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

KIMBERLY-CLARK CORPORATION

Opposer,

v.

PANO, INC.

Applicant, of the proceeding
Trademark Application
Serial # 75/831,386

01-22-2002
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #66

150288

ANSWER

BOX TTAB
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

In the matter of the application for the registration of the designation DEPEND-A-THONG, serial no. 75-831,386 by Pano, Inc., this letter serves as answer to the opposition of said registration by Kimberly-Clark Corp. The following points are made in response to opposition:

1. The actual gift product being distributed will in no way be confused with or diminish the sales or market credibility of existing products produced by Kimberly-Clark or any other company. The distribution pattern of this gift product will also be so significantly different from traditional Kimberly-Clark sales patterns that there is little potential for conflict.

2. This product is not functional. It is purely a matter of thought. As such it is conveyed as a gift of humorous good will. It in no way represents a practical alternative to any existing incontinence aid or product on the market. It is not wholly illogical to consider that the effective distribution of this product may actually increase sales of Kimberly-Clark products related to the physical needs of seniors.

3. This product will not be promoted or advertised in such a manner as to lead to any confusion with funtional incontinence related products. It will be advertised as part of a line of party gifts. Such advertising can in no logical way minimize the need or value of actual incontinence related products nor create consumer confusion.

4. This product will be distributed via a direct business model utilizing electronic communications. There will be little if any shelf space connected to product distribution and certainly no retail distribution that would impinge upon existing functional incontinence related products.

5. This product utilized a word in the English language that is not proprietary to Kimberly-Clark or any other corporate entity. The word appears in the Webster's original dictionary of 1828. It is utilized in multiple commercial settings across the world. This product will use a hyphenated adaptation of the singular form of this standard English word. Had Kimberly-Clark

invented this work their concerns would be understandable. However, their existing trademarks cannot retroactively prohibit any and every commercial usage of a related but not identical form of the word.

Wherefore, Applicant believes that the use of DEPEND-A-THONG in no way damages or interferes with Opposer's pre-existing and continuing use of DEPEND, we request the registration be approved.

Respectfully Submitted,
PANO, INC.
380 Darbys Run
Bay Village, Ohio 44140
(440) 895-9333

Patricia L. Mulder

Patricia L. Mulder
President