

ESTTA Tracking number: **ESTTA83332**

Filing date: **05/31/2006**

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

Proceeding	78285760
Applicant	Azimuth Systems, Inc.
Applied for Mark	AZIMUTH DIRECTOR
Correspondence Address	Thomas F. Dunn Pendleton, P.C. Suite 2051601 Trapelo Road Waltham, MA 02451 UNITED STATES tfd@mbbp.com
Submission	Reply Brief
Attachments	Reply Brief (Azimuth Systems).pdf (1 page)(30271 bytes)
Filer's Name	Thomas F. Dunn
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Signature	/Thomas F. Dunn/
Date	05/31/2006

REPLY BRIEF

At bottom, this matter presents the question whether the Office will look past or look to the realities of the market.

The applicant owns the AZIMUTH mark in U.S. Reg. No. 2848650.

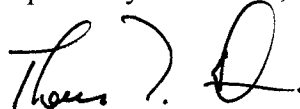
The applicant has used the AZIMUTH mark in commerce since September 1993.

In the nearly three years that the applicant has used its registered AZIMUTH mark in the market, to the best of its knowledge there have been no instances of actual confusion between its mark and the registrant's AZIMUTH INCORPORATED (& Design) mark.

That applicant should now be denied a registration in the AZIMUTH DIRECTOR mark on the basis that AZIMUTH DIRECTOR is likely to cause confusion with AZIMITH INCORPORATED (& Design) - notwithstanding the fact that AZIMUTH and AZIMITH INCORPORATED (& Design) have co-existed for several years without giving rise to any actual confusion - would succeed only in elevating technical arguments over practical realities.

The applicant respectfully requests that the Board not look past but rather look to the realities of the market, and allow the applicant's mark to publish.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Thomas F. Dunn".

Thomas F. Dunn
Counsel for Applicant