ESTTA Tracking number: **ESTTA145270**

Filing date: **06/11/2007**

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

Proceeding	78598734
Applicant	PARIS CROISSANT CO., LTD.
Applied for Mark	PARIS BAGUETTE
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Submission	Reply Brief
Attachments	i219replybrief061107.pdf (5 pages)(175606 bytes)
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Date	06/11/2007

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of

PARIS CROISSANT CO., LTD. Examining Attorney

ZAK, HENRY S

S. N. 78/598,734 Law Office: 117

Filed: March 30, 2005 Ex Parte Appeal

For: PARIS BAGUETTE & design (class 30)

APPLICANT'S REPLY BRIEF

This is the applicant's reply brief for the above-referenced matter. Applicant respectfully requests that the Examining Attorney's refusal to register be reversed in view of the responses and brief previously filed and the below noted points.

Applicant submits that the mark should be considered as a whole, and when so considered, would not be geographically deceptive and would not be primarily geographically misdescriptive.

In the Examining Attorney's brief, the Examining Attorney counters applicant's argument that the wording PARIS BAGUETTES [sic] (please note that the mark is PARIS

BAGUETTE & design) including a design element and that the mark should be considered as a whole, by mentioning Trademark Section 2(a) as prohibiting registration of deceptive matter, and cites a case Am. Speech-Language-Hearing Ass'n v. Nat'l Hearing Aid Soc'y as supporting this analysis. But applicant respectfully submits that the controlling case for dealing with this point in Section 2(e) geographically deceptive and geographically deceptive misdescriptive rejections is In re Save Venice New York, 59 USPQ2d 1778 (CAFC 2001). The In re Save Venice New York court notes that "Under the first prong of the test – whether the mark's primary significance is a generally known geographic location – a composite mark such as the applicant's proposed mark must be evaluated as a whole." In re Save Venice New York, 59 USPQ2d 1778, 1782 (CAFC 2001). While the case does note that it is not erroneous for the Examiner to consider the significance of each element in the composite mark in evaluating the mark as a whole [emphasis added by Applicant], Applicant would argue that the In re Save Venice New York case overrides the Examiner's position noted in the Examiner's brief that seems to conclude that the mark as a whole need not be considered when determining geographically deceptively misdescriptive issues.

Applicant further submits that even if it is decided that the primary significance of the mark is a generally known geographic location, purchasers would not be likely to believe that the goods originated from Paris, and that misrepresentation would not be a material factor in the purchaser's decision to buy the goods/services. As evidence already of record has shown, bread comes from all over the world. It is submitted that consumers would not expect that goods sold under applicant's mark would be from Paris.

As noted before by applicant in applicant's brief, on page 8 of the office action of November 1, 2005, prints submitted with the action, note that, in discussing what a baguette is, that "baguettes can be found everywhere in France, and now, (theoretically) anywhere in the world". It is respectfully submitted that this shows that the term baguette cannot be attributed to have exclusive association and meaning related to France or Paris - it is a world wide available item. It is respectfully submitted that this would therefore indicate that there is not misrepresentation or deception and even if there were, consumers have become so accustomed to finding baguettes anywhere in the world, that they do not and would not presume that they would come from France.

Please contact applicant's attorney at 503-224-0115 if there are any questions. Thank you.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION
I hereby certify that this appeal brief is being electronically transmitted to the Trademark Trial and Appeal Board, on this June 11, 2007.

James H. Walters

TABLE OF AUTHORITIES

In re Save Venice New York, 59 USPQ2d 1778, 1782 (CAFC 2001).