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

Proceeding no.	91274900
Party	Defendant Facades Consortium Group, LLC
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Date	09/23/2022
Attachments	2022-09-23 Reply ISO MTC Opposers Resp to 1st Discovery.pdf(28558 bytes) Ex. K to Reply ISO MTC - Pros History (reduced).pdf(1190751 bytes)

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

MIRAGE GRANITO CERAMICO S.P.A.,

Opposer,

Opposition No. 91274900

v.

Application No.: 90315751

FACADES CONSORTIUM GROUP, LLC,

Mark: INFINITE FACADE

Applicant.

REPLY IN SUPPORT OF MOTION TO COMPEL

The Board should grant Facades Consortium Group, LLC (“Applicant”)’s Motion to Compel (11 TTABVUE, “Motion”) and order Mirage Granito Ceramico S.p.A. (“Opposer”)’s to provide, within 15 days¹ and at the offices of Applicant’s counsel of record, (1) complete, non-evasive, written and verified responses to all of Applicant’s First Set of Interrogatories²; and (2) written responses to Applicant’s First Set of Requests for Production except for Request No. 7, stated without objections, along with a complete production of all responsive documents, electronically stored information, and tangible things. The Board further should admonish

¹ Opposer asks the Board for 60 days because it “is located in Italy.” (13 TTABVUE 2 n.2).

Even if true, this claim is misleading. Opposer’s *only* identified witness and its *only* officer or manager, as identified in its unverified initial interrogatory responses, resides in New York City.

See Ex. D at 5; 8 TTABVUE Ex. 1 at 2.

² As described in the Motion, the parties conferred and agreed to certain modifications to Interrogatory Nos. 11, 18, and 20, but complete verified answers are still outstanding.

Opposer that failure to comply will be cause for further sanctions, up to and including default or dismissal of the Opposition with prejudice.

I. ARGUMENT

The Motion asks the Board to compel Opposer to “produce to Applicant *all* documents, ESI, and physical things responsive to Applicant’s First Set Requests for Production in Opposer’s possession, custody or control (*except* for those responsive only to Request for Production No. 7)” and to “respond fully, completely, non-evasively, and under oath to *all* of Applicant’s First Set of Interrogatories (as modified during conferral).” (Mot. at 1, 3-4.) The Motion then lays out, over several pages, reasons why *all* of Opposer’s objections should be overruled or deemed waived. Rather than respond to the Motion’s actual arguments or actual requested relief, the response claims that the Motion is moot because it only seeks to compel responses to some discovery (Requests for Production Nos. 1-5 and 11-12 and Interrogatories Nos. 1, 4-9, 27, 31, and 36), and that Opposer has since supplemented some (but not all) of its responses to that discovery. (13 TTABVUE, “Response”, at 3.) Wrong.

A. Opposer Concedes Nearly Every Argument

The Response makes no attempt to respond to the Motion’s arguments about, or otherwise to justify, Opposer’s failure to: provide any interrogatory responses under oath, give narrative responses to interrogatories (rather than (incomplete) responses under Rule 33(d)), or state when it would begin or complete its production of documents and things. (*Compare* Mot. at 4-5 *with* Resp. *passim*.)

Similarly, the Response never bothers to respond to the Motion’s arguments about the impropriety of these general, continuing, and nonspecific objections. The Motion argued that, except for those objections addressed separately, *all* of Opposer’s written objections are improper and nonspecific boilerplate objections. (*E.g.*, Mot. at 3 (“Each of Opposer’s Responses

asserts dozens of meritless boilerplate objections ...”); *id.* at 6 (“The Responses make numerous boilerplate general objections, and each response to specific interrogatories or discovery requests includes several additional boilerplate objections. None of these objections is proper...”); *id.* at 9-10 (“With one exception—Opposer’s objections to the definition of Opposer/You—none of the “Continuing Objections” is stated with specificity and should be overruled.”). The only exceptions are the few “vagueness” objections that Opposer refused to confer about, and which anyway fail to identify anything vague or ambiguous about the requests (*see* Mot. at 9), and certain specific relevance objections that the Motion separately addresses. (*See* Mot. at 10.) Nothing in the Response attempts to respond to these arguments, which were laid out over several pages of briefing. (*Compare* Mot. at 6-9, 9-10 *with* Resp. *passim.*)

All of these arguments should be deemed conceded. *E.g.*, Trademark Rule 2.127(a); *Central Mfg. Inc. v. Third Millennium Techn., Inc.*, 61 USPQ2d 1210, 1211 (TTAB 2001); *see also* *CardSoft, LLC v. Verifone, Inc.*, 807 F. 3d 1346, 1353 (Fed. Cir. 2015) (arguments not fully responded to are waived and deemed conceded).

B. Opposer Fails To Meet Its Obligation On The Present Motion To Prove It Can Withhold Relevant Discovery Due To Undue Burden

Although the relevance objections that Opposer maintains—to Interrogatories 4, 5, and 7, and Requests for Production Nos. 1-5 and 11-12—were waived by Opposer’s failure to state them with the necessary particularity (*see* Mot. at 7-8), the Motion also explained the relevance of these Requests.³ “The scope of discovery under Rule 26(b) is extremely broad.” *Gowan v. Mid Century Ins. Co.*, 309 F.R.D. 503, 508 (D.S.D. 2015). Relevance “has been construed broadly to

³ Contrary to Opposer’s statements now, Applicant’s counsel did advise Opposer of the relevance during conferral. *See, e.g.*, Ex. J at 2, 3 (Sections III.b.1, III.c.iii, III.c.vii).

encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case.” *Jo Ann Howard & Assocs., P.C. v. Cassity*, 303 F.R.D. 539, 542 (E.D. Mo. 2014) (citation and quotation omitted).

These Requests seek discovery about the circumstances of Opposer’s selection, adoption, clearance, first use, and registration of Opposer’s registered INFINITY marks. As the Motion states, this information “bears on the scope, breadth, length and depth of the claimed exclusivity of use by Opposer of its marks, the meanings of those marks, and the commercial strength of the marks, and the names and contact information of those persons currently or formerly responsible to Opposer who have personal knowledge of these relevant facts.” (Mot. at 10.)

While this information would be relevant in any likelihood of confusion case, it also is particularly relevant here because of Opposer’s prior admissions in the prosecution of its asserted registrations. In order to overcome an Examiner’s rejection its own applications, Opposer amended its identification of goods to exclude wall coverings, and asserted that because there were many other users of the same or similar marks in the same and other classes, the “INFINITY marks are weak and diluted,” such that even “slight variations” are significant, and that Opposer’s registrations would be “entitled to a narrow scope of protection,” expressly excluding “wall panels for external building surfaces” because these goods “are entirely different and travel in different channels of trade” from Opposer’s goods, are “not related,” and “the consumers of the [two different types of] goods are entirely different.” *See* Ex. K, filed herewith. Each of Opposer’s prior admissions begs for discovery into the circumstances of its selection, adoption, clearance, and registration of its marks. Alleged “incontestability” notwithstanding, given Opposer’s prior statements this discovery may show that Opposer, that it is judicially estopped from asserting any claim of likely confusion here or has unclean hands, may not even

have standing, and, at a minimum, will uncover matters directly within the scope of the *DuPont* analysis the Board will otherwise undertake.

Opposer also argues that these discovery “requests are plainly overbroad and not proportional to the needs of this case.” (13 TTABVUE 5.) Again, Opposer’s blanket objections were waived because they were not stated with specificity. Even if they were not waived, Opposer still had the obligation on this Motion to establish by evidence, not merely argument, its alleged burden in complying with these discovery requests. *See, e.g., Mainstreet Collection, Inc. v. Kirkland’s, Inc.*, 270 F.R.D. 238, 241 (E.D.N.C. 2010) (party resisting discovery “bears the burden of showing why [the motion to compel] should not be granted,” and to do so “must make a particularized showing of why discovery should be denied, and conclusory or generalized statements fail to satisfy this burden as a matter of law.”); *Suljanovic v. State Farm Mut. Auto. Ins. Co.*, No. 4:20-CV-534 RLW, 2021 U.S. Dist. LEXIS 30285, at *5, *13 (E.D. Mo. Feb. 18, 2021) (“A party claiming requests are unduly burdensome cannot make conclusory allegations, but must provide some evidence regarding the time or expense required. ... Attorney assertions in briefs to the Court do not adequately substitute for affidavits and other forms of evidence.” (quoted reference omitted)); *see also* Fed. R. Civ. P. 26(b)(1) advisory committee’s note to 2015 amendment (party claiming undue burden or expense “ordinarily has far better information—perhaps the only information—with respect to that part of the determination”). Lack of actual evidence of any burden aside, the only explanation Opposer offers for its burden/proportionality objection is that the events in question occurred 15 years ago. Even that is only partly true: one of the two registrations it asserts here was applied for only 5 years ago, on September 13, 2017 (U.S. TM App. Ser. No. 79218190). But more importantly, Opposer does not even claim that any of the information sought is inaccessible, voluminous, or even moderately difficult to obtain. Nor

does Opposer attempt to qualify or quantify what cost or effort would be required to respond fully to the Requests. Having failed to provide even attorney argument, Opposer has not met its burden of proof to avoid discovery. Opposer's objections should be overruled.

C. Interrogatory No. 8

The only other Request or Response Opposer addresses is Interrogatory No. 8 (*see* Resp. at 4), one that Opposer expressly refused to confer about before (*see* Ex. J at 3). Even assuming Opposer's argument is correct (it isn't⁴), Opposer never answered the interrogatory under oath, and thus hasn't answered it at all. *E.g., Daniel J. Quirk, Inc. v. Vill. Car Co.*, 120 USPQ2d 1146, 1151 (TTAB 2016) ("unverified answers to interrogatories do not qualify as answers").

D. Applicant's "Supplemental" Discovery Responses Moot Nothing

Applicant argues that Opposer seeks to burden Applicant and the Board with "moot" motions, because Opposer previously moved to compel complete initial disclosures, and because (as before) Opposer has now supplemented some of its responses after already forcing Applicant to file the instant Motion. This makes no sense. Applicant filed these proceedings, yet repeatedly has been recalcitrant in participating in them, always refusing to meet its basic discovery obligations until after forcing Opposer to incur the expense of motion practice.

Tellingly, Opposer did not even provide the Board with its "supplemental" responses (which it served only moments before filing its Response). The supplemental responses maintain or repeat the same insufficient boilerplate objections as the originals they supplement. The supplemental interrogatory responses, like the originals, remain unverified. Opposer's supplemental response to Requests for Production merely reflects what that the Motion already

⁴ Opposer's asserted registrations were made under Section 66a. Presumably, Opposer filed applications to register the marks with the *state* of Italy, from whence it claims its prior rights.

identified as having been resolved through conferral—Opposer’s apparent mistake in saying, in response to Request No. 41, that it would not produce any documents (see Mot. at 2), and the “over 500 pages of documents” Opposer produced consist almost entirely of public filings from Opposer’s prior TTAB opposition proceedings that the Requests did not even seek.

In short, the supplemental responses do not moot the present Motion in any way.

II. CONCLUSION

The Board should order Opposer to serve on Applicant, within 15 days and at the offices of Applicant’s counsel of record, (1) complete, non-evasive, written, and verified responses to all of Applicant’s First Set of Interrogatories—with the modifications to Interrogatory Nos. 11, 18, 20 agreed to by the parties in conferral—without restating any overruled objections; and (2) complete written responses and all responsive documents, electronically stored information, and tangible things responsive to Applicant’s First Set of Requests for Production (except for Request No. 7). The Board further should admonish Opposer that further failures to comply with discovery will be cause for further sanctions, up to and including default or dismissal of the Opposition with prejudice.

Dated: September 23, 2022

Respectfully submitted,

By: /s/Benjamin N. Simler

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of this MOTION TO COMPEL was sent by e-mail on

September 23, 2022 to:

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Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79032286
LAW OFFICE ASSIGNED	LAW OFFICE 105

MARK SECTION (no change)

ARGUMENT(S)

The examiner has refused registration of the INFINITY mark (Application Serial No. 79/032,286) on the basis of a likelihood of confusion with Registration Nos. 1,552,897, 1,920,905, 1,920,906 and 2,710,976, and has cited Application Serial Nos. 76/532,027, 76/590,716 and 78/419,452 as a potential basis for opposition. Reconsideration is respectfully requested.

Initially, Applicant respectfully advises the examiner that Application Serial No. 76/523,027 for the INFINITY COLLECTION mark has been abandoned. Applicant respectfully requests that the examiner withdraw this application as a potential basis for refusal.

Applicant respectfully points out that it has amended its identification of goods to clarify the goods on which the mark is used. Based upon this amendment alone, Applicant believes that the examiner should withdraw the likelihood of confusion refusal. This is especially true since the INFINITY mark is weak and entitled to a narrow scope of protection. For example, a search of the U.S. Patent and Trademark Office Website Database yields 29 "hits" for INFINITY and INFINITY-derivative marks used with goods in Class 19. This does not include INFINITY and INFINITY-derivative marks used with goods and services in all other classes (a search of the U.S. Patent and Trademark Office Website Database yields 717 "hits" for INFINITY marks in all classes). Attached are print-outs from the U.S. Patent and Trademark Website Database that show the results for these searches. In particular, Applicant points out the INFINITY Registration No. 1,624,878 used on rubber cove base in Class 19; INFINITY Registration No. 1,634,084 used on glass shapes used in windows and panels in Class 19; INFINITY TRENCH Registration No. 2,559,954 used on trench drains, among other goods in Class 19; and INFINITY ENCORE BY AMERICAN + Design Registration No. 2,498,383 used on wooden residential interior doors in Class 19. Attached are copies of the Registration Certificates for those marks. Given that INFINITY and INFINITY derivative marks are registered to several different owners in Class 19 (not counting the many different INFINITY marks owned by third parties and registered in different classes), the INFINITY mark is weak and the cited Registration is entitled to a narrow scope of protection. In addition, Applicant makes the following arguments:

A. Goods Travel in Different Channels of Trade

Applicant provides ceramic tiles, porcelain stoneware tiles, ceramic slabs, porcelain stoneware slabs and tiles not of metal. These goods are entirely different and travel in different channels of trade than the wall panels for external building surfaces and windows and plastic window frames with which the cited marks are used. The examiner argues that Applicant's original language "wall coverings not of metal" could be construed to include the Registrant's goods. Applicant has amended its identification of goods to clarify the goods on which its mark is used. Applicant does not provide wall panels, doors, windows, or window frames. Moreover, Applicant's products are not related to or components of the Registrants' goods. In addition, the consumers of the goods are entirely different. Stated simply, the ultimate consumers of Applicant's products are purchasers of ceramic tile. The ultimate consumers of the Registrants' goods are purchasers of those specific products. This difference in consumers alone is enough to distinguish the goods of the parties.

The Examiner has not explained why the goods of the parties are related. Merely being classified in the same international class of goods and/or having something superficial to do with the same subject matter are not sufficient bases for an Examiner to refuse registration.

Examples abound in many areas:

1) There is no per se rule that all computer-related items are related. In *Reynolds & Reynolds v. I.E. Systems, Inc.*, 5 USPQ2d 1749 (TTAB 1987), the Board found no likelihood of confusion between "ACCULINK" and a family of "ACCU" marks because computer software used to make microcomputers "dumb terminals" were unrelated to application software for tax programs. The Board stated:

In view of the fact that computers are useful and/or are used in almost every facet of the world of business, commerce, medicine, law,

etc., it is obvious that distinctions must be made.

In In re Quadrum Corp., 228 USPQ 863 (TTAB 1985), the Board held that there was no likelihood of confusion between "MICROFASER" for peripheral computer hardware and "FASER" for applications software in the field of energy conservation and management.

2) No likelihood of confusion was found between the M2 mark for use on CD-ROMS for healthcare and the M2 COMMUNICATIONS mark for use on CD-ROMS for film and music. M2 Software Inc. v. M2 Communications, Inc., 78 USPQ2d 1944 (CAFC 2006).

Similarly, in In re Box Solutions Corp., 79 USPQ2d 1953 (TTAB 2006), the Board reversed the examiner's likelihood of confusion refusal on the basis that the phrase BOX SOLUTIONS used with computer communications servers was not likely to cause confusion with registrant's BOX + Design mark for use with computers and computer peripherals.

3) There is no per se rule that all food-related products are related. See Steve's Ice Cream v. Steve's Famous Hot Dogs, 3 USPQ2d 1477 (TTAB 1987) (ice cream not related to restaurants featuring hot dogs); Jacobs v. International Multifoods, Corp., 212 USPQ 641, 642 (CCPA 1982) (restaurant services unrelated to tea); The Nestle Company, Inc., v. Nash-Finch Co., 4 USPQ2d 1085 (TTAB 1987) (delicatessen not related to chocolate milk powders); Hi-Country Foods Corp. v. Hi Country Beef Jerky, 4 USPQ 1169 (TTAB 1987) (fruit juices not related to beef snack food).

The essence of all these cases is that merely having something to do with food does not establish that products or services are commercially related. The Examiner must provide more proof.

4) No likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. In re Shipp, 4 USPQ2d 1174 (TTAB 1987). The following reasons were given by the TTAB:

1. The services were offered to the general public, while the goods were used by owners or operators of the business establishments.
2. The goods were not ordinarily sold to the general public.
3. It was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses.
4. The only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

5) No likelihood of confusion was found between the marks DIAMOND ESSENCE for jewelry and ESSENCE for a magazine advertising jewelry. Essence Communications, Inc. v. Singh Industries, Inc., 10 USPQ2d 1036 (S.D.N.Y. 1988).

6) In Glen Raven Cotton Mills, Inc. v. Jayvee Brand, Inc., 165 USPQ 791 (TTAB 1970), a distinction was drawn between products that seemed at first glance to be commercially related. The mark CANDEE CANE was used in connection with infant's garments. The mark CANDY CANE was used for a variety of fabrics sold in the piece for fabrication into upholstery fabrics, awnings, draperies, wearing apparel and various accessories. Although cases have held that fabrics and clothing items are related, in this case, the TTAB found no likelihood of confusion because the fabrics were not the type used in the manufacture of infant's garments.

7) See Andy Warhol v. Time, 9 USPQ2d 1455 (S.D.N.Y. 1988) (no likelihood of confusion between two magazines with the title INTERVIEW); American Cyanamid Corp. v. Connaught Laboratories, Inc., 800 F.2d 306, 231 USPQ2d 128 (2d Cir. 1986), (no likelihood of confusion between HIBBVAX and HIBIMUNE); Lang v. Retirement Living Publishing Co., 21 USPQ2d 1041 (2d Cir. 1991) (no likelihood of confusion between NEW CHOICES FOR THE BEST YEARS and NEW CHOICES PRESS, both used for magazines, because the intended markets of each magazine was different).

8) In the case In re American Olean Tile Co., Inc., 1 USPQ2d 1823 (TTAB 1986), the Trademark Trial and Appeal Board found that there was no likelihood of confusion between ceramic tile and wood doors for exterior and interior use. Despite the fact that both these materials could be used during construction of a building, they were products that were so dissimilar that they were not considered commercially related.

The situation here presents goods that are even more disparate. Applicant's ceramic tiles and the Registrants' wall panels, windows and window frames would not be encountered by the same people in any level of production or marketing. Accordingly, they should not be considered commercially related and there would be no likelihood of confusion.

In addition, even if the Registrants' goods were arguably components of Applicant's products, this does not mean that there is a likelihood of confusion. Examples abound in many areas:

1. In the case In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993), the Trademark Trial and Appeal Board determined that there

was no likelihood of confusion between PHOENIX for leather sold in bulk, and the identical mark PHOENIX registered for use on all-purpose sports bags, luggage, attache cases, briefcases, and handbags. The application covered raw materials while the registration covered finished leather products, and even the registrant admitted that there was no likelihood of confusion.

2. In The Ritz Hotel Limited v. Ritz Closet Seat Corp., 17 USPQed 1466 (TTAB 1990), the Trademark Trial and Appeal Board determined that the RIT-Z (Stylized) mark used on toilet seats was not confusingly similar to the well known RITZ marks owned by the Ritz Hotel chain. The Board stated:

True, no hotel room could exist without such an item [a toilet seat]. But, a toilet seat is a fixture of the hotel just as the closets, bathtubs and chandeliers are. Guests would not expect to be able to purchase a toilet seat to take home with them as a memento or souvenir of their visit to a fashionable hotel as they might purchase a robe or a towel bearing the hotel's name and emblem. For these reasons, we do not believe that anyone would expect toilet seats to be within the natural expansion of opposer's business.

3. In Electronic Design & Sales Inc. v. Electronic Data Systems Corp., 21 USPQ2d 1388 (CAFC 1992), the Court of Appeals for the Federal Circuit overruled the Trademark Trial and Appeal Board and held that there was no likelihood of confusion between the E.D.S. mark used on power supplies and battery chargers, and the EDS mark used on computer services. The Court held that the Board failed to assess properly the differences in purchasers, channels of trade, and what each company sold, and overlooked the sophistication of the purchasers.

4. In the case In re Coors Brewing Co., 68 USPQ2d 1059 (CAFC 2003), the Court of Appeals for the Federal Circuit held that beer and restaurant services are not sufficiently related that the use of similar BLUE MOON marks for each would suggest to consumers that the goods and services share a common source. While it is a fact that restaurants sell food and beverages, this is not alone sufficient to show that beverages and restaurant services are related for purposes of likelihood of confusion analysis. In addition, the fact that some restaurants brew or serve their own private label beer does not support the conclusion that consumers are likely to assume common source for beer and restaurant services with similar marks.

5. Applicant also respectfully reiterates that in the case In re Shipp, 4 USPQ2d 1174 (TTAB 1987), no likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. The TTAB determined that the services were offered to the general public, while the goods were used by owners or operators of the business establishments; the goods were not ordinarily sold to the general public; it was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses; and the only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

On the basis of these cases, even if the Registrants' goods were components of Applicant's products, this does not mean that there is a likelihood of confusion between the goods of the parties. The Registrants provide wall panels, doors, windows and window frames, and the Applicant provides ceramic tiles. These goods are different, are sold in different channels of trade, and are purchased by different consumers. Thus, there is no likelihood of confusion.

B. Marks are Visually, Phonetically and Connotatively Distinguishable

Applicant's mark is INFINITY. Many of the marks cited by the examiner contain additional word elements, such as the INFINITY MD Registration No. 1,920,905, INFINITY PE Registration No. 1,920,906, INFINITY BY MARVIN + Design Application Serial No. 78/419,452, and INFINITY BY ABS Application Serial No. 76/590,716. Given that the INFINITY marks are weak and diluted, differences between the marks take on greater significance. There are many cases where slight variations in marks have created different meanings, and no likelihood of confusion was found to exist. In Jacobs v. International Multifoods Corp., 668 F.2d 1234, 212 USPQ 641 (CCPA 1982), the Court held that a one letter difference between "BOSTON SEA PARTY" and "BOSTON TEA PARTY" was enough to negate confusion because the marks had distinct meanings.

In a Trademark Trial and Appeal Board decision, no likelihood of confusion was found between "PAYOT" and "PEYOTE" because despite a difference in only two letters, and a similarity in appearance and sound, the word had different meanings. One was an English word, the other a surname. One was familiar, the other was unfamiliar. Payot v. Southwestern Classics, 3 USPQ2d 1601 (TTAB 1987). Also see In re Champion Oil Co., 1 USPQ2d 1920 (TTAB 1986) ("TOP FORMULA 16" V. "FORMULA 1").

Finally, there is much case law involving marks that were almost identical in a literal sense, but because of a difference in overall images conjured up by the marks, no likelihood of confusion was found. See In re Best Products Company, Inc., 231 USPQ 988 (TTAB 1986) ("JEWELERS' BEST" v. "BEST JEWELRY"); Bank of America National Trust and Savings Association v. American National Bank of St. Joseph, 201 1 USPQ 942 (TTAB 1978) ("BANKAMERICA" v. "AMERIBANC"); and Carlisle Chemical Works, Inc. v.

Hardman and Holden Ltd., 434 F.2d 1403, 168 USPQ 110 (CCPA 1970) ("COZIRC" v. "ZIRCO").

C. Register Should Reflect Actual Use

Despite the unjust harm that will result if Applicant cannot obtain a federal registration, the reality is that Applicant will continue to use its mark. Dilution in the field will preclude serious challenges to Applicant's use. The Examiner should consider the words of the Court of Appeals for the Federal Circuit in Bongrain International v. Delice de France, 1 USPQ 2d 1775 (Fed. Cir. 1987):

The primary purpose of the Trademark Act of 1946 is to give Federal procedural augmentation to the common law rights of trademark owners -- which is to say legitimate users of trademarks. One of the policies sought to be implemented by the Act was to encourage the presence on the register of trademarks of as many as possible of the marks in actual use so that they are available for search purposes (emphasis added).

Applicant's mark will be used and should be registered.

In sum, Applicant respectfully requests that the examiner withdraw the likelihood of confusion refusal because Applicant's mark is used on different goods in an entirely different channel of trade; the cited marks are weak and entitled to a narrow scope of protection; Applicant's mark is visually, phonetically and connotatively distinguishable from many of the cited marks; and the Register should reflect actual use.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
	\\TICRS2\EXPORT13\790\322 \79032286\xml1\ROA0002.JP G
	\\TICRS2\EXPORT13\790\322 \79032286\xml1\ROA0003.JP G
	\\TICRS2\EXPORT13\790\322 \79032286\xml1\ROA0004.JP G
	\\TICRS2\EXPORT13\790\322 \79032286\xml1\ROA0005.JP G
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	\\TICRS2\EXPORT13\790\322 \79032286\xml1\ROA0010.JP G
DESCRIPTION OF EVIDENCE FILE	Print-outs from the U.S. Patent and Trademark Office Website Database and third-party registration certificates

GOODS AND/OR SERVICES SECTION (current)

INTERNATIONAL CLASS	019
DESCRIPTION	Ceramic materials; ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; building materials not of metal; tiles not of metal; wall coverings not of metal; coverings of bathroom walls not of metal; coverings of kitchen walls not of metal

GOODS AND/OR SERVICES SECTION (proposed)

INTERNATIONAL CLASS	019
DESCRIPTION	Ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; tiles not of metal

CORRESPONDENCE SECTION

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SIGNATURE SECTION	
DECLARATION SIGNATURE	/alk/
SIGNATORY'S NAME	Aimee L. Kaplan
SIGNATORY'S POSITION	Attorney
DATE SIGNED	07/20/2007
RESPONSE SIGNATURE	/alk/
SIGNATORY'S NAME	Aimee L. Kaplan
SIGNATORY'S POSITION	Attorney
DATE SIGNED	07/20/2007
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Jul 20 15:55:25 EDT 2007
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.X-20 070720155525824963-790322 86-38096387a4341da4755523 9181d7ecb3b44-N/A-N/A-200 70720155229873863

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **79032286** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The examiner has refused registration of the INFINITY mark (Application Serial No. 79/032,286) on the basis of a likelihood of confusion with Registration Nos. 1,552,897, 1,920,905, 1,920,906 and 2,710,976, and has cited Application Serial Nos. 76/532,027, 76/590,716 and 78/419,452 as a potential basis for opposition. Reconsideration is respectfully requested.

Initially, Applicant respectfully advises the examiner that Application Serial No. 76/523,027 for the INFINITY COLLECTION mark has been abandoned. Applicant respectfully requests that the examiner withdraw this application as a potential basis for refusal.

Applicant respectfully points out that it has amended its identification of goods to clarify the goods on which the mark is used. Based upon this amendment alone, Applicant believes that the examiner should withdraw the likelihood of confusion refusal. This is especially true since the INFINITY mark is weak and entitled to a narrow scope of protection. For example, a search of the U.S. Patent and Trademark Office Website

Database yields 29 "hits" for INFINITY and INFINITY-derivative marks used with goods in Class 19. This does not include INFINITY and INFINITY-derivative marks used with goods and services in all other classes (a search of the U.S. Patent and Trademark Office Website Database yields 717 "hits" for INFINITY marks in all classes). Attached are print-outs from the U.S. Patent and Trademark Website Database that show the results for these searches. In particular, Applicant points out the INFINITY Registration No. 1,624,878 used on rubber cove base in Class 19; INFINITY Registration No. 1,634,084 used on glass shapes used in windows and panels in Class 19; INFINITY TRENCH Registration No. 2,559,954 used on trench drains, among other goods in Class 19; and INFINITY ENCORE BY AMERICAN + Design Registration No. 2,498,383 used on wooden residential interior doors in Class 19. Attached are copies of the Registration Certificates for those marks. Given that INFINITY and INFINITY derivative marks are registered to several different owners in Class 19 (not counting the many different INFINITY marks owned by third parties and registered in different classes), the INFINITY mark is weak and the cited Registration is entitled to a narrow scope of protection. In addition, Applicant makes the following arguments:

A. Goods Travel in Different Channels of Trade

Applicant provides ceramic tiles, porcelain stoneware tiles, ceramic slabs, porcelain stoneware slabs and tiles not of metal. These goods are entirely different and travel in different channels of trade than the wall panels for external building surfaces and windows and plastic window frames with which the cited marks are used. The examiner argues that Applicant's original language "wall coverings not of metal" could be construed to include the Registrant's goods. Applicant has amended its identification of goods to clarify the goods on which its mark is used. Applicant does not provide wall panels, doors, windows, or window frames. Moreover, Applicant's products are not related to or components of the Registrants' goods. In addition, the consumers of the goods are entirely different. Stated simply, the ultimate consumers of Applicant's products are purchasers of ceramic tile. The ultimate consumers of the Registrants' goods are purchasers of those specific products. This difference in consumers alone is enough to distinguish the goods of the parties.

The Examiner has not explained why the goods of the parties are related. Merely being classified in the same international class of goods and/or having something superficial to do with the same subject matter are not sufficient bases for an Examiner to refuse registration. Examples abound in many areas:

1) There is no per se rule that all computer-related items are related. In Reynolds & Reynolds v. I.E. Systems, Inc., 5 USPQ2d 1749 (TTAB 1987), the Board found no likelihood of confusion between "ACCULINK" and a family of "ACCU" marks because computer software used to make microcomputers "dumb terminals" were unrelated to application software for tax programs. The Board stated:

In view of the fact that computers are useful and/or are used in almost every facet of the world of business, commerce, medicine, law, etc., it is obvious that distinctions must be made.

In In re Quadrum Corp., 228 USPQ 863 (TTAB 1985), the Board held that there was no likelihood of confusion between "MICROFASER" for peripheral computer hardware and "FASER" for applications software in the field of energy conservation and management.

2) No likelihood of confusion was found between the M2 mark for use on CD-ROMS for healthcare and the M2 COMMUNICATIONS mark for use on CD-ROMS for film and music. M2 Software Inc. v. M2 Communications, Inc., 78 USPQ2d 1944 (CAFC 2006).

Similarly, in In re Box Solutions Corp., 79 USPQ2d 1953 (TTAB 2006), the Board reversed the examiner's likelihood of confusion refusal on the basis that the phrase BOX SOLUTIONS used with computer communications servers was not likely to cause confusion with registrant's BOX + Design mark for use with computers and computer peripherals.

3) There is no per se rule that all food-related products are related. See Steve's Ice Cream v. Steve's Famous Hot Dogs, 3 USPQ2d 1477 (TTAB 1987) (ice cream not related to restaurants featuring hot dogs); Jacobs v. International Multifoods, Corp., 212 USPQ 641, 642 (CCPA 1982) (restaurant services unrelated to tea); The Nestle Company, Inc., v. Nash-Finch Co., 4 USPQ2d 1085 (TTAB 1987) (delicatessen not related to chocolate milk powders); Hi-Country Foods Corp. v. Hi Country Beef Jerky, 4 USPQ 1169 (TTAB 1987) (fruit juices not related to beef snack food).

The essence of all these cases is that merely having something to do with food does not establish that products or services are commercially related. The Examiner must provide more proof.

4) No likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. In re Shipp, 4 USPQ2d 1174 (TTAB 1987). The following reasons were given by the TTAB:

1. The services were offered to the general public, while the goods were used by owners or operators of the business establishments. 2. The goods were not ordinarily sold to the general public. 3. It was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses. 4. The only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

5) No likelihood of confusion was found between the marks DIAMOND ESSENCE for jewelry and ESSENCE for a magazine advertising jewelry. Essence Communications, Inc. v. Singh Industries, Inc., 10 USPQ2d 1036 (S.D.N.Y. 1988).

6) In Glen Raven Cotton Mills, Inc. v. Jayvee Brand, Inc., 165 USPQ 791 (TTAB 1970), a distinction was drawn between products that seemed at first glance to be commercially related. The mark CANDEE CANE was used in connection with infant's garments. The mark CANDY CANE was used for a variety of fabrics sold in the piece for fabrication into upholstery fabrics, awnings, draperies, wearing apparel and various accessories. Although cases have held that fabrics and clothing items are related, in this case, the TTAB found no likelihood of confusion because the fabrics were not the type used in the manufacture of infant's garments.

7) See Andy Warhol v. Time, 9 USPQ2d 1455 (S.D.N.Y. 1988) (no likelihood of confusion between two magazines with the title INTERVIEW); American Cyanamid Corp. v. Connaught Laboratories, Inc., 800 F.2d 306, 231 USPQ2d 128 (2d Cir. 1986), (no likelihood of confusion between HIBBAX and HIBIMUNE); Lang v. Retirement Living Publishing Co., 21 USPQ2d 1041 (2d Cir. 1991) (no likelihood of confusion between NEW CHOICES FOR THE BEST YEARS and NEW CHOICES PRESS, both used for magazines, because the intended markets of each magazine was different).

8) In the case In re American Olean Tile Co., Inc., 1 USPQ2d 1823 (TTAB 1986), the Trademark Trial and Appeal Board found that there was no likelihood of confusion between ceramic tile and wood doors for exterior and interior use. Despite the fact that both these materials could be used during construction of a building, they were products that were so dissimilar that they were not considered commercially related.

The situation here presents goods that are even more disparate. Applicant's ceramic tiles and the Registrants' wall panels, windows and window frames would not be encountered by the same people in any level of production or marketing. Accordingly, they should not be considered commercially related and there would be no likelihood of confusion.

In addition, even if the Registrants' goods were arguably components of Applicant's products, this does not mean that there is a likelihood of confusion. Examples abound in many areas:

1. In the case In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993), the Trademark Trial and Appeal Board determined that there was no likelihood of confusion between PHOENIX for leather sold in bulk, and the identical mark PHOENIX registered for use on all-purpose sports bags, luggage, attache cases, briefcases, and handbags. The application covered raw materials while the registration covered finished leather products, and even the registrant admitted that there was no likelihood of confusion.

2. In The Ritz Hotel Limited v. Ritz Closet Seat Corp., 17 USPQed 1466 (TTAB 1990), the Trademark Trial and Appeal Board determined that the RIT-Z (Stylized) mark used on toilet seats was not confusingly similar to the well known RITZ marks owned by the Ritz Hotel chain. The Board stated:

True, no hotel room could exist without such an item [a toilet seat]. But, a toilet seat is a fixture of the hotel just as the closets, bathtubs and chandeliers are. Guests would not expect to be able to purchase a toilet seat to take home with them as a memento or souvenir of their visit to a fashionable hotel as they might purchase a robe or a towel bearing the hotel's name and emblem. For these reasons, we do not believe that anyone would expect toilet seats to be within the natural expansion of opposer's business.

3. In Electronic Design & Sales Inc. v. Electronic Data Systems Corp., 21 USPQ2d 1388 (CAFC 1992), the Court of Appeals for the Federal Circuit overruled the Trademark Trial and Appeal Board and held that there was no likelihood of confusion between the E.D.S. mark used on power supplies and battery chargers, and the EDS mark used on computer services. The Court held that the Board failed to assess properly the differences in purchasers, channels of trade, and what each company sold, and overlooked the sophistication of the purchasers.

4. In the case In re Coors Brewing Co., 68 USPQ2d 1059 (CAFC 2003), the Court of Appeals for the Federal Circuit held that beer and restaurant services are not sufficiently related that the use of similar BLUE MOON marks for each would suggest to consumers that the goods and services share a common source. While it is a fact that restaurants sell food and beverages, this is not alone sufficient to show that beverages and restaurant services are related for purposes of likelihood of confusion analysis. In addition, the fact that some restaurants brew or serve their own private label beer does not support the conclusion that consumers are likely to assume common source for beer and restaurant services with

similar marks.

5. Applicant also respectfully reiterates that in the case In re Shipp, 4 USPQ2d 1174 (TTAB 1987), no likelihood of confusion was found between the marks PURITAN for laundry and dry cleaning services and PURITAN for commercial dry cleaning machine filters. The TTAB determined that the services were offered to the general public, while the goods were used by owners or operators of the business establishments; the goods were not ordinarily sold to the general public; it was unlikely that customers of the cleaning business would come in contact with the goods used by those businesses; and the only class of purchaser who would encounter both the services and the goods were dry cleaning professionals who were aware of practices in the trade.

On the basis of these cases, even if the Registrants' goods were components of Applicant's products, this does not mean that there is a likelihood of confusion between the goods of the parties. The Registrants provide wall panels, doors, windows and window frames, and the Applicant provides ceramic tiles. These goods are different, are sold in different channels of trade, and are purchased by different consumers. Thus, there is no likelihood of confusion.

B. Marks are Visually, Phonetically and Connotatively Distinguishable

Applicant's mark is INFINITY. Many of the marks cited by the examiner contain additional word elements, such as the INFINITY MD Registration No. 1,920,905, INFINITY PE Registration No. 1,920,906, INFINITY BY MARVIN + Design Application Serial No. 78/419,452, and INFINITY BY ABS Application Serial No. 76/590,716. Given that the INFINITY marks are weak and diluted, differences between the marks take on greater significance. There are many cases where slight variations in marks have created different meanings, and no likelihood of confusion was found to exist. In Jacobs v. International Multifoods Corp., 668 F.2d 1234, 212 USPQ 641 (CCPA 1982), the Court held that a one letter difference between "BOSTON SEA PARTY" and "BOSTON TEA PARTY" was enough to negate confusion because the marks had distinct meanings.

In a Trademark Trial and Appeal Board decision, no likelihood of confusion was found between "PAYOT" and "PEYOTE" because despite a difference in only two letters, and a similarity in appearance and sound, the word had different meanings. One was an English word, the other a surname. One was familiar, the other was unfamiliar. Payot v. Southwestern Classics, 3 USPQ2d 1601 (TTAB 1987). Also see In re Champion Oil Co., 1 USPQ2d 1920 (TTAB 1986) ("TOP FORMULA 16" V. "FORMULA 1").

Finally, there is much case law involving marks that were almost identical in a literal sense, but because of a difference in overall images conjured up by the marks, no likelihood of confusion was found. See In re Best Products Company, Inc., 231 USPQ 988 (TTAB 1986) ("JEWELERS' BEST" v. "BEST JEWELRY"); Bank of America National Trust and Savings Association v. American National Bank of St. Joseph, 201 1 USPQ 942 (TTAB 1978) ("BANKAMERICA" v. "AMERIBANC"); and Carlisle Chemical Works, Inc. v. Hardman and Holden Ltd., 434 F.2d 1403, 168 USPQ 110 (CCPA 1970) ("COZIRC" v. "ZIRCO").

C. Register Should Reflect Actual Use

Despite the unjust harm that will result if Applicant cannot obtain a federal registration, the reality is that Applicant will continue to use its mark. Dilution in the field will preclude serious challenges to Applicant's use. The Examiner should consider the words of the Court of Appeals for the Federal Circuit in Bongrain International v. Delice de France, 1 USPQ 2d 1775 (Fed. Cir. 1987):

The primary purpose of the Trademark Act of 1946 is to give Federal procedural augmentation to the common law rights of trademark owners -- which is to say legitimate users of trademarks. One of the policies sought to be implemented by the Act was to encourage the presence on the register of trademarks of as many as possible of the marks in actual use so that they are available for search purposes (emphasis added).

Applicant's mark will be used and should be registered.

In sum, Applicant respectfully requests that the examiner withdraw the likelihood of confusion refusal because Applicant's mark is used on different goods in an entirely different channel of trade; the cited marks are weak and entitled to a narrow scope of protection; Applicant's mark is visually, phonetically and connotatively distinguishable from many of the cited marks; and the Register should reflect actual use.

EVIDENCE

Evidence in the nature of Print-outs from the U.S. Patent and Trademark Office Website Database and third-party registration certificates has been attached.

[Evidence-1](#)

[Evidence-2](#)
[Evidence-3](#)
[Evidence-4](#)
[Evidence-5](#)
[Evidence-6](#)
[Evidence-7](#)
[Evidence-8](#)
[Evidence-9](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 019 for Ceramic materials; ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; building materials not of metal; tiles not of metal; wall coverings not of metal; coverings of bathroom walls not of metal; coverings of kitchen walls not of metal
Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 019 for Ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; tiles not of metal

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current: LUPPI CRUGNOLA & PARTNERS S.R.L. Viale Corassori, 54 I-41100 Modena ITALY

Proposed: Aimee L. Kaplan & Stewart J. Bellus of Collard & Roe, P.C., having an address of 1077 Northern Blvd. Roslyn, New York United States 11576, whose phone number is 516/365-9802 and whose fax number is 516/365-9805.

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /alk/ Date: 07/20/2007

Signatory's Name: Aimee L. Kaplan

Signatory's Position: Attorney

Response Signature

Signature: /alk/ Date: 07/20/2007

Signatory's Name: Aimee L. Kaplan

Signatory's Position: Attorney

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Mailing Address: Aimee L. Kaplan & Stewart J. Bellus
Collard & Roe, P.C.
1077 Northern Blvd.
Roslyn, New York 11576

Serial Number: 79032286

Internet Transmission Date: Fri Jul 20 15:55:25 EDT 2007

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Current Search: S1: (infinity)[MN] and (019)[IC] docs: 29 occ: 58

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
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4	78387732		FIVE POINT PROOF 5 EXCLUSIVELY FROM INFINITY FROM MARVIN	TARR	DEAD
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6	78365209		INFINITY FLOORING	TARR	DEAD
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8	77024431		INFINITY DOOR BY DOORAMERICA	TARR	LIVE
9	77186040		INFINITY	TARR	LIVE
10	76590716		INFINITY BY ABS	TARR	LIVE
11	76523027		INFINITY COLLECTION	TARR	DEAD
12	76497078		INFINITY ROOF SYSTEMS	TARR	DEAD
13	76497077		INFINITY ROOF SYSTEMS	TARR	DEAD
14	76378331	2710976	INFINITY	TARR	LIVE
15	76262314		SPECTRALIGHT INFINITY	TARR	DEAD
16	76168862	2498383	INFINITY ENCORE BY AMERICAN	TARR	LIVE
17	76004571	2559954	INFINITY TRENCH	TARR	LIVE
18	75888080		AMERICAN INFINITY DOOR	TARR	DEAD
19	75888079		INFINITY BY ABS	TARR	DEAD
20	75888078		INFINITY DOOR	TARR	DEAD
21	75489137		INFINITY EDGE	TARR	DEAD
22	74478310	1920906	INFINITY PE	TARR	LIVE
23	74478309	1920905	INFINITY MD	TARR	LIVE
			THE SATIN ENSEMBLE AN INFINITY OF COLOR		

24	74603456	2009005	OPTIONS FOR NOW AND THE FUTURE	TARR	DEAD
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29	73773206	1552897	INFINITY	TARR	LIVE

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3	79004789	2987634	INFINITY	TARR	LIVE
4	78909558		INFINITY-STAR	TARR	LIVE
5	78974360	3265193	INFINITY	TARR	LIVE
6	78669825		INFINITY FOILS	TARR	LIVE
7	78965721	3261039	CENTER OF MY OWN INFINITY	TARR	LIVE
8	78874079		INFINITY	TARR	LIVE
9	78556410		INFINITY FOOTBAR	TARR	LIVE
10	78794347		INFINITY PRO GOLF	TARR	LIVE
11	78794339		INFINITY SITE MANAGER	TARR	LIVE
12	78702613		INFINITY DESTINATIONS LEAGUE	TARR	DEAD
13	78952151		INFINITY 360°	TARR	LIVE
14	78817294		INFINITY WAVE	TARR	LIVE
15	78857735		BORDERWARE INFINITY	TARR	LIVE
16	78620175		INFINITY	TARR	LIVE
17	78795256		INFINITY NETWORK	TARR	LIVE
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30	78794350		INFINITY PRO HEALTH	TARR	LIVE
31	78794346		INFINITY PRO GAMING	TARR	LIVE
32	78614618		INFINITY TECHNOLOGY INC.	TARR	LIVE
33	78787117		INFINITY	TARR	LIVE
34	78754120		IOS INFINITY KNIT	TARR	LIVE
35	78754114		IOS INFINITY DENIM	TARR	LIVE
36	78754117		IOS INFINITY JEAN	TARR	LIVE
37	78801130		INFINITY SECURITY INSURANCE COMPANY	TARR	LIVE
38	78800967		INFINITY COUNTY MUTUAL INSURANCE COMPANY	TARR	LIVE
39	78800156		INFINITY GENERAL INSURANCE COMPANY	TARR	LIVE
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43	78811983	3193061	KUKUHOE BY INFINITY SURFBOARDS	TARR	LIVE
44	78806007		INFINITY SHARES	TARR	DEAD
45	78797357		INFINITY ASSURANCE INSURANCE COMPANY	TARR	LIVE
46	78797328		INFINITY INDEMNITY INSURANCE COMPANY	TARR	LIVE
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48	78791371		INFINITY AUTO INSURANCE COMPANY	TARR	LIVE
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67	78847592		INFINITY LOGISTICS	TARR	LIVE

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70	78791280		INFINITY PREMIER INSURANCE COMPANY	TARR	LIVE
71	78772734		INFINITY HEALTH CENTER	TARR	DEAD
72	78755170		THE INFINITY DIAMOND	TARR	LIVE
73	78878813		INFINITY	TARR	LIVE
74	78858999		RUN TO INFINITY	TARR	LIVE
75	78849759		INFINITY	TARR	LIVE
76	78715418		INFINITY EDGE	TARR	LIVE
77	78817121		INFINITY	TARR	LIVE
78	78609030		INFINITY HOOKS	TARR	DEAD
79	78744702	3150986	INFINITY LIFE COACHING	TARR	LIVE
80	78715460		INFINITY BUSINESS ASSOCIATION	TARR	DEAD
81	78715441		INFINITY BUSINESS ASSURANCE	TARR	DEAD
82	78579049	3147719	INFINITY SYSTEMS ENGINEERING	TARR	LIVE
83	78555935		INFINITY	TARR	DEAD
84	78691766		MXTRME INFINITY	TARR	LIVE
85	78796274		INFINITY SLIDE	TARR	LIVE
86	78613950	3144693	INFINITY ULTRA	TARR	LIVE
87	78690949		INFINITY	TARR	DEAD
88	78970021		INFINITY	TARR	LIVE
89	78965778		INFINITY PARTNERS	TARR	LIVE
90	78774536		INFINITY	TARR	LIVE
91	78957823		ICS INFINITY COMPUTER SOLUTIONS	TARR	LIVE
92	78620183		ALWAYS INFINITY	TARR	LIVE
93	78742962		INFINITY PRO SPORTS	TARR	LIVE
94	78658013		INFINITY ...HARDER THAN LIFE	TARR	DEAD
95	78754122		IOS INFINITY COLLECTION	TARR	LIVE
96	78738814		INFINITY	TARR	LIVE
97	78735879		INFINITY	TARR	LIVE
98	78638306		INFINITY DISC	TARR	LIVE
99	78688827	3120473	INFINITY HOSPICE CARE	TARR	LIVE
100	78648452		INFINITY FOILS	TARR	DEAD

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Int. Cl.: 19

Prior U.S. Cls.: 1, 12, 33 and 50

United States Patent and Trademark Office

Reg. No. 2,498,383
Registered Oct. 16, 2001

**TRADEMARK
PRINCIPAL REGISTER**

Infinity
Encore *by American*

AMERICAN BUILDING SUPPLY, INC. (CALI-
FORNIA CORPORATION)
8360 ELDER CREEK
SACRAMENTO, CA 95828

FIRST USE 10-0-2000; IN COMMERCE 11-0-2000.

SER. NO. 76-168,862, FILED 11-20-2000.

FOR: WOODEN RESIDENTIAL INTERIOR
DOORS, IN CLASS 19 (U.S. CLS. 1, 12, 33 AND 50).

CATHERINE CAIN, EXAMINING ATTORNEY

Int. Cl.: 19

Prior U.S. Cls.: 1, 12, 33, and 50

Reg. No. 2,559,954

United States Patent and Trademark Office

Registered Apr. 9, 2002

**TRADEMARK
PRINCIPAL REGISTER**

INFINITY TRENCH

INFINITY PLASTICS, INC. (NEW YORK COR-
PORATION)
233 FLEMING AVE.
TONAWANDA, NY 14150

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "TRENCH", APART FROM THE
MARK AS SHOWN.

FOR: TRENCH DRAINS, TROUGHS, TROUGH
ASSEMBLIES, TROUGH ENDS, FITTINGS AND
COMPONENTS, IN CLASS 19 (U.S. CLS. 1, 12, 33
AND 50).

SN 76-004,571, FILED 3-20-2000.

FIRST USE 3-31-2000; IN COMMERCE 3-31-2000.

JANICE L. MCMORROW, EXAMINING ATTOR-
NEY

Int. Cl.: 19

Prior U.S. Cl.: 12

United States Patent and Trademark Office **Reg. No. 1,634,084**
Registered Feb. 5, 1991

**TRADEMARK
PRINCIPAL REGISTER**

INFINITY

CREATIVE CRAFTSMEN CO., INC. (DELA-
WARE CORPORATION)
1620 FRONTENAC ROAD
NAPERVILLE, IL 605401712

FOR: GLASS SHAPES USED IN WINDOWS,
PANELS AND ORNAMENTAL DESIGNS SOLD
IN CRAFT SPECIALTY SHOPS, IN CLASS 19
(U.S. CL. 12).

FIRST USE 8-5-1988; IN COMMERCE
8-18-1988.

OWNER OF U.S. REG. NO. 1,552,897.

SER. NO. 73-819,904, FILED 8-18-1989.

CANDICE ABATE, EXAMINING ATTORNEY

Int. Cl.: 19

Prior U.S. Cl.: 12

United States Patent and Trademark Office

Reg. No. 1,624,878

Registered Nov. 27, 1990

**TRADEMARK
PRINCIPAL REGISTER**

INFINITY

ROPPE CORPORATION (DELAWARE CORPORATION)
1602 NORTH UNION STREET
FOSTORIA, OH 44830, BY CHANGE OF NAME
FROM ROPPE RUBBER CORPORATION
(OHIO CORPORATION) FOSTORIA, OH 44830

FOR: RUBBER COVE BASE, IN CLASS 19
(U.S. CL. 12).
FIRST USE 10-16-1989; IN COMMERCE
10-16-1989.

SER. NO. 73-837,985, FILED 11-13-1989.

ELLEN A. RUBEL, EXAMINING ATTORNEY