

IN THE UNITED STATES DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

MAIL STOP: RESPONSES )  
)  
IN RE: TRADEMARK APPLICATION )  
)  
APPLICANT'S NAME: ) Examiner: Christina M. Riepel  
EASY DOME POOL COVERS, LLC )  
) Law Office 108  
GOODS/SERVICES: UNFITTED SWIMMING )  
POOL COVERS )  
(Class 22) )  
) Mailing Date: March 16, 2015  
MARK: HURRICANE )  
)  
SERIAL NO.: 86/409,319 )

**AMENDMENT AND RESPONSE**

The Honorable Assistant Commissioner  
of Patents and Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Examiner Riepel:

This is in response to the Office Action with mailing date of January 21, 2015.

In the above-captioned Application, please amend the application to classify the goods in International Class 22.

---

**CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being transmitted via Electronic Transmission to: Honorable Assistant Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on March 16, 2015. The Honorable Commissioner of Patents and Trademarks is requested to grant this paper that date as its filing date

  
Gary K. Price, (#45,024)

## REMARKS

By this Amendment, the Applicant amends the application to classify the goods in International Class 22, as kindly suggested by the Examiner in the pending Office Action. In addition, Applicant submits a different specimen showing use of the mark in commerce, along with the verification that the said substitute specimen, namely, a product label displaying the subject mark, was in use in commerce at least as early as the filing date of the application.

In the pending office action, Examiner has identified registration no. 2,083,831 for the mark HURRICANE, and registration no. 4,511,589 for the mark BLUE TORRENT HURRICANE, as likely causing confusion with Applicant's mark. However, as will be discussed, the cited marks create different commercial impressions to that of Applicant's. See Bank of American National Trust and Savings Assn. v. American National Bank of St. Joseph, 201 U.S.T.Q. 842 (TTAB 1978), and cases cited therein.

As reflected in Applicant's application, Applicant's use of the subject mark is for a very specific product, unfitted swimming pool covers, and more particularly, to above-ground pool covers. As Applicant's specimen of use states, Applicant's above-ground pool covers are guaranteed to withstand 60 mph winds, and when you review Applicant's website, [www.easydomepoolcovers.com](http://www.easydomepoolcovers.com), each page of the website includes and displays an above-ground pool experiencing heavy rains and heavy wind, in "hurricane" like weather conditions. In contrast, the registrations cited by the examiner are in no way related to this objective.

Registration no. 2,083,831 is for water filters for use in producing portable water for domestic and industrial use; and filtering units used to remove sediment from liquids

or to aid in odor reduction and taste improvement for domestic and industrial use. Again, it is Applicant's position that these goods of the '831 registrant, compared to Applicant's pool cover product, are so dissimilar, confusion is unlikely. While this registrant's mark is used for water filters "to aid in odor reduction and taste improvement," Applicant's mark, as already discussed, is for an unfitted above-ground pool cover expressly made to withstand winter and bad weather. Applicant's product may have some connection with water since it is associated with an above-ground swimming pool cover, however, Applicant is in no way related to water filters nor filtering units used to remove sediment from liquids. In fact, Applicant's goods has nothing to do with water consumption or taste improvement for domestic and industrial use. This supports the conclusion that consumer confusion is unlikely.

Registration no. 4,511,589 is used in association with electric pumps, water pumps and submersible pumps for swimming pools. Again, it is Applicant's position that these goods compared to Applicant's goods are so dissimilar, confusion is unlikely. While this registrant's mark is used in association with what may be referred to as accessories for swimming pools, that is where any similarity would end. Again, Applicant's mark is used in association with above-ground swimming pool covers designed to prevent damage during winter and bad weather. Applicant's goods and services are in no way related to electric pumps, water pumps, nor submersible pumps.

Further, there is a distinction in the sight and sound of the two respective marks, Applicant's, HURRICANE and registrant's, BLUE TORRENT HURRICANE. This further supports the conclusion that it is unlikely that a consumer of Applicant's goods will confuse such goods with those goods or services marketed by this registrant, or the goods offered by the registrant as being from the Applicant.

Furthermore, the consuming public of Applicant's services, namely, unfitted pool covers, are more careful in choosing the type of goods offered by Applicant for their above-ground pools. And similarly, the consuming public of registrant's goods, namely electric pumps, water pumps and submersible pumps, are careful in choosing the type of goods offered by registrant.

The subject goods offered by both Applicant and this registrant are not purchased on impulse. The relevant consuming public is careful when selecting the type of product offered by Applicant, as well as the type of product offered by this registrant, which again negates the likelihood of confusion.

Again, both registrations cited are used in association with products clearly distinguishable from that of Applicant's, and the marks create different commercial impressions as discussed.

By this Amendment, Applicant has met all points raised by the Office Action, and we have therefore placed this application in condition for passage to publication. Such an action is respectfully requested at an early date.

Respectfully submitted,

By: 

Gary K. Price (#15051-82)  
Terrell, Baugh, Salmon & Born, LLP  
700 S. Green River Road  
Suite 2000  
Evansville, Indiana 47715  
Attorneys for Applicant, Easy Dome Pool  
Covers, LLC