

TTAB

TEAMLAW 10.1-002

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

TEAM LAW, INC.,

Petitioner,

v.

STEPHEN A. SPINELLI,

Respondent.

Cancellation No. 27,366

03-31-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #39

X

BOX TTAB
Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22203-3513

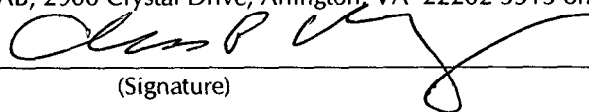
**COMMUNICATION REGARDING FINAL COURT JUDGMENT
CANCELING RESPONDENT'S REGISTRATION**

03/27/03 11:30

Petitioner Team Law, Inc. hereby submits this communication to the Trademark Trial and Appeal Board regarding the conclusion of the civil action filed by registrant Stephen A. Spinelli challenging the decision by the Trademark Trial and Appeal Board to cancel Registration No. 1,896,599 in Cancellation No. 27,366.

Team Law filed Cancellation No. 27,366, petitioning to cancel Registration No. 1,896,599 owned by Spinelli because Spinelli's registration was cited as a bar to Application Serial No. 74/529,875 filed by Team Law. On January 4, 2001, the Trademark Trial and Appeal

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513 on March 28, 2003.



(Signature)

Charles P. Kennedy

(Typed or Printed Name of Person Signing Certificate)

Board decided Cancellation No. 27,366, and ordered cancellation of Registration No. 1,896,599.

A copy of the cancellation decision is attached as Exhibit A.

Spinelli appealed and filed a civil action. After transfer, the civil action proceeded as *Stephen A. Spinelli v. Team Law, Inc.*, Civil Action No. 02-1530, before the United States District Court for the District of New Jersey. That civil action was concluded by a Final Judgment on Consent entered January 9, 2003. A copy of the Final Judgment on CConsent is attached as Exhibit B. As noted in paragraph 3, the district court affirmed the decision canceling Registration No. 1,896,599.

Team Law now requests that the Trademark Trial and Appeal Board officially cancel Registration No. 1,896,599. Team Law has been informed by the examining attorney on its Serial No. 74/529,875 that as soon as the cancellation has been registered in the system, the examining attorney will grant the registration.

In view of the long history of this matter, Team Law respectfully requests prompt consideration. If there are any questions regarding this matter, Team Law requests that the Board contact the undersigned attorney.

Respectfully submitted,

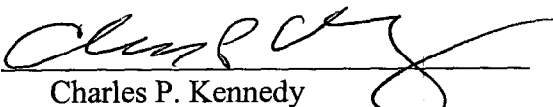
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
Attorneys for Petitioner
Team Law, Inc.

600 South Avenue West, Ste. 300
Westfield, NJ 07090-1497

Tel: 908 654 5000

Fax: 908 654 7866

Dated: March 28, 2003

By: 
Charles P. Kennedy

THIS DOCUMENT
IS NOT A FINAL DECISION
OF THE TTAB.

4 JAN 2001

Paper No. 38
BAC

Handwritten notes: "1/3/01" and "J.W."

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Team Law, Inc.
v.
Stephen A. Spinelli

Cancellation No. 27,366

Charles F. Kennedy of Lerner, David, Littenberg, Krumholz & Mentlik, LLP for Team Law, Inc.

Stephen A. Spinelli, Esq., pro se¹

Before Simms, Chapman and Bottorff, Administrative Trademark Judges.

Opinion by Chapman, Administrative Trademark Judge:

On February 5, 1998 Team Law, Inc. (a New Jersey corporation) filed a petition to cancel Registration No. 1,896,599 on the Principal Register, owned by Stephen A. Spinelli (a lawyer whose office is in Brooklyn, New York), for the mark 1-800-LAW TEAM for "legal services, and promoting public awareness of the need for legal services."

¹ Respondent, who is an attorney, is appearing pro se in this matter. The Board notes that occasionally papers filed on respondent's behalf were signed by "Vesna Antovic, Esq." listing the same address as that of respondent.

² Registration No. 1,896,599, issued May 30, 1995. The claimed date of first use is November 5, 1990.

RECEIVED

JAN 08 2001

As grounds for cancellation petitioner alleges that since at least as early as October 1987 petitioner, through its predecessor, has used the marks TEAM-LAW and 1-800-TEAM-LAW as trade names and as service marks in connection with legal services; that, through assignment, petitioner owns Registration No. 1,981,924 for the mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED for legal services³; that petitioner owns application Serial No. 74/529,875⁴ for the mark TEAM-LAW for legal services, and the Trademark Examining Attorney has refused registration to petitioner based on respondent's registration; that respondent's mark, when used in connection with his services, so resembles petitioner's previously used marks and trade names, as well as its registered mark, as to be likely to cause confusion, mistake or deception; and that from the date of issuance of the registration of the mark 1-800-LAW TEAM, and continuing to the present, respondent has not used his mark and has abandoned his rights thereto.

Respondent, in his answer, denies the salient allegations of the petition to cancel.

The record consists of the pleadings; the file of the involved registration; the testimony, with exhibits, of

³ Registration No. 1,981,924, issued June 25, 1996. The words "lawyers for the seriously injured" are disclaimed. The claimed date of first use is 1991.

⁴ The records of this Office indicate that action on petitioner's pending application has been suspended in Law Office 103.

Kenneth S. Oleckna, Esq., one of five equal shareholders in petitioner corporation⁵; and petitioner's two notices of reliance. Respondent offered no evidence or testimony.

Both parties filed briefs on the case.⁶ An oral hearing was requested, but, after an oral hearing was scheduled, both respondent and petitioner advised the Board that they would not attend. Thus, no oral hearing was held in this case.

The record shows that petitioner's predecessor, the law firm of Ravich, Koster, Tobin, Oleckna, Reitman & Greenstein (hereinafter the Ravich law firm) first used the marks 1-800-TEAM-LAW and TEAM-LAW in about 1985, and first used TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED in 1987, all for legal services. Petitioner corporation, Team Law, Inc., was formed in 1995 by five equal shareholders, and the Ravich law firm assigned its rights to the marks TEAM-LAW, 1-800-TEAM-LAW and TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED to petitioner for the purpose of having petitioner corporation license the marks to various law firms. Under a license, the Ravich law firm has continued using and advertising the TEAM-LAW marks.

⁵ Respondent did not attend Mr. Oleckna's testimony deposition.

⁶ Factual statements made in briefs on the case can be given no consideration unless they are supported by evidence properly introduced at trial. See *BL Cars Ltd. v. Puma Industria de Vehiculos S/A*, 221 USPQ 1018 (TTAB 1983); and *Abbott Laboratories v. TAC Industries, Inc.*, 217 USPQ 819 (TTAB 1981). See also, TBMP §706.02.

Cancellation No. 1

Petitioner advertises on billboards and buses; in magazines such as regional East Coast editions of Time, Newsweek, and Sports Illustrated; in newspapers; in yellow pages classified ads; and on television and radio. Some illustrative examples are shown below:

INJURED?

Don't Hire A Lawyer
Hire a Team of Lawyers

Call 1-800-TEAM-LAW for FREE legal advice
that could result in a large cash settlement.

TEAM-LAW
For Injured People

Call 1-800-TEAM-LAW

EAST ORANGE
NEW JERSEY
ELIZABETH
NEW JERSEY
BAYVIEW
NEW JERSEY
NEWARK
NEW JERSEY
PATTERSON
NEW JERSEY
ROSELAND
NEW JERSEY
SPRINGFIELD
NEW JERSEY
ATLANTIC CITY
NEW JERSEY

1987 Newspaper Ad

**The truth behind breast implants:
Your dream can become a nightmare.**

If you had breast implants that have caused side effects, you may deserve a cash award for your pain and suffering.

Excessive breast band new. The number of breast implants has increased. But many women have experienced side effects. These are some of the symptoms that may be a sign of a breast implant problem. Other adverse effects may include: chronic pain, fatigue, weight gain, and difficulty breathing. More than a cosmetic issue, breast implants have become a serious health issue. That is why the law protects your right to file for a cash award if you have become a victim of a breast implant problem.

Call 1-800-TEAM-LAW

TEAM-LAW
Lawyers for the seriously injured

1992 Newspaper Ad

INSURANCE COMPANIES USE A TEAM OF LAWYERS...

IF YOU'RE INJURED, SHOULDN'T YOU?

Call 1-800-TEAM-LAW

1-800-822-6379

1993 Billboard

Serious Lawyers For Serious Injuries

Call **1-800-TEAM-LAW**

Lawyers for the Seriously Injured

BARUCH BENDER TIMMY CLEGG DAVID REIDMAN GREENSTEIN

1996 Billboard

302 LAWYERS TEAM LAW, INC. v. STEPHEN A. SPINELLI
Cancellation No. 27,268
Exhibit of Petitioner, Team Law, Inc.

INJURED

**Don't Hire A Lawyer.
Hire a Team of Lawyers.**

Call toll free
1 800 TEAM LAW (832-6529)
for FREE legal advice that could
result in a large cash settlement.

No legal fees unless we collect money
for you.

Auto, motorcycle bus., workplace accidents,
slip & falls, defective products, malpractice
One of the oldest and largest accident law
firms in New Jersey.

Free transportation to our offices available.
Se Habla Espanol

Call toll free
1 800
TEAM LAW
Lawyers For The Seriously Injured

60-EVERGREEN PLACE
EAST ORANGE, NEW JERSEY

9 CONVENIENT LOCATIONS THROUGHOUT NEW JERSEY

ATLANTIC CITY • EAST ORANGE • ELIZABETH • FRINGTON • JERSEY CITY • NEW BRUNSWICK • PLYMOUTH HILLS • WEST NEW YORK
973-444-7755 • 973-444-7755 • 973-444-7755 • 973-444-7755 • 973-444-7755 • 973-444-7755 • 973-444-7755 • 973-444-7755

• Ravich • Koster • Telle
• Oleckna • Reisman • Green
• Representative Counsel

1992 Yellow Pages Ad

Petitioner's advertising costs under these marks for the years 1987-1997 total approximately \$8,500,000.

The information on respondent comes essentially from the application file which matured into the registration now the subject of this petition to cancel. Mr. Spinelli offers legal services from his office in Brooklyn, New York, and filed his application on August 31, 1993, with specimens showing "1 (800) LAW TEAM" typed onto his letterhead stationery.

Petitioner's current status and title copy of its pleaded Registration No. 1,981,924 (for the mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED, submitted under a notice

of reliance, establishes petitioner's standing. See *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1844 (Fed. Cir. 2000); and *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982).

Petitioner (through its predecessor) has clearly established its prior and continuous use of the common law service marks TEAM-LAW and 1-800-TEAM-LAW since about 1985, and of the registered mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED since 1987. Absent proof of first use, respondent is only entitled to the filing date of his application. See Trademark Rule 2.122(b)(2). Petitioner's first use of its marks precedes respondent's filing date in 1993.

Turning to the pleaded ground of likelihood of confusion, our determination of this issue is based on an analysis of all the probative facts in evidence that are relevant to the factors bearing on likelihood of confusion. See *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). The factors deemed pertinent in this proceeding now before us are discussed below.

The first du Pont factor we consider is the marks. When considering the involved marks, we must analyze the similarities/dissimilarities as to sound, appearance, connotation and commercial impression. We find respondent's mark 1-800-LAW TEAM similar to petitioner's common law marks

Cancellation No. 27366

TEAM-LAW and 1-800-TEAM-LAW in all of the relevant categories. Of course, the commercial impression created by the marks must be determined in relation to the services in connection with which the marks are used. Also, the reversal in one mark of the essential elements of another mark will avoid a finding of likelihood of confusion only if the transposed marks create distinctly separate and different commercial impressions. See *In re Wine Society of America Inc.*, 12 USPQ2d 1139 (TTAB 1989); *In re Nationwide Industries Inc.*, 6 USPQ2d 1882 (TTAB 1988); and *In re Wm. E. Wright Co.*, 185 USPQ 445 (TTAB 1975). The commercial impression of petitioner's marks TEAM-LAW and 1-800-TEAM-LAW, and respondent's mark 1-800-LAW TEAM are the same. Specifically, both parties' marks connote that when you hire a lawyer, you are getting a team of lawyers to represent your side. The transposition of the words LAW TEAM and TEAM LAW simply does not avoid a likelihood of confusion.

Furthermore, the emphasis in determining likelihood of confusion is not on a side-by-side comparison of the marks, and the average person is not infallible in his recollection of marks and may well transpose the two elements of the marks in his mind, particularly considering memory over a period of time. See *Grandpa Pidgeon's of Missouri, Inc. v. Borgsmiller*, 477 F.2d 586, 177 USPQ 573 (CCPA 1973); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467 (TTAB 1988).

Next, we consider the similarity/dissimilarity of the parties' services and the channels of trade. In this case, both parties provide "legal services." Inasmuch as the respective services are identical, they obviously would be offered through the same, normal channels of trade to all the usual purchasers for such services. See *In re Smith and Mehaffey*, 31 USPQ2d 1531 (TTAB 1994).

Even if we assume that the purchasers of legal services exercise at least some degree of care in choosing a lawyer/law firm, they are still likely to be confused as to the source of two such services when both are identified by very similar marks. That is, such purchasers and users are not immune from confusion as to the origin of the respective services, especially when sold under very similar marks. See *Weiss Associates Inc. v. HRL Associates Inc.*, 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990); *Aries Systems Corp. v. World Book Inc.*, 23 USPQ2d 1742, footnote 17 (TTAB 1992); and *Miles Laboratories Inc. v. Naturally Vitamin Supplements Inc.*, 1 USPQ2d 1445, 1451 (TTAB 1986).

On balance, and considering all of the evidence on the relevant du Pont factors, we find that confusion is likely between respondent's registered mark 1-800-LAW TEAM and petitioner's common law marks TEAM-LAW and 1-800-TEAM-LAW.

In light of our finding of a likelihood of confusion between respondent's mark 1-800-LAW TEAM and petitioner's common law marks, TEAM-LAW and 1-800-TEAM-LAW, for identical services, we need not reach the question of likelihood of confusion between

Finally, turning to the issue of abandonment of respondent's mark, petitioner bears the burden of proof, and must establish abandonment by a preponderance of the evidence. See *Cerveceria Centroamericana, S.A. v. Cerveceria India Inc.*, 892 F.2d 1021, 13 USPQ2d 1307 (Fed. Cir. 1989). See also, 3 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition, §20:41 (4th ed. 2000).

Petitioner essentially contends that respondent has not used his mark since 1993, as evidenced by respondent's answers to certain document requests, and by respondent's failure to submit any evidence of use of his mark for six years.

Petitioner's document request No. 2 reads as follows: "All documents which refer or relate to any advertising or sales for Respondent's services bearing Respondent's Mark since the date of first use"; and respondent answered "Enclosed are copies of the following documents: [a list of 5 letters on respondent's letterhead stationery, all dated in August 1993]."

respondent's mark and petitioner's registered mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED.

Normally documents produced by the adverse party in response to a request for production of documents may not be made of record through a notice of reliance. See TBMP §711. However, respondent made no objection to petitioner's notice of reliance on that basis, thereby waiving such objection. Accordingly, we have considered petitioner's notice of reliance on its involved document requests, and respondent's answers thereto.

The problem with petitioner's position on the issue of abandonment is that the sparse evidence before us does not establish abandonment of the mark 1-800-LAW TEAM by respondent for the services identified in his registration. Respondent is not obligated to submit evidence of use, rather, petitioner must establish respondent's abandonment of his mark. Petitioner would have us presume that the documents produced by respondent were all the documents he possessed regarding the involved mark, but respondent could have provided representative samples of documents in answer to petitioner's involved document request. We cannot make such presumptions in determining the issue before us. Petitioner has not established respondent's abandonment of the mark for three years.² Because petitioner did not establish the statutory prima facie three years non-use, petitioner must then prove respondent's intent not to resume use. There is no evidence of record regarding respondent's intent.

Petitioner's evidence fails to establish respondent's abandonment of his mark.

Decision: The petition to cancel is denied on the ground of abandonment, and it is granted on the ground of

² If petitioner had established a prima facie showing of non-use by respondent for three years, then respondent's intent not to resume use would have been inferred under Section 45 of the Trademark Act.

Cancellation No. 27366

priority and likelihood of confusion. Accordingly,
Registration No. 1,896,599 will be cancelled in due course.

4 JAN 30 1971

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FILED

JAN 7 2003

AT 8:30 73 M
WILLIAM T. WALSH
CLERK

STEPHEN A. SPINELLI,

Plaintiff,

v.

TEAM LAW, INC.,

Defendant.

Civil Action No. 02-1530

The Honorable Katharine S. Hayden
Magistrate Judge Ronald J. Hedges

2

FINAL JUDGMENT ON CONSENT

On the agreement and consent of the plaintiff Stephen A. Spinelli ("Spinelli"), and the defendant Team Law, Inc. ("Team Law"), and the parties having agreed to settlement of the claims in this case in consenting to the entry of this Final Judgment on Consent, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Court has jurisdiction over the parties and the subject matter of the action.

2. Spinelli's claims raised in the amended complaint are dismissed with prejudice. Team Law's Counterclaim I is dismissed without prejudice, and Counterclaim II is dismissed with prejudice.

3. In accordance with the dismissal of Spinelli's claims with prejudice, the Court affirms the decision by the United States Patent and Trademark Office, Trademark Trial and Appeal Board, in *Team Law, Inc. v. Stephen A. Spinelli*, Cancellation No. 27,366 dated January 4, 2001, canceling Registration No. 1,896,599.

4. Spinelli agrees and the Court accordingly finds that Team Law is the owner of the trademarks TEAM LAW, 1-800-TEAMLAW and TEAM LAW LAWYERS FOR THE

ENTERED

ON
THE DOCKET

JAN 9 2003

WILLIAM T. WALSH, CLERK

By W (Deputy Clerk)

SERIOUSLY INJURED, and has established rights superior to any right which Spinelli may have to the alleged mark 1-800-LAWTEAM.

5. Spinelli, and all persons acting in concert or participation with him, agree not to and therefore are enjoined from any acts relating to the use, advertising, promotion, offering of any services, offering for license, or licensing the names or marks 1-800-LAWTEAM, LAW TEAM, or any other combination of words including both words LAW and TEAM, or any other combination of words and numbers which may be considered confusingly similar to any of Team Law's marks TEAM LAW, 1-800-TEAMLAW or TEAM LAW LAWYERS FOR THE SERIOUSLY INJURED.

6. Spinelli, and all persons acting in concert or participation with him, agree not to and therefore are enjoined from aiding or assisting any other person, corporation or unincorporated entity from the use, advertising, promotion, offering of any services, offering for license, or licensing the names or marks 1-800-LAWTEAM, LAW TEAM, or any other combination of words including both words LAW and TEAM, or any other combination of words and numbers which may be considered confusingly similar to any of Team Law's marks TEAM LAW, 1-800-TEAMLAW or TEAM LAW LAWYERS FOR THE SERIOUSLY INJURED.

7. Except as provided in the Settlement Agreement, there shall be no further payments, and the parties shall bear their own attorney's fees, expenses and costs.

8. The parties consent to the Court retaining jurisdiction of this case to enforce the terms of this judgment.

9. The parties waive their right to appeal this judgment.

SO ORDERED:

Newark, New Jersey

Dated: October , 2002

January 3, 2003


U.S.D.J.

AGREED TO AND CONSENTED:

Stephen A. Spinelli
1861 86th Street
Brooklyn, NY 11214

LERNER, DAVID, LITTENBERG
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090
Attorneys for Team Law, Inc.

By: 

Stephen A. Spinelli

By: 

Charles P. Kennedy

Louis J. Mauriello, Esq.
(*Pro Hac Vice*)
(Attorney for Stephen A. Spinelli)
One Edgewater Plaza
Suite 700
Staten Island, NY 10305

By: 

Louis J. Mauriello

Board decided Cancellation No. 27,366, and ordered cancellation of Registration No. 1,896,599.

A copy of the cancellation decision is attached as Exhibit A.

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In view of the long history of this matter, Team Law respectfully requests prompt consideration. If there are any questions regarding this matter, Team Law requests that the Board contact the undersigned attorney.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP

Attorneys for Petitioner

Team Law, Inc.

600 South Avenue West, Ste. 300

Westfield, NJ 07090-1497

Tel: 908 654 5000

Fax: 908 654 7866

Dated: March 28, 2003

By: 

Charles P. Kennedy

NOT A TRIAL
IS NOT A TRIAL
OF THE T.T.A.B.

4 JAN 2001

Paper No. 38
BAC

1/18/01
J.P.

UNITED STATES PATENT AND TRADEMARK OFFICE

3

Trademark Trial and Appeal Board

Team Law, Inc.
v.
Stephen A. Spinelli

Cancellation No. 27,366

Charles P. Kennedy of Lerner, David, Littenberg, Krumholz & Mentlik, LLP for Team Law, Inc.

Stephen A. Spinelli, Esq., pro se¹

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Cancellation No. 27366

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1987 Newspaper Ad

1992 Newspaper Ad

1993 Billboard

1998 Billboard

300 LAWYERS TEAM LAW, INC. v. STEPHEN A. SPINELLI
Cancellation No. 27,286
Exhibit of Petitioner, Team Law, Inc.

INJURED

**Don't Hire A Lawyer.
Hire a Team of Lawyers.**

Call toll free
1-800 TEAM LAW (832-6529)
for FREE legal advice that could
result in a large cash settlement.

**No legal fees unless we collect money
for you.**

**Auto, motorcycle bus., workplace accidents,
slip & falls, defective products, malpractice**

**One of the oldest and largest accident law
firms in New Jersey.**

Free transportation to our offices available.

Se Habla Espanol

Call toll free
1-800

TEAM LAW


Lawyers For The Seriously Injured

**60-EVERGREEN PLACE
EAST ORANGE, NEW JERSEY**

9 CONVENIENT LOCATIONS THROUGHOUT NEW JERSEY

ATLANTIC CITY • EAST ORANGE • ELIZABETH • FRINGTON • JERSEY CITY • NEW BRUNSWICK • PLYMOUTH • WEST
SPRINGFIELD • WYOMING • 201-261-1100 • 201-261-1101 • 201-261-1102 • 201-261-1103 • 201-261-1104 • 201-261-1105

• Kovach • Koster • Tetz
• Olechno • Reisman • Green
A Professional Law Firm



1992 Yellow Pages Ad

Petitioner's advertising costs under these marks for the years 1987-1997 total approximately \$8,500,000.

The information on respondent comes essentially from the application file which matured into the registration now the subject of this petition to cancel. Mr. Spinelli offers legal services from his office in Brooklyn, New York, and filed his application on August 31, 1993, with specimens showing "1 (800) LAW TEAM" typed onto his letterhead stationery.

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Petitioner (through its predecessor) has clearly established its prior and continuous use of the common law service marks TEAM-LAW and 1-800-TEAM-LAW since about 1985, and of the registered mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED since 1987. Absent proof of first use, respondent is only entitled to the filing date of his application. See Trademark Rule 2.122(b)(2). Petitioner's first use of its marks precedes respondent's filing date in 1993.

Turning to the pleaded ground of likelihood of confusion, our determination of this issue is based on an analysis of all the probative facts in evidence that are relevant to the factors bearing on likelihood of confusion. See *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). The factors deemed pertinent in this proceeding now before us are discussed below.

The first du Pont factor we consider is the marks. When considering the involved marks, we must analyze the similarities/dissimilarities as to sound, appearance, connotation and commercial impression. We find respondent's mark 1-800-LAW TEAM similar to petitioner's common law marks

Cancellation No. 27366

TEAM-LAW and 1-800-TEAM-LAW in all of the relevant categories. Of course, the commercial impression created by the marks must be determined in relation to the services in connection with which the marks are used. Also, the reversal in one mark of the essential elements of another mark will avoid a finding of likelihood of confusion only if the transposed marks create distinctly separate and different commercial impressions. See *In re Wine Society of America Inc.*, 12 USPQ2d 1139 (TTAB 1989); *In re Nationwide Industries Inc.*, 6 USPQ2d 1882 (TTAB 1988); and *In re Wm. E. Wright Co.*, 185 USPQ 445 (TTAB 1975). The commercial impression of petitioner's marks TEAM-LAW and 1-800-TEAM-LAW, and respondent's mark 1-800-LAW TEAM are the same. Specifically, both parties' marks connote that when you hire a lawyer, you are getting a team of lawyers to represent your side. The transposition of the words LAW TEAM and TEAM LAW simply does not avoid a likelihood of confusion.

Furthermore, the emphasis in determining likelihood of confusion is not on a side-by-side comparison of the marks, and the average person is not infallible in his recollection of marks and may well transpose the two elements of the marks in his mind, particularly considering memory over a period of time. See *Grandpa Pidgeon's of Missouri, Inc. v. Borgsmiller*, 477 F.2d 586, 177 USPQ 573 (CCPA 1973); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467 (TTAB 1988).

Next, we consider the similarity/dissimilarity of the parties' services and the channels of trade. In this case, both parties provide "legal services." Inasmuch as the respective services are identical, they obviously would be offered through the same, normal channels of trade to all the usual purchasers for such services. See *In re Smith and Mehaffey*, 31 USPQ2d 1531 (TTAB 1994).

Even if we assume that the purchasers of legal services exercise at least some degree of care in choosing a lawyer/law firm, they are still likely to be confused as to the source of two such services when both are identified by very similar marks. That is, such purchasers and users are not immune from confusion as to the origin of the respective services, especially when sold under very similar marks. See *Weiss Associates Inc. v. HRL Associates Inc.*, 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990); *Aries Systems Corp. v. World Book Inc.*, 23 USPQ2d 1742, footnote 17 (TTAB 1992); and *Miles Laboratories Inc. v. Naturally Vitamin Supplements Inc.*, 1 USPQ2d 1445, 1451 (TTAB 1986).

On balance, and considering all of the evidence on the relevant du Pont factors, we find that confusion is likely between respondent's registered mark 1-800-LAW TEAM and petitioner's common law marks TEAM-LAW and 1-800-TEAM-LAW.

In light of our finding of a likelihood of confusion between respondent's mark 1-800-LAW TEAM and petitioner's common law marks, TEAM-LAW and 1-800-TEAM-LAW, for identical services, we need not reach the question of likelihood of confusion between

Finally, turning to the issue of abandonment of respondent's mark, petitioner bears the burden of proof, and must establish abandonment by a preponderance of the evidence. See *Cerveceria Centroamericana, S.A. v. Cerveceria India Inc.*, 892 F.2d 1021, 13 USPQ2d 1307 (Fed. Cir. 1989). See also, 3 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition, §20:41 (4th ed. 2000).

Petitioner essentially contends that respondent has not used his mark since 1993, as evidenced by respondent's answers to certain document requests, and by respondent's failure to submit any evidence of use of his mark for six years.

Petitioner's document request No. 2 reads as follows: "All documents which refer or relate to any advertising or sales for Respondent's services bearing Respondent's Mark since the date of first use"; and respondent answered "Enclosed are copies of the following documents: [a list of 5 letters on respondent's letterhead stationery, all dated in August 1993]."

respondent's mark and petitioner's registered mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED.

Normally documents produced by the adverse party in response to a request for production of documents may not be made of record through a notice of reliance. See TBMP §711. However, respondent made no objection to petitioner's notice of reliance on that basis, thereby waiving such objection. Accordingly, we have considered petitioner's notice of reliance on its involved document requests, and respondent's answers thereto.

The problem with petitioner's position on the issue of abandonment is that the sparse evidence before us does not establish abandonment of the mark 1-800-LAW TEAM by respondent for the services identified in his registration. Respondent is not obligated to submit evidence of use, rather, petitioner must establish respondent's abandonment of his mark. Petitioner would have us presume that the documents produced by respondent were all the documents he possessed regarding the involved mark, but respondent could have provided representative samples of documents in answer to petitioner's involved document request. We cannot make such presumptions in determining the issue before us. Petitioner has not established respondent's abandonment of the mark for three years.³ Because petitioner did not establish the statutory prima facie three years non-use, petitioner must then prove respondent's intent not to resume use. There is no evidence of record regarding respondent's intent.

Petitioner's evidence fails to establish respondent's abandonment of his mark.

Decision: The petition to cancel is denied on the ground of abandonment, and it is granted on the ground of

³ If petitioner had established a prima facie showing of non-use by respondent for three years, then respondent's intent not to resume use would have been inferred under Section 45 of the Trademark Act.

Cancellation No. 27366

priority and likelihood of confusion. Accordingly,
Registration No. 1,896,599 will be cancelled in due course.

4 JAN 30 1971

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FILED

JAN 7 2003

AT 8:30 73 M
WILLIAM T. WALSH
CLERK

STEPHEN A. SPINELLI,

Plaintiff,

v.

TEAM LAW, INC.,

Defendant.

Civil Action No. 02-1530

The Honorable Katharine S. Hayden
Magistrate Judge Ronald J. Hedges

3

x

FINAL JUDGMENT ON CONSENT

On the agreement and consent of the plaintiff Stephen A. Spinelli ("Spinelli"), and the defendant Team Law, Inc. ("Team Law"), and the parties having agreed to settlement of the claims in this case in consenting to the entry of this Final Judgment on Consent, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Court has jurisdiction over the parties and the subject matter of the action.
2. Spinelli's claims raised in the amended complaint are dismissed with prejudice. Team Law's Counterclaim I is dismissed without prejudice, and Counterclaim II is dismissed with prejudice.
3. In accordance with the dismissal of Spinelli's claims with prejudice, the Court affirms the decision by the United States Patent and Trademark Office, Trademark Trial and Appeal Board, in *Team Law, Inc. v. Stephen A. Spinelli*, Cancellation No. 27,366 dated January 4, 2001, canceling Registration No. 1,896,599.
4. Spinelli agrees and the Court accordingly finds that Team Law is the owner of the trademarks TEAM LAW, 1-800-TEAMLAW and TEAM LAW LAWYERS FOR THE

ENTERED

ON
THE DOCKET

JAN 9 2003

WILLIAM T. WALSH, CLERK

By W (Deputy Clerk)

SAS

SERIOUSLY INJURED, and has established rights superior to any right which Spinelli may have to the alleged mark 1-800-LAWTEAM.

5. Spinelli, and all persons acting in concert or participation with him, agree not to and therefore are enjoined from any acts relating to the use, advertising, promotion, offering of any services, offering for license, or licensing the names or marks 1-800-LAWTEAM, LAW TEAM, or any other combination of words including both words LAW and TEAM, or any other combination of words and numbers which may be considered confusingly similar to any of Team Law's marks TEAM LAW, 1-800-TEAMLAW or TEAM LAW LAWYERS FOR THE SERIOUSLY INJURED.

6. Spinelli, and all persons acting in concert or participation with him, agree not to and therefore are enjoined from aiding or assisting any other person, corporation or unincorporated entity from the use, advertising, promotion, offering of any services, offering for license, or licensing the names or marks 1-800-LAWTEAM, LAW TEAM, or any other combination of words including both words LAW and TEAM, or any other combination of words and numbers which may be considered confusingly similar to any of Team Law's marks TEAM LAW, 1-800-TEAMLAW or TEAM LAW LAWYERS FOR THE SERIOUSLY INJURED.

7. Except as provided in the Settlement Agreement, there shall be no further payments, and the parties shall bear their own attorney's fees, expenses and costs.

8. The parties consent to the Court retaining jurisdiction of this case to enforce the terms of this judgment.

PTS

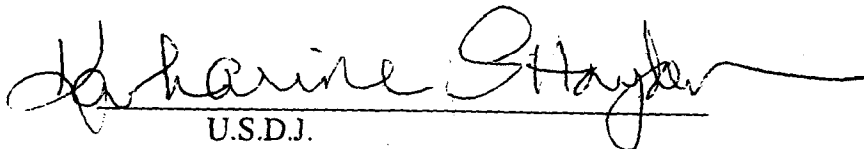
9. The parties waive their right to appeal this judgment.

SO ORDERED:

Newark, New Jersey

Dated: October , 2002

January 3, 2003


U.S.D.J.

AGREED TO AND CONSENTED:

Stephen A. Spinelli
1861 86th Street
Brooklyn, NY 11214

By: 

Stephen A. Spinelli

LERNER, DAVID, LITTENBERG
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090
Attorneys for Team Law, Inc.

By: 

Charles P. Kennedy

Louis J. Mauriello, Esq.
(*Pro Hac Vice*)
(Attorney for Stephen A. Spinelli)
One Edgewater Plaza
Suite 700
Staten Island, NY 10305

By: 

Louis J. Mauriello

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

TEAM LAW, INC.,

Petitioner,

v.

STEPHEN A. SPINELLI,

Respondent.

Cancellation No. 27,366

03-31-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #39

X

BOX TTAB
Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22203-3513

**COMMUNICATION REGARDING FINAL COURT JUDGMENT
CANCELING RESPONDENT'S REGISTRATION**

Petitioner Team Law, Inc. hereby submits this communication to the Trademark Trial and Appeal Board regarding the conclusion of the civil action filed by registrant Stephen A. Spinelli challenging the decision by the Trademark Trial and Appeal Board to cancel Registration No. 1,896,599 in Cancellation No. 27,366.

Team Law filed Cancellation No. 27,366, petitioning to cancel Registration No. 1,896,599 owned by Spinelli because Spinelli's registration was cited as a bar to Application Serial No. 74/529,875 filed by Team Law. On January 4, 2001, the Trademark Trial and Appeal

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513 on March 28, 2003.

(Signature)

Charles P. Kennedy

(Typed or Printed Name of Person Signing Certificate)

Board decided Cancellation No. 27,366, and ordered cancellation of Registration No. 1,896,599.

A copy of the cancellation decision is attached as Exhibit A.

Spinelli appealed and filed a civil action. After transfer, the civil action proceeded as *Stephen A. Spinelli v. Team Law, Inc.*, Civil Action No. 02-1530, before the United States District Court for the District of New Jersey. That civil action was concluded by a Final Judgment on Consent entered January 9, 2003. A copy of the Final Judgment on CConsent is attached as Exhibit B. As noted in paragraph 3, the district court affirmed the decision canceling Registration No. 1,896,599.

Team Law now requests that the Trademark Trial and Appeal Board officially cancel Registration No. 1,896,599. Team Law has been informed by the examining attorney on its Serial No. 74/529,875 that as soon as the cancellation has been registered in the system, the examining attorney will grant the registration.

In view of the long history of this matter, Team Law respectfully requests prompt consideration. If there are any questions regarding this matter, Team Law requests that the Board contact the undersigned attorney.

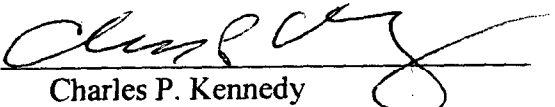
Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
Attorneys for Petitioner
Team Law, Inc.

600 South Avenue West, Ste. 300
Westfield, NJ 07090-1497
Tel: 908 654 5000
Fax: 908 654 7866

Dated: March 28, 2003

By:


Charles P. Kennedy

THIS CASE IS NOT A TRIAL OF THE T.T.A.B.

4 JAN 2001

Paper No. 38
BAC

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Team Law, Inc.
v.
Stephen A. Spinelli

Cancellation No. 27,366

Charles P. Kennedy of Lerner, David, Littenberg, Krumholz & Mentlik, LLP for Team Law, Inc.

Stephen A. Spinelli, Esq., pro se¹

Before Simms, Chapman and Bottorff, Administrative Trademark Judges.

Opinion by Chapman, Administrative Trademark Judge:

On February 5, 1998 Team Law, Inc. (a New Jersey corporation) filed a petition to cancel Registration No. 1,896,599 on the Principal Register, owned by Stephen A. Spinelli (a lawyer whose office is in Brooklyn, New York), for the mark 1-800-LAW TEAM for "legal services, and promoting public awareness of the need for legal services."

¹ Respondent, who is an attorney, is appearing pro se in this matter. The Board notes that occasionally papers filed on respondent's behalf were signed by "Vesna Antovic, Esq." listing the same address as that of respondent.

Registration No. 1,896,599, issued May 30, 1995. The claimed date of first use is November 5, 1990.

RECEIVED

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Cancellation No. 27366

As grounds for cancellation petitioner alleges that since at least as early as October 1987 petitioner, through its predecessor, has used the marks TEAM-LAW and 1-800-TEAM-LAW as trade names and as service marks in connection with legal services; that, through assignment, petitioner owns Registration No. 1,981,924 for the mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED for legal services³; that petitioner owns application Serial No. 74/529,875⁴ for the mark TEAM-LAW for legal services, and the Trademark Examining Attorney has refused registration to petitioner based on respondent's registration; that respondent's mark, when used in connection with his services, so resembles petitioner's previously used marks and trade names, as well as its registered mark, as to be likely to cause confusion, mistake or deception; and that from the date of issuance of the registration of the mark 1-800-LAW TEAM, and continuing to the present, respondent has not used his mark and has abandoned his rights thereto.

Respondent, in his answer, denies the salient allegations of the petition to cancel.

The record consists of the pleadings; the file of the involved registration; the testimony, with exhibits, of

³ Registration No. 1,981,924, issued June 25, 1996. The words "lawyers for the seriously injured" are disclaimed. The claimed date of first use is 1991.

⁴ The records of this Office indicate that action on petitioner's pending application has been suspended in Law Office 103.

Kenneth S. Oleckna, Esq., one of five equal shareholders in petitioner corporation⁵; and petitioner's two notices of reliance. Respondent offered no evidence or testimony.

Both parties filed briefs on the case.⁶ An oral hearing was requested, but, after an oral hearing was scheduled, both respondent and petitioner advised the Board that they would not attend. Thus, no oral hearing was held in this case.

The record shows that petitioner's predecessor, the law firm of Ravich, Koster, Tobin, Oleckna, Reitman & Greenstein (hereinafter the Ravich law firm) first used the marks 1-800-TEAM-LAW and TEAM-LAW in about 1985, and first used TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED in 1987, all for legal services. Petitioner corporation, Team Law, Inc., was formed in 1995 by five equal shareholders, and the Ravich law firm assigned its rights to the marks TEAM-LAW, 1-800-TEAM-LAW and TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED to petitioner for the purpose of having petitioner corporation license the marks to various law firms. Under a license, the Ravich law firm has continued using and advertising the TEAM-LAW marks.

⁵ Respondent did not attend Mr. Oleckna's testimony deposition.

⁶ Factual statements made in briefs on the case can be given no consideration unless they are supported by evidence properly introduced at trial. See *BL Cars Ltd. v. Puma Industria de Veiculos S/A*, 221 USPQ 1018 (TTAB 1983); and *Abbott Laboratories v. TAC Industries, Inc.*, 217 USPQ 819 (TTAB 1981). See also, TEMP §706.02.

Cancellation No. _____

Petitioner advertises on billboards and buses; in magazines such as regional East Coast editions of Time, Newsweek, and Sports Illustrated; in newspapers; in yellow pages classified ads; and on television and radio. Some illustrative examples are shown below:

INJURED?

Don't Hire A Lawyer.
Hire A Team Of Lawyers.

Call 1-800 TEAM-LAW or FREE 1-800-TEAM-LAW

TEAM-LAW
For Injured People

EAST ORANGE
JULIA L. BROWN
JULIA L. BROWN
JULIA L. BROWN

NEW YORK CITY
JULIA L. BROWN
JULIA L. BROWN
JULIA L. BROWN

NEW JERSEY
JULIA L. BROWN
JULIA L. BROWN
JULIA L. BROWN

NEW YORK STATE
JULIA L. BROWN
JULIA L. BROWN
JULIA L. BROWN

NEW JERSEY
JULIA L. BROWN
JULIA L. BROWN
JULIA L. BROWN

NEW YORK STATE
JULIA L. BROWN
JULIA L. BROWN
JULIA L. BROWN

1987 Newspaper Ad

**THE TRUTH BEHIND BREAST IMPLANTS:
Your dream can become a nightmare.**

If you had breast implants that have caused side effects, you may deserve a cash award for your pain and suffering.

For many women, breast implants are a source of pride and confidence. But for some, they can become a source of pain and suffering. Breast implants can cause a variety of problems, including pain, swelling, and changes in shape. These problems can be caused by the implants themselves, or by the way they were implanted. In some cases, the implants can even cause cancer.

If you have breast implants and are experiencing any of these problems, you should consider consulting with a lawyer. A lawyer can help you understand your rights and options, and can help you seek compensation for your pain and suffering.

TEAM-LAW
Lawyers for the seriously injured

Call 1-800 TEAM-LAW

1992 Newspaper Ad

**INSURANCE COMPANIES
USE
A TEAM
OF LAWYERS...**

**IF YOU'RE
INJURED,
SHOULDN'T YOU?**

Call 1-800 TEAM-LAW

1-800-827-6374

1993 Billboard

**Serious Lawyers
For Serious Injuries**

Call 1-800 TEAM-LAW

Lawyers For The Seriously Injured

DAVID BOKER TONY CLEGGAN DEIDMAN GREENSTEIN

1998 Billboard

300 LAWYERS TEAM LAW, INC. v. STEPHEN A. SPINELLI
Cancellation No. 27,366
Exhibit of Petitioner, Team Law, Inc.

INJURED

**Don't Hire A Lawyer.
Hire a Team of Lawyers.**

Call toll free
1 800 TEAM LAW (832-6529)
for FREE legal advice that could
result in a large cash settlement.

**No legal fees unless we collect money
for you.**

- Auto, motorcycle bus., workplace accidents,
slip & falls, defective products, malpractice
- One of the oldest and largest accident law
firms in New Jersey.
- Free transportation to our offices available.
- Se Habla Espanol

Call toll free
1 800

TEAM LAW

Lawyers For The Seriously Injured

60-EVERGREEN PLACE
EAST ORANGE, NEW JERSEY

9 CONVENIENT LOCATIONS THROUGHOUT NEW JERSEY

• Ravich • Koster • Talar
• Oleckna • Reisman • Green

ATLANTIC CITY • EAST ORANGE • ELIZABETH • FRINGTON • JERSEY CITY • NEW BRUNSWICK • PERTH AMBOY • PHILADELPHIA
609-444-7751 908-277-4551 908-277-4551 908-277-4551 908-277-4551 908-277-4551 908-277-4551 908-277-4551

1992 Yellow Pages Ad

Petitioner's advertising costs under these marks for the years 1987-1997 total approximately \$8,500,000.

The information on respondent comes essentially from the application file which matured into the registration now the subject of this petition to cancel. Mr. Spinelli offers legal services from his office in Brooklyn, New York, and filed his application on August 31, 1993, with specimens showing "1 (800)LAW TEAM" typed onto his letterhead stationery.

Petitioner's current status and title copy of its pleaded Registration No. 1,981,924 (for the mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED), submitted under a notice

of reliance, establishes petitioner's standing. See *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1844 (Fed. Cir. 2000); and *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982).

Petitioner (through its predecessor) has clearly established its prior and continuous use of the common law service marks TEAM-LAW and 1-800-TEAM-LAW since about 1985, and of the registered mark TEAM-LAW LAWYERS FOR THE SERIOUSLY INJURED since 1987. Absent proof of first use, respondent is only entitled to the filing date of his application. See Trademark Rule 2.122(b)(2). Petitioner's first use of its marks precedes respondent's filing date in 1993.

Turning to the pleaded ground of likelihood of confusion, our determination of this issue is based on an analysis of all the probative facts in evidence that are relevant to the factors bearing on likelihood of confusion. See *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). The factors deemed pertinent in this proceeding now before us are discussed below.

The first du Pont factor we consider is the marks. When considering the involved marks, we must analyze the similarities/dissimilarities as to sound, appearance, connotation and commercial impression. We find respondent's mark 1-800-LAW TEAM similar to petitioner's common law marks

Cancellation No. 27366

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Furthermore, the emphasis in determining likelihood of confusion is not on a side-by-side comparison of the marks, and the average person is not infallible in his recollection of marks and may well transpose the two elements of the marks in his mind, particularly considering memory over a period of time. See *Grandpa Pidgeon's of Missouri, Inc. v. Borgsmiller*, 477 F.2d 586, 177 USPQ 573 (CCPA 1973); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467 (TTAB 1988).

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Even if we assume that the purchasers of legal services exercise at least some degree of care in choosing a lawyer/law firm, they are still likely to be confused as to the source of two such services when both are identified by very similar marks. That is, such purchasers and users are not immune from confusion as to the origin of the respective services, especially when sold under very similar marks. See *Weiss Associates Inc. v. HRL Associates Inc.*, 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990); *Aries Systems Corp. v. World Book Inc.*, 23 USPQ2d 1742, footnote 17 (TTAB 1992); and *Miles Laboratories Inc. v. Naturally Vitamin Supplements Inc.*, 1 USPQ2d 1445, 1451 (TTAB 1986).

On balance, and considering all of the evidence on the relevant du Pont factors, we find that confusion is likely between respondent's registered mark 1-800-LAW TEAM and petitioner's common law marks TEAM-LAW and 1-800-TEAM-LAW.

In light of our finding of a likelihood of confusion between respondent's mark 1-800-LAW TEAM and petitioner's common law marks, TEAM-LAW and 1-800-TEAM-LAW, for identical services, we need not reach the question of likelihood of confusion between

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The problem with petitioner's position on the issue of abandonment is that the sparse evidence before us does not establish abandonment of the mark 1-800-LAW TEAM by respondent for the services identified in his registration. Respondent is not obligated to submit evidence of use, rather, petitioner must establish respondent's abandonment of his mark. Petitioner would have us presume that the documents produced by respondent were all the documents he possessed regarding the involved mark, but respondent could have provided representative samples of documents in answer to petitioner's involved document request. We cannot make such presumptions in determining the issue before us. Petitioner has not established respondent's abandonment of the mark for three years.³ Because petitioner did not establish the statutory prima facie three years non-use, petitioner must then prove respondent's intent not to resume use. There is no evidence of record regarding respondent's intent.

Petitioner's evidence fails to establish respondent's abandonment of his mark.

Decision: The petition to cancel is denied on the ground of abandonment, and it is granted on the ground of

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Cancellation No. 27366

priority and likelihood of confusion. Accordingly,
Registration No. 1,896,599 will be cancelled in due course.

4 JAN 1951

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FILED

JAN 7 2003

AT 8:30 7:15 M.
WILLIAM T. WALSH
CLERK

STEPHEN A. SPINELLI,

Plaintiff,

v.

TEAM LAW, INC.,

Defendant.

Civil Action No. 02-1530

The Honorable Katharine S. Hayden
Magistrate Judge Ronald J. Hedges

5

FINAL JUDGMENT ON CONSENT

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2. Spinelli's claims raised in the amended complaint are dismissed with prejudice. Team Law's Counterclaim I is dismissed without prejudice, and Counterclaim II is dismissed with prejudice.

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ENTERED

ON
THE DOCKET

JAN 9 2003

WILLIAM T. WALSH, CLERK

By W (Deputy Clerk)

SAS

SERIOUSLY INJURED, and has established rights superior to any right which Spinelli may have to the alleged mark 1-800-LAWTEAM.

5. Spinelli, and all persons acting in concert or participation with him, agree not to and therefore are enjoined from any acts relating to the use, advertising, promotion, offering of any services, offering for license, or licensing the names or marks 1-800-LAWTEAM, LAW TEAM, or any other combination of words including both words LAW and TEAM, or any other combination of words and numbers which may be considered confusingly similar to any of Team Law's marks TEAM LAW, 1-800-TEAMLAW or TEAM LAW LAWYERS FOR THE SERIOUSLY INJURED.

6. Spinelli, and all persons acting in concert or participation with him, agree not to and therefore are enjoined from aiding or assisting any other person, corporation or unincorporated entity from the use, advertising, promotion, offering of any services, offering for license, or licensing the names or marks 1-800-LAWTEAM, LAW TEAM, or any other combination of words including both words LAW and TEAM, or any other combination of words and numbers which may be considered confusingly similar to any of Team Law's marks TEAM LAW, 1-800-TEAMLAW or TEAM LAW LAWYERS FOR THE SERIOUSLY INJURED.

7. Except as provided in the Settlement Agreement, there shall be no further payments, and the parties shall bear their own attorney's fees, expenses and costs.

8. The parties consent to the Court retaining jurisdiction of this case to enforce the terms of this judgment.

9. The parties waive their right to appeal this judgment.

SO ORDERED:

Newark, New Jersey

Dated: October , 2002

January 3, 2003

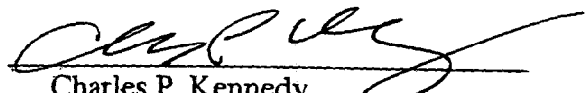

U.S.D.J.

AGREED TO AND CONSENTED:

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