

From: Germick, Edward

Sent: 1/27/2022 11:39:02 AM

To: TTAB E Filing

CC:

Subject: U.S. Trademark Application Serial No. 90159452 - MAVERICK - N/A - EXAMINER BRIEF

Attachment Information:

Count: 1

Files: 90159452.doc

United States Patent and Trademark Office (USPTO)

U.S. Application Serial No. 90159452

Mark: MAVERICK

Correspondence Address:

TERENCE P. O'BRIEN

AMER SPORTS AMERICAS

130 EAST RANDOLPH STREET, SUITE 600

CHICAGO, IL 60601

Applicant: Atomic Austria GmbH

Reference/Docket No. N/A

Correspondence Email Address:

terence.obrien@amersports.com

EXAMINING ATTORNEY'S APPEAL BRIEF

FACTS

Applicant, Atomic Austria GmbH, has applied for registration on the Principal Register for the mark "MAVERICK" in standard characters for "Skis; Ski bindings; Ski poles" in International Class 28. This appeal follows the trademark examining attorney's final refusal of registration on the Principal Register

under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because of a likelihood of confusion with the marks in U.S. Registration Nos. 0608371 (“MAVERICK” in standard characters in International Class 25 for “men's and boys' jeans, and men's shirts”) and 5115896 (“MAVERICK” in standard characters in International Class 25 for “bottoms; jackets; jeans; pants; shirts; tops”).

PRELIMINARY OBJECTIONS

Applicant has submitted new evidence with its appeal brief. Specifically, applicant submitted Exhibits A-C, all being printouts showing registrations containing the word “MAVERICK.” 4 TTABVUE 19-31 (App’s Br., Exhibits A-C)

The record in an application should be complete prior to the filing of an appeal. 37 C.F.R. §2.142(d); TBMP §§1203.02(e), 1207.01; TMEP §710.01(c). Because applicant’s new evidence was untimely submitted during an appeal, the trademark examining attorney objects to this evidence and requests that the Board disregard it. *See In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1744 (TTAB 2018), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); *In re Fiat Grp. Mktg. & Corp. Commc’ns S.p.A*, 109 USPQ2d 1593, 1596 (TTAB 2014); TBMP §§1203.02(e), 1207.01; TMEP §710.01(c).

Further, applicant includes a link to www.quora.com/why-is-it-considered-not-ok-to-wear-jeans-while-skiing in its brief. 4 TTABVUE 12 (App’s Br. Pg. 9) In addition to being new evidence submitted with the appeal brief, applicant’s internet materials have not been properly made of record and are objected to. Although applicant has discussed the contents of this webpage as evidence against the refusal, applicant provided only the web addresses, which is not sufficient to introduce the underlying webpage into the record. *See In re ADCO Indus. – Techs., L.P.*, 2020 USPQ2d 53786, at *2 (TTAB 2020) (citing *In re Olin*, 124 USPQ2d 1327, 1331 n.15 (TTAB 2017); *In re HSB Solomon Assocs., LLC*, 102 USPQ2d 1269, 1274 (TTAB 2012); TBMP §1208.03); TMEP §710.01(b).

To properly introduce Internet evidence into the record, an applicant must provide (1) an image file or printout of the downloaded webpage, (2) the date the evidence was downloaded or accessed, and (3) the complete URL address of the webpage. *See In re I-Coat Co., LLC*, 126 USPQ2d 1730, 1733 (TTAB 2018); TBMP §1208.03; TMEP §710.01(b). Accordingly, the examining attorney objects to the underlying webpage associated with the web addresses and/or link provided in the brief because it is both improperly introduced into the record and it is untimely.

ARGUMENT

APPLICANT’S MARK SO RESEMBLES REGISTRANT’S MARK AND THE GOODS ARE SO CLOSELY RELATED AS TO BE LIKELY TO CAUSE CONFUSION, OR TO CAUSE MISTAKE, OR TO DECEIVE UNDER SECTION 2(d) OF THE TRADEMARK ACT

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the

relatedness of the compared goods and/or services. See *In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

I. The Proposed Mark is Identical to the Registered Mark

In a likelihood of confusion determination, the marks in their entireties are compared for similarities in appearance, sound, connotation, and commercial impression. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1323, 123 USPQ2d 1744, 1748 (Fed. Cir. 2017); *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v).

In the present case, applicant’s mark is MAVERICK and registrant’s mark is MAVERICK. These marks are identical in appearance, sound, and meaning, “and have the potential to be used . . . in exactly the same manner.” *In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015), *aff’d*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017). Additionally, because they are identical, these marks are likely to engender the same connotation and overall commercial impression when considered in connection with applicant’s and registrant’s respective goods. *Id.* Therefore, the marks are confusingly similar.

Applicant does not challenge that the marks are identical in its appeal. Instead, it argues that “[i]t is unreasonable to conclude that the present Application somehow will cause consumer confusion

with the Cited Registrations, when over 30 registrations already exist in the marketplace for goods in the same class as the Cited Registrations, International Class 25, while Applicant's goods reside in a different class, Class 28.” 4 TTABVUE 16 (App’s Br. Pg. 13)

The registrations containing the word “MAVERICK” are all contained in new evidence, namely, Exhibits A-C,¹ that applicant submitted for the first time with its appeal brief. As set forth in the Preliminary Objections section of this brief, the trademark examining attorney objects to this evidence and requests that the Board disregard it.

II. The Goods of the Respective Parties are Related

Where the marks of the respective parties are identical or virtually identical, as in this case, the degree of similarity or relatedness between the goods needed to support a finding of likelihood of confusion declines. See *In re Country Oven, Inc.*, 2019 USPQ2d 443903, at *5 (TTAB 2019) (citing *In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015), *aff’d*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017)); TMEP §1207.01(a); see also *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993).

The compared goods need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722

¹ 4 TTABVUE 19-31 (App’s Br., Exhibits A-C)

(Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

In this case, applicant's goods are "Skis; Ski bindings; Ski poles" in International Class 28 and registrant's goods are "men's and boys' jeans, and men's shirts" and "bottoms; jackets; jeans; pants; shirts; tops," all in International Class 25.

In the Office action dated January 12, 2021, the examining attorney attached evidence from the USPTO's X-Search database consisting of numerous third-party marks registered for use in connection with the same or similar goods as those of both applicant and registrant in this case. For example, the record contains numerous third-party registrations showing the relatedness of the applied-for goods and the cited goods, including:

- O', U.S. Registration No. 4632592, for, *inter alia*, shirts, jackets, pants, and jeans in International Class 25 and skis and ski poles in International Class 28 (January 12, 2021 Office action TSDR pp. 10-17)
- ROXY, U.S. Registration No. 3730042, for, *inter alia*, t-shirts, shirts and casual tops with long and short sleeves, sleeveless shirts, sweat tops, jackets, long pants, jeans, ski wear and snowboard wear, namely, ski pants, ski jackets, snowboard pants and snowboard jackets in International Class 25 and snow skis in International Class 28 (January 12, 2021 Office action TSDR pp. 18-21)
- [Design of a bull] U.S. Registration No. 4629216, for, *inter alia*, jeans, sweat tops, pants, blouses and tops, jackets, t-shirts, polo shirts, collared shirts, and shirts in International Class 25 and ski bindings in International Class 28 (January 12, 2021 Office action TSDR pp. 28-30)
- POWPOW, U.S. Registration No. 4927980, for, *inter alia*, heavy jackets, jeans, pants, shirts, and ski jackets in International Class 25 and ski bindings, ski poles, and skis in International Class 28 (January 12, 2021 Office action TSDR pp. 37-39)
- PWK COLOUR GROUP ACTION APPAREL U.S. Registration No. 4909550, for, *inter alia*, jackets, jeans, pants, and shirts in International Class 25 and skis in International Class 28 (January 12, 2021 Office action TSDR pp. 46-50)
- DORAEMON GADGET CAT FROM THE FUTURE U.S. Registration No. 5306916, for, *inter alia*, shirts, pants, tops, jackets, and jeans in International Class 25 and skis and ski poles in International Class 28 (January 12, 2021 Office action TSDR pp. 58-62)

- 4F U.S. Registration No. 5324471, for, *inter alia*, jackets and parkas, shirts, jeans, wind resistant jackets, jogging tops, and stuff jackets in International Class 25 and skis in International Class 28 (January 12, 2021 Office action TSDR pp. 63-66)
- GORSUCH U.S. Registration No. 5320138, for, *inter alia*, jackets, shirts, tank tops, pants, jeans, baselayer bottoms, and baselayer tops in International Class 25 and skis and ski accessories, namely, ski poles and snowshoes in International Class 28 (January 12, 2021 Office action TSDR pp. 67-70)
- THE PEAK, U.S. Registration No. 5145911, for, *inter alia*, shirts, jackets, jeans, and ski pants in International Class 25 and skis and ski poles in International Class 28 (January 12, 2021 Office action TSDR pp. 71-73)
- LARKOO, U.S. Registration No. 5342536, for, *inter alia*, shirts, jackets, pants, denim wear, namely, jeans, tops, and bottoms in International Class 25 and ski bindings in International Class 28 (January 12, 2021 Office action TSDR pp. 74-77)
- START THE MACHINE, U.S. Registration No. 5410437, for, *inter alia*, t-shirts, tops, jackets, pants, bottoms, and jeans in International Class 25 and skis in International Class 28 (January 12, 2021 Office action TSDR pp. 78-80)
- LA SPORTIVA, U.S. Registration No. 5306089, for, *inter alia*, jackets, being clothing, shirts, jeans, and pants in International Class 25 and ski poles, skis and ski bindings in International Class 28 (January 12, 2021 Office action TSDR pp. 81-83)
- REI CO OP, U.S. Registration No. 5553714, for, *inter alia*, shirts, pants, jackets, and tank tops in International Class 25 and ski and snowshoe poles in International Class 28 (January 12, 2021 Office action TSDR pp. 84-87)

Third-party registrations that individually cover a number of different goods and services and that are based on use in commerce serve to suggest that the listed goods and services therein are of a type which may emanate from a single source. *See In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783 (TTAB 1993).

Also attached to the Office action dated January 12, 2021, was Internet evidence consisting of screenshots of webpages from commercial establishments that sell the types of goods produced by applicant and registrant. That establishes that the relevant goods are sold through the same trade channels and used by the same classes of consumers in the same fields of use. For example:

- Guenther's Ski Haus sells jackets, pants, skis, ski poles, and ski bindings (January 12, 2021 Office action TSDR pp. 162-163)

- The Loft sells jackets, tops, and skis (January 12, 2021 Office action TSDR pp. 164-165)
- The Ski Shack sells shirts and ski bindings, (January 12, 2021 Office action TSDR pp. 166-167)

In the Final Office action dated July 7, 2021, additional evidence was attached, consisting of screenshots of the websites of major producers of ski equipment. That evidence establishes that the same entity commonly manufactures or produces the relevant goods of skis, ski poles, and ski bindings (applicant's goods) and bottoms, jackets, jeans, pants, shirts, and tops (registrant's goods) and markets the goods under the same mark. For example:

- Evo produces jackets, pants, tops, and ski poles (July 7, 2021 Office action TSDR pp. 2-4)
- Rossignol produces shirts, jackets, pants, skis, and ski bindings (July 7, 2021 Office action TSDR pp. 5-7)
- Salomon produces jackets, tops, shirts, and skis (July 7, 2021 Office action TSDR pp. 8-9)
- K2 produces pants, shirts, and skis (July 7, 2021 Office action TSDR pp. 10-11)
- Line produces jackets, shirts, skis, and ski poles (July 7, 2021 Office action TSDR pp. 12-13)
- Fischer produces jackets and skis (July 7, 2021 Office action TSDR pp. 14-15)
- Volkl produces shirts and ski poles (July 7, 2021 Office action TSDR pp. 16-17)
- Armada produces jackets, pants, skis and ski bindings (July 7, 2021 Office action TSDR pp. 18-19)
- Icelantic produces shirts and skis (July 7, 2021 Office action TSDR pp. 20-21)

In fact, evidence in the form of a screenshot from applicant's own website shows that in addition to producing the applied-for goods, it also produces clothing items, such as shirts, jackets, and pants. (July 7, 2021 Office action TSDR p. 22)

The above evidence, including that from applicant's own website, clearly shows that applicant's goods and registrant's goods are closely related because the same entity commonly manufactures or produces the goods at issue and markets the goods under the same mark.

Applicant argues that "[j]eans and other apparel items have no relationship or commonality with skis, ski bindings or ski poles" and that "[t]he jeans and other apparel items of the Cited Registrations are not specific to any sport or any specific use." 4 TTABVUE 10-11 (App's Br. Pp. 7-8)

Applicant's argument is not persuasive. As stated above, the goods only need to be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc.*, 668 F.3d 1356 at 1369. In this case, the evidence attached to the Office actions specifically show that the same entity, including major ski equipment providers, commonly manufacture or produce the relevant goods of skis, ski poles, and ski bindings (applicant's goods) and bottoms, jackets, jeans, pants, shirts, and/or tops (registrant's goods) and markets the goods under the same mark. While applicant focuses its arguments on jeans, it neglects to address registrant's other goods, such as bottoms, jackets, pants, shirts, and tops, which the evidence shows are clearly related goods.

Applicant further argues that the apparel items of the Cited Registrations "...are not specific to any sport or any specific use" and "address different consumer needs." 4 TTABVUE 11 (App's Br. Pg. 8) Applicant's arguments are not persuasive. That is because determining likelihood of confusion is based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. *See In re Detroit Athletic Co.*, 903 F.3d 1297, 1307, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (citing *In re i.am.symbolic, llc*, 866 F.3d 1315, 1325, 123 USPQ2d 1744, 1749 (Fed. Cir. 2017)). In this case, registrant's goods such as bottoms, jackets, jeans, pants, shirts (including men's shirts), and tops are so broadly worded that they presumably encompasses all goods of the type described,

including more narrow goods such as ski jackets, ski pants, ski shirts, and ski tops. *See, e.g., In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015).

III. The Relevant Goods are Sold through the Same Trade Channels and Used by the Same Classes of Consumers in the Same Fields of Use

The aforementioned Internet evidence, consisting of screenshots of webpages from major producers of ski equipment and from various sellers of ski equipment, establishes that the relevant goods are sold through the same trade channels and used by the same classes of consumers in the same fields of use. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009).

Applicant argues that applicant's and registrant's goods are sold in different trade channels as "...skis, ski bindings and ski poles are typically sold in sporting goods stores, ski sports specialty shops, and ski sports specific retailers, including on-line ski and winter sports retailers and sporting goods stores" whereas "[t]he apparel sold in ski shops is generally ski apparel, and does not include jeans."² 4 TTABVUE 11-12 (App's Br. Pp. 8-9)

² Applicant includes a link to www.quora.com/why-is-it-considered-not-ok-to-wear-jeans-while-skiing in its brief. Applicant's internet materials have not been properly made of record and are objected to. Although applicant has discussed the contents of webpage as evidence against the refusal, applicant provided only the web addresses, which is not sufficient to introduce the underlying webpage into the record. *See In re ADCO Indus. – Techs., L.P.*, 2020 USPQ2d 53786, at *2 (TTAB 2020) (citing *In re Olin*, 124 USPQ2d 1327, 1331 n.15 (TTAB 2017); *In re HSB Solomon Assocs., LLC*, 102 USPQ2d 1269, 1274 (TTAB 2012); TBMP §1208.03); TMEP §710.01(b).

To properly introduce Internet evidence into the record, an applicant must provide (1) an image file or printout of the downloaded webpage, (2) the date the evidence was downloaded or accessed, and (3) the complete URL address of the webpage. *See In re I-Coat Co., LLC*, 126 USPQ2d 1730, 1733 (TTAB 2018); TBMP §1208.03; TMEP §710.01(b). Accordingly, the examining attorney objects to the underlying webpage associated with the web addresses and/or link provided in the brief.

Applicant's argument is not persuasive. Even if applicant's argument regarding jeans is accepted as accurate, the evidence discussed above shows that registrant's other goods, such as bottoms, jackets, jeans, pants, shirts, and tops, are sold in the same trade channels as registrant's goods.

Applicant then argues that "[t]he Examining Attorney references the goods of the Application and the Cited Registrations being sold in large retail stores and websites" and reasons that "[t]he fact that some ski retailers also sell jackets and pants relating to skiing does mean that jeans and the related goods of the Cited Registrations would be sold in the same areas of such stores." 4 TTABVue 12 (App's Br. Pg. 9)

Applicant's argument is not persuasive. First, applicant provides no evidence to support its arguments regarding where the goods in question are sold. Second, the evidence attached to the January 12, 2021 Office action shows that the goods in question are sold not in "large retail stores" but instead are sold together in smaller retail establishments that specifically cater to skiers. Further, the evidence attached to the July 7, 2021 Office action primarily shows the websites of providers of ski equipment that also provide bottoms, jackets, pants, shirts, and/or tops. Those screenshots include a screenshot from applicant's own website, which shows that applicant itself sells various apparel items, such as jackets, pants, and shirts. (See: July 7, 2021 Office action TSDR p. 22). Therefore, the evidence undeniably shows that the goods in issue travel in the same channels of trade.

IV. The Likelihood of Confusion is Not Obviated by the Sophistication of the Purchasers

Applicant presents two similar arguments regarding the sophistication of purchasers for the goods at issue. First, applicant argues that "[p]urchasing ski equipment also typically involves specialized ski sales personnel, which further reduces any likelihood of confusion between skis, ski bindings and ski poles, and jeans and other related apparel." 4 TTABVue 12 (App's Br. Pg. 9) Second, applicant argues that skiers "...are highly sophisticated purchasers" that "...are very particular about the

type of the equipment they use so that they can improve their performance and enjoyment of skiing” whereas “...jeans and related apparel items are generally lower cost commodity items that typically involve little consideration before purchase.” 4 TTABVUE 14 (App’s Br. Pg. 11)

Applicant’s arguments are not persuasive. Even if consumers of the compared goods could be considered sophisticated and discriminating, it is settled that “even sophisticated purchasers are not immune from source confusion, especially in cases such as the present one involving identical marks and related goods.” *In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1413 (TTAB 2015) (citing *In re Research & Trading Corp.*, 793 F.2d 1276, 1279, 230 USPQ 49, 50 (Fed. Cir. 1986)), *aff’d*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017); *see also In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). The identity of the marks and the relatedness of the goods “outweigh any presumed sophisticated purchasing decision.” *In re i.am.symbolic, llc*, 116 USPQ2d at 1413 (citing *HRL Assocs., Inc. v. Weiss Assocs., Inc.*, 12 USPQ2d 1819, 1823 (TTAB 1989), *aff’d*, 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990)); *see also Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1325, 110 USPQ2d 1157, 1163-64 (Fed. Cir. 2014). Even if apparel items such as bottoms, jackets, jeans, pants, shirts, and tops are “sold at many retail stores,” the evidence discussed above shows that such goods are also manufactured or provided by entities that manufacture or provide skis, ski poles, and ski bindings and are sold by retailers that sell ski equipment. Since well-known manufacturers of ski equipment, such as Evo, Rossignol, Salomon, K2, and even applicant, manufacture or provide apparel such as bottoms, jackets, pants, shirts, and/or tops under the same mark as its ski equipment and sell them in the same channels of trade, it is likely that even sophisticated and discriminating consumers could be confused as to the source of applicant’s and registrant’s goods as they involve identical marks.

CONCLUSION

Applicant's mark and the cited registrations are identical in appearance, sound, and commercial impression. Further, the goods are closely related and travel in the same channels of trade. For the foregoing reasons, the refusal to register applicant's mark on the basis of Trademark Act §2(d), 15 U.S.C. §1052(d), should be affirmed.

Respectfully submitted,

Edward Germick
/Edward J. Germick/
Examining Attorney
Law Office 102
(571) 272-5862
edward.germick@uspto.gov

Mitchell Front
Managing Attorney
Law Office 102
571-272-9382
mitchell.front@uspto.gov