEY, CA 94710

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Web Interface last modified: April 20, 2007 v.2.0.1

Search Results as of: 03/19/2008 08:28 PM

The Star Press

50¢
Muncie, Indiana

www.thestarpress.com
Mayor's new role means changes
Faith, IC

Central defeats Richmond 36-18
High school football, 1D

Tornadoes rip through area

to
S, a
er
Gaston

High East Central
leaving a path of
destruction the like-
ly's emergency



Damage
widespread
across state

THE ASSOCIATED PRESS

Storms and probable torna-
does raked Indiana on Friday,
destroying dozens of homes,
uprooting trees and downing
power lines in some of the
worst storm damage to hit the
state in years.



Friday
crash kills
three men

By NICK WERNER
news@thestarpress.com



**JULIA ROBERTS OFFERS
LOVER'S WIFE \$100,000** *'Please
divorce
him,'
she begs*

THE #1 CELEBRITY NEWS MAGAZINE

DOUBLE ISSUE
Star



**Boozing
Chelsea
cleans up
her act**

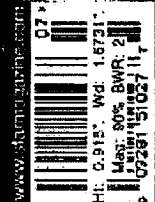


**WILLIAM
AND
BRITNEY
SCANDAL**

**The SEX secret
she's hiding!**



**24 PAGE SPECIAL
100 SEXIEST STARS**
*You pick 'em in our
\$5,000 giveaway*



**O.J. LIVING
IN FEAR!**



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| TARR Status | ASSIGN Status | IDR | TTAB Status |
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 (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

| | |
|---------------------------------|--|
| Word Mark | THE INDIANAPOLIS STAR |
| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: newspapers for general circulation containing topics of general interest. FIRST USE: 19030606. FIRST USE IN COMMERCE: 19030606 |
| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 76460206 |
| Filing Date | October 11, 2002 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | August 19, 2003 |
| Registration Number | 2781575 |
| Registration Date | November 11, 2003 |
| Owner | (REGISTRANT) Media West - INI, Inc. CORPORATION DELAWARE 50 West Liberty Street, Suite 802 Bank of America Plaza Reno NEVADA 89501 (LAST LISTED OWNER) INDIANA NEWSPAPERS, INC. CORPORATION INDIANA 7950 JONES BRANCH DRIVE MCLEAN VIRGINIA 22107 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | Suzanne M. Underwald |
| Disclaimer | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INDIANAPOLIS" APART FROM THE MARK AS SHOWN |

Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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BUSINESS: Dow drops 189 points to fall to 4-year low. C1

THE INDIANAPOLIS STAR

"Where the Spirit of the Lord is, there is Liberty" - II Cor. 3:17

WEDNESDAY, SEPTEMBER 25, 2002

WWW.INDYSTAR.COM

Irsay: Colts to stay through '03

■ Owner commits only through next season, says city must come up with more money.

By Matthew Ily

mily@indystar.com

Indianapolis Colts owner Jim Irsay insists the franchise is staying put through the 2003 season.

"I'm not moving to Los Angeles," he said in a recent interview with The Star. "I can't say it

any simpler. My interest is in getting something done in Indianapolis."

Recent speculation, however, is that the Colts are considering a move to California, possibly after the end of this season. Team officials have denied that suggestion.

When asked if the Colts are going to remain in Indianapolis for the 2003 season, Irsay offered a simple answer: "No, we are."

But Irsay was noncommittal when asked if he could guarantee the Colts will remain here

through at least the 2005 season, when a conditional escape clause in the team's RCA Dome lease kicks in.

"It's like asking me hypothetically, 'What are you going to do if Peyton Manning gets hurt?' I don't contemplate that," he said.

The future of the Colts in Indianapolis has been one of the summer's hottest topics, and a debate is raging over how much the city should spend to keep the team.

See Irsay, Page A8

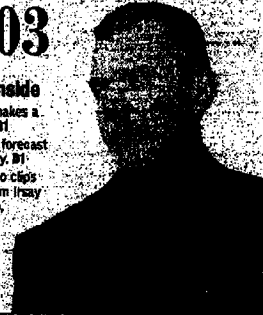
More coverage inside

■ John Stream: Survey makes a case for a new stadium. B1

■ Bob Kravitz: Long-term forecast for Colts' staying is cloudy. B1

■ Mike Thomas: Listen to clips of interviews with Jim Irsay and Mayor Peterson. Also, read the Colts' lease and Star Library's Fact File on the team. Go to Star

Links at www.indystar.com/starlinks/.



"What we finally came to realize is that it's going to require a major rethinking of the program."

Pat Wachtel, Dayspring board president



Charges arise from



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THE EAST HAMPTON STAR

Word Mark THE EAST HAMPTON STAR

Goods and Services IC 041. US 100 101 107. G & S: Providing online newspapers for general circulation via the internet. FIRST USE: 19960926. FIRST USE IN COMMERCE: 19960926

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 01.01.06 - Stars with rays or radiating lines

Serial Number 76408223

Filing Date May 15, 2002

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition November 16, 2004

Registration Number 2924628

Registration Date February 8, 2005

Owner (REGISTRANT) The East Hampton Star CORPORATION NEW YORK 153 Main Street P.O. Box 5002 East Hampton NEW YORK 11937

Description of Mark The mark consists of the words EAST HAMPTON in upper case letters curving above a six pointed star. Lines radiating from the upper half of this star intersect the words EAST HAMPTON. The word THE is in larger upper case letters immediately to the left of the star and lines. The word STAR is also in larger upper case letters and is immediately to the right of the star and lines.

Type of Mark SERVICE MARK

Register PRINCIPAL-2(F)-IN PART

Affidavit Text SECT 8 (6-YR).

Live/Dead Indicator LIVE

Distinctiveness

Limitation as to "EAST HAMPTON"

Statement

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 List At: _____ OR to record: _____ **Record 115 out of 130**
[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

| | |
|---------------------------------|---|
| Word Mark | YORBA LINDA STAR |
| Goods and Services | IC 016. US 038. G & S: Newspapers. FIRST USE: 19760603. FIRST USE IN COMMERCE: 19781129 |
| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 73328454 |
| Filing Date | September 17, 1981 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | February 8, 1983 |
| Registration Number | 1236236 |
| Registration Date | May 3, 1983 |
| Owner | (REGISTRANT) Highlander Publications, Inc. CORPORATION CALIFORNIA 1201 S. Hacienda Blvd. Hacienda Heights CALIFORNIA 91745 (LAST LISTED OWNER) GOLDEN WEST PUBLISHING, INC. UNKNOWN NOT PROVIDED 23811 VIA FABRICANTE MISSION VIEJO CALIFORNIA 92690 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | STEVEN J. NATAUPSKY |
| Disclaimer | No claim is made to the exclusive right to use the words "Yorba Linda", apart from the mark as shown. |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20050325.

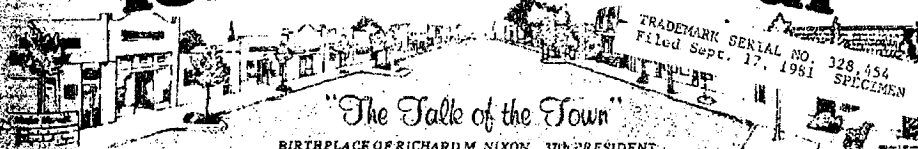
Renewal 1ST RENEWAL 20050325

Live/Dead Indicator LIVE

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Yorba Linda Star



"The Talk of the Town"

BIRTHPLACE OF RICHARD M. NIXON, 37th PRESIDENT

Vol. 65 No. 58 Zone 32 • Established in 1917 • Wednesday, May 12, 1982 • A Media General Publication • Price 35 cents

City To Annex Santa Ana Canyon

Annexation proceedings are underway in Yorba Linda to include the Santa Ana Canyon. Although no formal action has been initiated by the City of Anaheim which has sought the annexation, local officials are investigating behind the scenes what steps they will take to regain that territory which lies between the Riverside Freeway and the Santa

Ana River near Wair Canyon Road.

"The City Council will be discussing the matter further, but at this point it hasn't made any decision regarding possible revenue," said Joel Fick, Anaheim's assistant planning director.

The Local Agency Formation Commission recently voted 3-2 in favor of giving Yorba Linda all but 45 acres of the 375-acre Santa Ana Valley Irrigation Ranch. 42 acres owned by Santa Ana Sub and the 20-acre Fick Ranch. The ranch was granted by Anna of Landmark was within the city's sphere and close to 45 acres of Santa Ana Valley Irrigation property west of Wair Canyon Road.

Initially Yorba Linda has requested that its citizens of the city be given the right to vote on the city's annexation of the property. (This land could bring the city additional income as

it is looking for new funding sources to make up for its lack of property tax).

However, Anaheim attempted to maintain its sphere of influence boundaries which included a major portion of the 800 acres LAFIC gave the city years ago.

After learning of Yorba Linda's plans to extend its boundaries, Anaheim officials sent a letter regarding rights of way to the city. The letter was a request for a meeting of the two cities to discuss the matter. The meeting was held in Anaheim's sphere of influence.

Such action has blocked construction of the country's portion of the freeway link, an overpass spanning Esperanza Road, and the Santa Ana River bridge connecting the Yorba Linda area to the Riverside Freeway.

Photo Shoot At Wilderness Center

Yorba Linda photographer Robert Cardoff, the Anaheim Hills Nature Center and many young aspiring models will gather Sunday, 10 a.m. to 3 p.m. at the center for a photo shoot.

Shown below are several samples of what to expect from the models at the center.



AT HOME WITH NATURE — Maria Martin, Yorba Linda, shows what the wilderness center can offer a sunny dress and a smile. (Photo by Robert Cardoff)



WESTERN ELEGANCE — Brenda Coleman, Anaheim Hills, shows a Western dress and a smile. (Photo by Robert Cardoff)



HER FIRST JOB — Carolyn (left) and her mother, Carolyn, show what the wilderness center can offer a sunny dress and a smile. (Photo by Robert Cardoff)

She's modeling for the photo any camera in the wilderness center. (Photo by Robert Cardoff)

Teachers Join Donkey For Basketball Match

The teachers of the school will join the donkey team in a basketball game May 21, 7:30 p.m. in the school's gymnasium.

Larry Duncan, boys varsity soccer coach at Esperanza, is coaching the event to help raise money for team uniforms.

Burros Sports Incorporated from Riverside will provide the donkeys for five from the Esperanza faculty including Duncan and guest Dave Jokers, versus faculty members from

Esperanza. The game will be held at the school's gymnasium. Coach Duncan says he's never seen donkeys basketball this you know it's a race-up.

Pre-sale tickets are being sold by Arroyo soccer players for \$2 per adult and \$1.50 per student. Children under five are free. At the door, prices are \$2.50 and \$2.

For information, call Duncan at 970-4408 or call the activity office at Esperanza 524-4283.

Dr. Seuss Comes To Life At Fairmont Program

The Parent Teachers Organization of Fairmont Elementary School will sponsor a special event for all students March 14, when Mr. Anybody, a multi-talented performer who draws his inspiration from the characters created by Dr. Seuss will entertain students at three assemblies 10:30, 11:30, and 12:30 p.m.

Mr. Anybody, alias Robert Towers, is a trained classical actor, who after a brief presentation for juvenile audiences, discovered that his main forte was children's theatre. Incorporating the

storybook favorites of his six year old daughter, Towers seems to have an innate appreciation of what children like. The motto implicit in all his characterizations is "Never talk down to a child." Towers brings Seuss stories to life via a change of clothes, attitudes and expressions.

The audience is encouraged to use their imagination, especially for the initial offering a shivery ghostly tale, children will readily recognize a Cat in the Hat or Sam I Am magically brought to life by Towers' ingenuity.

Yorba Linda Star



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Vol. 68 No. 48

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Wednesday, July 1, 1981

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| Word Mark | STAR |
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| Mark Drawing Code | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| Serial Number | 73182128 |
| Filing Date | August 4, 1978 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | February 10, 1981 |
| Change In Registration | CHANGE IN REGISTRATION HAS OCCURRED |
| Registration Number | 1224966 |
| Registration Date | January 25, 1983 |
| Owner | (REGISTRANT) News Group Publications, Inc. CORPORATION NEW YORK 730 Third Ave. New York NEW YORK 10017 (LAST LISTED OWNER) AMERICAN MEDIA OPERATIONS, INC. CORPORATION BY |

ASSIGNMENT, BY MERGER, BY ASSIGNMENT, BY CHANGE OF NAME, BY CHANGE OF
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**Attorney of
Record** LO-MAE LAI CHUECOS

**Prior
Registrations** 1050044

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20030306.

Renewal 1ST RENEWAL 20030306

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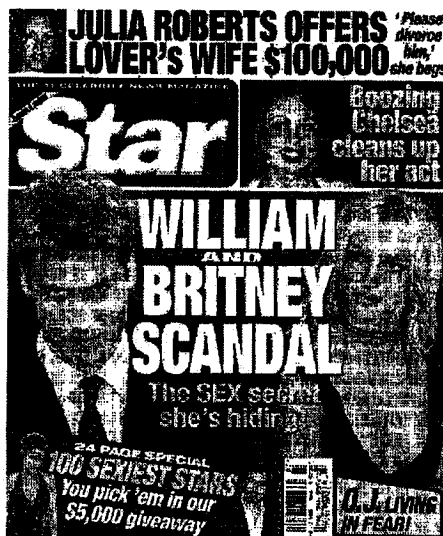
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DOUBLE ISSUE

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| Goods and Services | IC 016. US 038. G & S: DAILY NEWSPAPERS. FIRST USE: 19870701. FIRST USE IN COMMERCE: 19870701 |
| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 73682543 |
| Filing Date | September 4, 1987 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | April 18, 1989 |
| Registration Number | 1547302 |
| Registration Date | July 11, 1989 |
| Owner | (REGISTRANT) COWLES MEDIA COMPANY CORPORATION DELAWARE 329 PORTLAND AVENUE MINNEAPOLIS MINNESOTA 55415 (LAST LISTED OWNER) STAR TRIBUNE MEDIA COMPANY LLC LIMITED LIABILITY COMPANY DELAWARE 425 PORTLAND AVENUE MINNEAPOLIS MINNESOTA 55405 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | Sandra Epp Ryan |
| Prior Registrations | 1442073 |
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| Type of Mark | TRADEMARK |

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| Goods and Services | IC 016. US 002 005 022 023 029 037 038 050. G & S: Newspapers and general feature magazines. FIRST USE: 18840918. FIRST USE IN COMMERCE: 18840918 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 78802425 |
| Filing Date | January 30, 2006 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | January 9, 2007 |
| Registration Number | 3222033 |
| Registration Date | March 27, 2007 |
| Owner | (REGISTRANT) KR U.S.A., INC. CORPORATION DELAWARE 2100 Q STREET SACRAMENTO CALIFORNIA 95816 (LAST LISTED OWNER) MCCLATCHY U.S.A., INC. CORPORATION DELAWARE 2100 Q STREET SACRAMENTO CALIFORNIA 95816 |
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MONDAY & the week ahead

E Aaron Barnhart, Walter Cronkite talk TV. A-2
 & clutter? It's time to clear it out or clean it up. D-1



STEELERS TO FACE BRONCOS AFTER WILD UPSET OVER COLTS. SPORTS DAILY

THE KANSAS CITY STAR

50¢ METROPOLITAN EDITION

www.kansascity.com

Monday, January 18, 2006

THE WEEK AHEAD: Jan. 16-22

Five-day forecast: Dip, then showers

| DAY | TEMP | WIND | MOON | PHASE |
|------|-------|-------|-------|--------|
| TUE | 34-42 | 10-15 | 11:45 | Waxing |
| WED | 36-45 | 10-15 | 12:45 | Waxing |
| THUR | 34-42 | 10-15 | 1:45 | Waxing |
| FRI | 34-42 | 10-15 | 2:45 | Waxing |
| SAT | 34-42 | 10-15 | 3:45 | Waxing |

For 24 hours ending at midnight.
 Complete forecast, C-12

MILK DAY

Today is the day we honor the memory and life of Martin Luther King Jr. There is a special observance.

12:00 PM Martin Luther King Jr. Memorial Service, John C. Stennis Center, 1000 W. 12th St. Free admission. Open to all.

1:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

2:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

3:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

4:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

5:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

6:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

7:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

8:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

9:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

10:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

11:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

12:00 AM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

Special events, continuing attractions

12:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

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2:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

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11:00 PM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.

12:00 AM Martin Luther King Jr. Memorial Service, 1000 W. 12th St. Free admission. Open to all.



At various times, vintage cars are on display at the Kansas City Museum. Tickets cost \$10 to \$25. See www.kcmuseum.com for more information.

Bridge out ... for a ride in KC



This 1922 bridge eventually will be a pedestrian link between Union Station and the Crossroads area.

Experts guide old railroad structure to the Crossroads area.

By MATT CAMPBELL
 The Kansas City Star

The parade down Grand Boulevard Sunday morning had just two engines, but they were special.

They were the two engines that pulled the historic Union Station building, a 1922 structure that once carried passengers and freight, to its new home at the Crossroads area.

The building, which was once a major landmark in the city, is being moved to a new location in the Crossroads area, a new development that is being built by the city of Kansas City.

The building is being moved to a new location in the Crossroads area, a new development that is being built by the city of Kansas City.



MOVING THE BRIDGE

On Sunday the two sections of bridge were moved south on Grand Boulevard from the Union Station to a freight house district parking lot.



DRUG PLAN, CHARGES ORDERED

MEDICARE GLITCHES ADDRESSED

By ROBERT FEAR
 The New York Times

With one of the most powerful of legislative tools, the House of Representatives has ordered a 30-day delay in the implementation of a new Medicare drug plan that was previously being rolled out.

The delay is being ordered because of glitches in the plan that could leave some people without coverage.

The House is also ordering a review of the plan to ensure that it is working properly.

The House is also ordering a review of the plan to ensure that it is working properly.

HE'S CONSULTING AND REPLYING

Private sector is paying off for Ashcroft

By MATT CAMPBELL
 The New York Times

WASHINGTON — John Ashcroft, who served as attorney general under President George W. Bush, is being paid by the private sector for his services.

Ashcroft is being paid by the private sector for his services.

Ashcroft is being paid by the private sector for his services.



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Word Mark MURRYSVILLE STAR
Goods and Services IC 016, US 002 005 022 023 029 037 038 050. G & S: Newspapers for general circulation.
Standard Characters Claimed FIRST USE: 20040407. FIRST USE IN COMMERCE: 20040407
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77018413
Filing Date October 11, 2006
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition May 1, 2007
Registration Number 3264165
Registration Date July 17, 2007
Owner (REGISTRANT) Westminster Holdings, Inc. CORPORATION PENNSYLVANIA 610 Beatty Road Monroeville PENNSYLVANIA 15146

(LAST LISTED OWNER) TRIB TOTAL MEDIA, INC. CORPORATION PENNSYLVANIA 503 MARTINDALE STREET D.L. CLARK BUILDING, THIRD FLOOR PITTSBURGH

PENNSYLVANIA 15212

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Murrysville Star

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Wednesday, April 7, 2004

Volume 32, Issue 29

INSIDE

CLIFFORD'S FRIEND



Everyone's favorite big red dog, Clifford, is visiting Pittsburgh this weekend and he's bringing a friend who grew up in Murrysville. Lisa Marie Johnston returns to her hometown as Emily Elizabeth in "Clifford the Big Red Dog Live." To catch up with Johnston, wait the dog over to page 3.

CHEER PARENTS

Some local parents did more than cheer their cheerleader children on. They donned the sweaters themselves and put on a two and a half minute performance at a musical competition over the weekend. For something to cheer about, turn to page 10.

PARK VANDALS

Some Murrysville residents aren't happy that vandals have damaged local parks at least three times in recent months. See page 14.

GUILTY

A woman has pleaded guilty to a local bank robbery. See page 11.

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| Obituary | A6 |
| Worship | A20 |
| Sports | A23 |
| Crossword | B11 |
| Classifieds | A27 |

THE HUNT IS ON



THERE'S ANOTHER one! Nicco Caruso, 6, leaps from the ground and sprints through the trees of Townsend Park to gather up yet another Easter egg. The annual Easter egg hunt took place on Saturday afternoon and attracted a large crowd of hunters. For more pictures, see page 13.

Photo by Bob Pajich

ON THE ROAD

PennDOT, troopers hope to slow motorists

By Meggan Jenkins
Staff Writer

The Pennsylvania Department of Transportation and state police are sending a message to local motorists to slow down in construction zones. And those who don't heed it could lose their license for 15 days.

The state police and PennDOT are in the midst of

Operation Yellow Jacket, which disguises state police as construction workers along highways throughout the state.

Route 22 in Murrysville is among the areas where motorists might be stung by Yellow Jacket.

Further down the road all state troopers in trucks and chase cars as they wait for motorists who are violating traffic laws. When an officer

clocks a speeder with radar, he radios ahead with a description of the vehicle.

Last year 13 citations and three written warnings were issued along Route 22.

"The speed has been reduced to 35 in construction zones," said Jay Olszki, PennDOT safety press officer.

Continued on page A-2

FR SCHOOLS

Pulkowski leaves for Mt. Lebo

Takes step down in position, step up in salary; steps away from final 3 years of contract

By Bob Pajich
Staff Writer

For the second time in two years, Franklin Regional school board will search for a new superintendent.

Pam Pulkowski, who will celebrate her first anniversary as superintendent in May, accepted a position at Mt. Lebanon school district as associate superintendent.

Pulkowski served as interim superintendent at Franklin Regional for a year before being offered a four-year contract last May.

When Pulkowski took the interim superintendent position, she said she hoped to add continuity to the district. Now, less than a year into her contract, FR officials will begin another search for a superintendent.

Pulkowski's decision to leave came as a surprise and a shock to school board members who didn't expect they would have to begin a search process again.

"I'm very sad that she's not going to fulfill her contract," said boardmember Janice Hill. "I'm very disappointed that we're back in this spot again. It's clearly disruptive to the district."

Pulkowski is the third superintendent to serve Franklin

Continued on page A-2

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| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 76526755 |
| Filing Date | July 1, 2003 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | July 27, 2004 |
| Registration Number | 2894689 |
| Registration Date | October 19, 2004 |
| Owner | (REGISTRANT) Media West - GMP, Inc. CORPORATION DELAWARE 50 West Liberty Street, Suite 802 Bank of America Plaza Reno NEVADA 89501 |
| | (LAST LISTED OWNER) GANNETT SATELLITE INFORMATION NETWORK, INC. CORPORATION DELAWARE 7950 JONES BRANCH DRIVE MCLEAN VIRGINIA 22107 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | Suzanne M. Underwald |
| Type of Mark Register | TRADEMARK PRINCIPAL-2(F) |

Affidavit Text SECT 15. SECT 8 (6-YR).
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to sign prints**

Local/Ohio 3A



You're the star in the Marion Star

SENTS

FRIDAY

Marion Star

ARION, OHIO

www.MarionStar.com

MAY 9, 2003



City Schools pick Zwick

Board lauds new superintendent's enthusiasm, successes



BY MONICA TORLINE
The Marion Star

MARION — William C. Zwick will be just 45 miles from his children now that he's accepted the job of superintendent of Marion City Schools.

Zwick was unavailable for comment Thursday evening, but in an interview the same afternoon he said he applied for the opening in Marion on the condition that he could work closer to Columbus, where his children live.

His contract as superintendent of the 3,700-student Marion Hills City Schools district ends Aug. 1, but he could relocate to Marion as early as June, Chermak said. The board is expected to formally act on a contract with Zwick on May 12, giving both parties plenty of time to

Zwick's background/2A

finalize details. Chermak said the contract will be similar to the one Robert Thiede had before leaving Marion last month to become superintendent of Piquette City Schools. Thiede's salary was \$108,000.

On Web Did you know that The Marion Star first posted this story on Web page? One www.MarionStar.com breaking news as it happens

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inside today

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A celebration of reading



Alexis Noble, 11, left, 10-year-old Sierra Devlin and Annie Hornbeck, and other Olney Elementary School students who participated in the Marion Reads tutoring program this year enjoy a recognition party for students and volunteer tutors Thursday at the Carousel Convention Center. For story and another photo, please see page 3A.

Rec. center stage to tout young band

Three to play Saturday for clean teen fun

BY JOHN JAMNIS
The Marion Star

MARION — Dutch Star, This Farwell and The Arson's Daughter are spinning Marion-area bands in new ways than one.

The three bands aspire to make a career of their music, and on Saturday they aspire to entertain an audience in a family-friendly environment with their own unique spins on rock and roll.

"There's really nowhere for younger teenagers to have fun in town," said Sticky French, bass player for Dutch Star and a senior at Harding High School. "We wanted to provide an environment where kids could have fun, and parents wouldn't have to worry about them getting in trouble."

Dutch Star drummer Brett Crabtree said the venue holds not only the

Show info

The show will begin 7:30 p.m. at the Marion Recreation Center, 24 W. Church St. Dutch Star is the center for the event. Admission is \$5.

public, but the bands, viding them with rap to a wider audience.

"When you play in a room atmosphere, you really kind of want to go to hear your music," Crabtree said. "We provide a source of entertainment for young people and have a place where arts, music, can be played in this town."

French, Crabtree guitarist Patrick I have performed under name Dutch Star the year-and-a-half. Crabtree describes their music as rock and roll plays these guys wearing aing suits and ties.

"Nobody else does

Bands continues

Food-raising effort is Saturday

Mail carriers deliver for local pantries

BY JAMES STEVEN
The Marion Star

MARION — Local letter carriers help again to meet weekend food pantries with their efforts to beat hunger.

They're making local residents to have a little food for



You can help

Stamp Out Hunger by leaving food items on your front porch or near or hanging from your mailbox Saturday for local letter carriers to pick up.

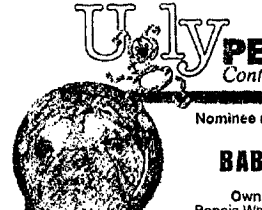
To volunteer, show up at the rear of the Marion Post Office on Bates Road west of Southland Mall at 1 p.m. Saturday or call 740-389-4621 for details.

with food. It just gives you a warm feeling.

Stamp Out Hunger drives are being conducted by 1,300 postal branches nationwide and have helped deliver 500 million pounds of food to pantries through the years.

One hundred million post cards were mailed, an effort paid for by Campbell Soup Co., which also donates about 1 million pounds of food to the cause each year.

The other sponsors involved are the United Way, the United States Postal Ser-



Nominee

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Owner Bonnie Wh

UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/526755

APPLICANT: Media West - GMP, Inc.

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CORRESPONDENT EMAIL ADDRESS:

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 76/526755

The assigned examining attorney has reviewed the referenced application and determined the following.

The examining attorney has searched the Office records and has found no similar registered mark which bars registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

The applicant must provide a response resolving the following informality.

INFORMALITY

DISCLAIMER REQUIRED

The applicant must disclaim the wording MARION in the mark because it is geographically descriptive of where the goods are provided or originate.

Trademark Act Section 6(a), 15 U.S.C. Section 1056(a), states that the Commissioner may require the applicant to disclaim an unregistrable component of a mark. Trademark Act Section 2(e), 15 U.S.C. Section 1052(e), bars the registration of a mark which is merely descriptive or deceptively misdescriptive, or primarily geographically descriptive of the goods. Therefore, the Commissioner may require the

disclaimer of a portion of a mark which, when used in connection with the goods or services, is merely descriptive or deceptively misdescriptive, or primarily geographically descriptive. If an applicant does not comply with a disclaimer requirement, the examining attorney may refuse registration of the entire mark. TMEP section 1213.01(b). A disclaimer does not remove the disclaimed matter from the mark. It is simply a statement that the applicant does *not* claim exclusive rights in the disclaimed wording or design apart from the mark as shown in the drawing.

The computerized printing format for the *Trademark Official Gazette* requires a standard form for a disclaimer. TMEP section 1213.09(a)(i). A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use "MARION" apart from the mark as shown.

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How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.