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

Proceeding	85369372
Applicant	Zinpro Corporation
Applied for Mark	FOOD FOR FEET
Correspondence Address	EDMUND J SEASE MCKEE VOORHEES & SEASE PLC 801 GRAND AVENUE, SUITE 3200 DES MOINES, IA 50309 UNITED STATES patatty@ipmvs.com
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Filer's Name	Edmund J. Sease
Filer's e-mail	patatty@ipmvs.com
Signature	/Edmund J. Sease/
Date	10/23/2012

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

In re Trademark Application of:

Applicant: Zinpro Corporation

Serial No: 85/369,372

Mark: FOOD FOR FEET

International Class: 35

**REPLY BRIEF**

**I. INTRODUCTION**

This addresses the arguments raised in the Examining Attorney's Appeal Brief.

The Examiner's Brief does little more than lift sections from the TMEP. But the issue is whether factually there is created a direct or implied association between the mark "FOOD FOR FEET" and the services: "retail store services featuring mineral supplements to promote healthy feet and/or legs of livestock and poultry".

The Examiner does not even address paragraphs 3, 4, and 5 of the Rule 2.20 Declaration of Dr. Navarro, Director of Global Marketing for Zinpro Corporation. This declaration was submitted in conjunction with an entire series (6) of additional specimens. Indeed, in the end the Examiner's entire argument distills to this single sentence from his brief:

"The Applicant is under the mistaken belief that because the Applicant uses the proposed mark FOOD FOR FEET in advertising and promotional materials for the goods that it sells that this fact shows use of the mark as a service mark that indicates a source of the listed retail store services". (Examiner's Brief at page 4).

Applicant submitted six (6) additional specimens, all prominently displaying Zinpro as the source and “FOOD FOR FEET” as the mark. The Navarro Declaration explains the implied if not direct connection to the retail store services. This is unlike the Examiner’s cited Christmas tree case (*In re Adair*, 45 USPQ 2d 1211 (TTAB 1997) because there the record was devoid of any evidence linking the design services with Christmas trees tagged with the mark in question. In other words the link here provided by the Navarro Declaration was missing in *In re Adair, supra*.

## II. CONCLUSION

The Examiner should be reversed; the specimens do show a direct or at least implied association between the mark FOOD FOR FEET and the services.

Respectfully submitted,



**EDMUND J. SEASE, Reg. No. 24,741**  
McKEE, VOORHEES & SEASE, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, Iowa 50309-2721  
Phone No. (515) 288-3667  
Fax No. (515) 288-1338  
**CUSTOMER NO: 22885**

Attorneys of Record

- EJS/bmd -