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

Proceeding	87870907
Applicant	Justice Without Borders
Applied for Mark	JWB JUSTICE WITHOUT BORDERS
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Trademark Trial and Appeal Board

In re the Trademark Application of Justice Without Borders.

Serial No.: 87/870,907

Law Office: 104

Filed: April 10, 2018

Examining Attorney: Carol Spils

Mark: JUSTICE WITHOUT BORDERS

APPLICANT'S APPEAL BRIEF

TTAB

The Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

Sir:

The Notice of Appeal in the above-referenced application was filed September 18, 2019. In reliance on the points and authorities below, Applicant hereby requests the Trademark Trial and Appeal Board to overrule the final refusal to register the mark mailed by the United States Patent and Trademark Office March 18, 2019.

THE MARK

Applicant seeks to register the mark JWB JUSTICE WITHOUT BORDERS



for goods identified in the application as:

PROVIDING LEGAL ADVICE, LEGAL SUPPORT SERVICES, AND LITIGATION SERVICES IN SUPPORT OF MIGRANT WORKERS IN THE FIELDS OF LABOR EXPLOITATION AND HUMAN TRAFFICKING, NOT INCLUDING SERVICES ASSOCIATED WITH INTERNATIONAL HUMANITARIAN RELIEF PROJECTS OR PROVIDING MEDICAL OR HEALTH CARE ASSISTANCE TO VICTIMS OF DISASTERS AND/OR CONFLICTS IN UNDERDEVELOPED COUNTRIES, in International Class 45.

THE CITED MARK

The Examining Attorney has finally refused registration over the work mark “JWB” for LEGAL SERVICES FOR ON-LINE GLOBAL COMPUTER NETWORK, in international Class 42.

THE ISSUES ON APPEAL


The issues presented to the Board on this appeal include: (i) whether the commercial impression of the applied for mark JWB JUSTICE WITHOUT BORDERS creates a likelihood of confusion with the registered mark JWB; and (ii) whether the services for the mark JWB JUSTICE WITHOUT BORDERS and the Registered mark JWB are related in some manner as to lead the consumer to belief they are from the same source..

ARGUMENT

The Examining Attorney has finally refused registration of the applied-for-mark JWB JUSTICE WITHOUT BORDERS under Section 2(d) of the Trademark Act on the grounds of likelihood of confusion with the registered mark JWB.

The marks are different.

As shown below the marks are different.

The Applied-for-Mark	The Cited Mark
	<p data-bbox="1015 525 1258 619" style="text-align: center; font-size: 2em; font-weight: bold;">JWB</p>

While a side-by-side comparison of the marks is not the test, the difference in commercial impression of the marks is clearly shown, from such a comparison.

The applied-for-mark includes a depiction of the globe with the phrase JUSTICE WITHOUT BORDERS superimposed over the globe along with the letter J over the term JUSTICE, the letter W over the term WITHOUT, and the letter B over the word BORDERS.

The Examining Attorney states that in a composite mark containing both words and designs, “the word portion [including letters] is most likely to indicate that the origin of the services because it is that portion of the mark that consumers use when referring to or requesting the services.” However, the Examining Attorney relies solely upon the letters and ignores the actual words in the Mark– JUSTICE WITHOUT BORDERS –

which using the Examining Attorneys rational is most likely to indicate the origin of services.

If the “proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks,” then the Examining Attorney’s conclusion is without support.

Of the three elements in the applied-for-mark, only the letters JWB are shared with the registered Mark, however they are the most specific and thus the least likely to be recalled. More likely the phrase “Justice Without Borders” and the image of the globe establish the general impression. The individual letters of JWB while only significant in size are akin to license plate numbers in which they are also the most significant in size, however other than the first letter are the most unimpressional.



A driver will assuredly recall the state VIRGINIA and the phrase “400th Anniversary” and the general amount of lettering, the specific characters however, or even the first three letters would unlikely be recalled (unless they spelled a word, which JWB does

not) and thus would not likely form the commercial impression.

Thus the Examining Attorney's very basis that in the recollection of the average purchaser will be that of the dominate letters of JWB is not supported. Therefore the commercial impression of the applied-for-mark is sufficiently different from the mark JWB to avoid any likelihood of confusion.

The services are different.

Because the parties' respective services are not closely related, there is no likelihood of confusion that will be caused by Applicant use of its applied-for- mark for legal services related to human trafficking and labor exploitation. The determination of whether services are so related is not based on any inherent characteristics they may possess, but rather on the public's experience with such services as emanating from a single source.

The services identified in the cited registration include "legal services for on-line global computer network" or, more simply, "legal services for the internet." First, this description is indefinite and overly broad. But aside from the indefiniteness and breadth, applicant's services as set forth below, while including legal services, are sufficiently different to avoid any likelihood of confusion.

Specifically the legal services of the registered mark are directed to the network, not general legal services offered over the internet, but for the internet, whereas the services for the applied-for-mark are "in support of migrant workers." These are distinct and unrelated areas of Law.

The Examining Attorney's assertion that commercial firms often engage in several types of law under the same trademark is not dispositive. The Examining Attorney has not shown that there is an overlap between the services of the registered mark and the applied-for-mark, especially in view of the narrow and unique services of the applied-for-mark.

The Examining Attorney has not shown, that firms routinely or ever offer legal services to global online networks and legal services related to labor exploitation and human trafficking services to migrate workers, nor would a relevant consumer make such an assumption.

The Examining Attorney's Internet evidence does not constitute sufficient evidence of the conditions in the marketplace are such that the parties' respective services would be encountered by the same consumers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source, and do not establish that it is common practice for consumers to associate legal services for the internet with those legal services provided by a non-profit organization for migrant workers, resulting in those services being marketed together and offered via the same channels of trade.

CONCLUSION

Accordingly, based on the significant differences in the appearance, meaning and connotation, and commercial impressions of Applicant-Appellant's mark and the Cited Mark JWB, combined with the divergent natures of the parties' respective services, there

is no likelihood that consumers would be confused by Applicant's use of its JWB JUSTICE WITHOUT BORDERS mark for the applied-for services.

The Board is therefore respectfully requested to (1) reverse the Examining Attorney's decision refusing registration of Applicant's mark, and (2) allow Application Serial No. 87/870,907 to pass to publication on the Principal Register.

Respectfully submitted,

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