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

Proceeding	91196926
Party	Plaintiff GMA Accessories, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
GMA ACCESSORIES, INC.,

Opposer,

Opposition No. 91196926

against –

**REPLY BRIEF IN SUPPORT OF
RECONSIDERATION**

DORFMAN-PACIFIC CO.,

Applicant.
-----X

Mark: CAPPELLI STRAWORLD

Serial No.: 77-965, 616

Class (es): 18, 25

ARGUMENT

In its opposition to Opposer's motion, Applicant argues that "Opposer fails...to point to any specific errors made by the Board in reaching its conclusion." Applicant's Brief in Opposition of Reconsideration, p.2. This argument is misplaced.

Opposer identifies the standard that the Board failed to apply in determining whether a proceeding is based on the same set of transactional facts as another; that is, "whether the evidence necessary to prove one cause of action would establish the other." See Opposer's Brief in Support of Reconsideration, p.2, Para. 6. citing *Jet, Inc. v. Sweage Aeration Systems*, 223 F.3d 1360, 1363 (Fed. Cir. 2000). Since the statutes that govern the cancellation of the mark and opposition to the registration of a mark are substantially identical, the proofs necessary to prove one cause of action must satisfy the other. See Opposer's Brief in Support of Reconsideration, p.3, Para. 9-11.

Furthermore, Opposer addresses the Board's finding that "because Opposer did not specify any particular goods or services for which it alleged prior use of CAPELLI in

the Prior Cancellation, there is a genuine dispute of material fact with respect to whether this proceeding is based on the same set of transactional facts as the 2005 Proceeding.” Order, p.7. Opposer asserts that the Board erred in reaching this conclusion because the test is merely “whether the evidence necessary to prove one cause of action would establish the other,” regardless of whether or not Opposer specified a particular good or service. *Jet* at 1363. Since the statutes are substantially identical, the present action must be based on the same transactional facts as the first proceeding. See Opposer’s Brief in Support of Reconsideration, p.3, Para. 11.

Applicant also asserts that Opposer reargues its position regarding the commercial impression of the marks. See Applicant’s Brief in Opposition of Reconsideration, p.3. Opposer simply points out the Board’s failure to assess well-settled case law that adding another word to a single word mark is not sufficient to overcome the likelihood of confusion between marks. See Opposer’s Brief in Support of Reconsideration, p.4, Para. 13.

Wherefore, it is respectfully submitted that Opposer’s Motion for Reconsideration should be granted.

Dated: New York, NY
May 12, 2011

Respectfully submitted,
THE BOSTANY LAW FIRM, PLLC



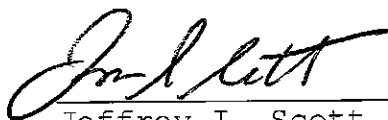
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PROOF OF SERVICE

I, Jeffrey I. Scott , hereby certify that this paper (Reply Brief in Support of Reconsideration) is being deposited with the United States Postal Service on May 12, 2011, postage pre-paid, addressed to the following:

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