

In re: Serial No 77/326700
Mark: CORTEMP
Applicant: HQ Inc.

Response to office action dated 6/9/2008

The examining attorney has refused registration on the Principal Register because the proposed mark is merely descriptive of CORTEMP.

Applicant asserts in response to the examining attorney's comments as follows:

There is no evidence of record that anyone has used or is using CORTEMP descriptively, in respect of wireless body temperature monitoring systems composed of microelectronic componentry for use in monitoring and reporting the internal core body temperature to external systems. In re Classic Beverage Inc., 6 U.S.P.Q.2d 1383 (TTAB 1988).

Applicant's mark must be looked at as a whole to determine descriptiveness, rather than dissecting it into its individual elements. Concurrent Technologies Inc. v. Concurrent Technologies Corp., 12 U.S.P.Q.2d 1054, 1057 (TTAB 1989). Applicant's mark as a whole is not descriptive because of the market value built in the channel or trade.

Applicant respectfully asserts that the proposed mark has acquired distinctiveness, see www.hqinc.net/cortemppatent web site. The website is owned and operated by Applicant and the products represented have been successful in the marketplace throughout the United States.. In re MCO Properties Inc., 38 U.S. P.Q.2d 1154, 1156 (TTAB 1995) and 15 U.S.C. § 1052(f).

Applicant has spent more than \$700,000 in advertising, and promotion; sales of in excess of \$7 million have occurred during the past ten years. Please see:

IEE MAGAZINE – TAKING BODY TEMPERATURE INSIDE AND OUT – Jan. 2006
Issue <http://www.spectrum.ieee.org/jan06/2571>

USA TODAY - UNIVERSITY OF NEBRASKA USES HEAT PILL June 12, 2006
http://www.usatoday.com/tech/news/techinnovations/2006-06-12-nebraska-heat-pill_x.htm?POE=TECISVA

NBC NIGHTLY NEWS June 19, 2006 – Janet Shamlian
<http://www.msnbc.msn.com/id/13424415/>

Accordingly, the applicant requests that the examining attorney withdraw this refusal.