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

Proceeding	86474261
Applicant	Banom, Inc.
Applied for Mark	COMFORT PLUS
Correspondence Address	STANLEY H COHEN CAESAR RIVISE PC FL 12 SEVEN PENN CENTER, 1635 MARKET ST PHILADELPHIA, PA 19103-2212 UNITED STATES TRADEMARKS@CRBCP.COM, CRBCPLTD@GMAIL.COM, SCOHEN@CRBCP.COM, EBROBINSON@CRBCP.COM
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Filer's Name	Stanley H. Cohen
Filer's e-mail	TRADEMARKS@CRBCP.COM, CRBCPLTD@GMAIL.COM, SCOHEN@CRBCP.COM, EBROBINSON@CRBCP.COM
Signature	/Stanley H. Cohen/
Date	03/14/2016

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

Applicant : Banom, Inc.
Serial No. : 86/474,261
Filed : December 8, 2014
For : Trademark COMFORT PLUS
Tracking No. : ESTTA706785

APPELLANT'S REPLY BRIEF

Stanley H. Cohen
Caesar Rivise, PC
12th Floor, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212
Telephone: 215-567-2010
Telecopier: 215-751-1142
E-mail: scohen@crbcp.com
Attorneys for Applicant
Customer No. 03000

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APPELLANT'S REPLY BRIEF

I. INTRODUCTION

This brief is in reply to the Examining Attorney's Appeal Brief.

II. ARGUMENT

A. The Marks in Issue are not Confusingly Similar

In discussing the similarity of the marks in issue, the Examining Attorney again relies on *In re Mighty Leaf Tea*, 94 USPQ2d 1257 (Fed. Cir. 2010) and *In re Optica International*, 196 USPQ 775 (TTAB 1977), as he did during the prosecution of this application. These cases were cited for the proposition that merely deleting matter from an already registered mark may not be sufficient to overcome a likelihood of confusion. Both of these cases were discussed at length on Pages 8 and 9 of Appellant's Brief, and the facts in issue were distinguished from those in these cases.

By way of summary, in one case the term eliminated was the name of the person whose initials formed the dominant part of the mark. In the other case, the eliminated word was obviously descriptive.

In the instant application, the word sought to be eliminated from the registered mark is the dominant word in the mark.

The Examining Attorney's Appeal Brief does not contain any response to the distinctions pointed out in Appellant's Brief.

Appellant also contended, in its brief, that the marks must be compared in their entireties. Again, there is no discussion of this issue in the Examining Attorney's Brief. It is merely concluded that because the marks are comprised of identical terms, the marks are confusingly similar in appearance and create a similar commercial impression. This is not a comparison of the marks **in their entireties**.

The marks COMFORT PLUS and COMFORT GUARD PLUS are not similar in appearance. When comparing appearances, the word GUARD cannot be eliminated.

Similarly, the word COMFORT and the term COMFORT GUARD create different commercial impressions. In the former word, COMFORT merely expresses a feature of the glove, and has been disclaimed as being descriptive.

The term COMFORT GUARD creates the impression of something added to the glove that guards the comfort aspect of the glove. The two commercial impressions are distinct.

When comparing the marks in issue in their entireties, no likelihood of confusion exists.

B. The Goods in Issue are Specifically Different

Appellant relies on its position set forth in its main brief on this issue. Nothing is being added.

III. CONCLUSION

For all of the foregoing reasons and for the reasons set forth in Appellant's Appeal Brief, it is respectfully requested that the refusal to register Appellant's mark be reversed, and that this application be passed to publication.

Respectfully submitted,

CAESAR RIVISE, PC

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By  _____

Stanley H. Cohen
12th Floor, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212
Telephone: 215-567-2010
Telecopier: 215-751-1142
E-mail: scohen@crbcp.com
Attorneys for Applicant
Customer No. 03000