

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: Environmental International Corporation Serial No. 88/157,387 Filed: 10/16/2018 For: “NET” | Examining Attorney: Le, K. Margaret Law Office: 118 |
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RESPONSE TO OFFICE ACTION

This paper is in response to the Official Action dated February 1, 2019:

In the Office Action, the Examining Attorney indicated that there were no conflicting marks that would bar registration, but raised the following issues, to which Applicant responds below:

1. Descriptive Refusal;
2. Amendment to the Supplemental Register; and
3. Information request.

Applicant’s Response

1. Descriptive Refusal

Applicant’s services do not employ any sort of net, as defined by the examining attorney or as shown in the attachments to the Office Action, and there is no evidence in the record that would support an assertion to the contrary. Therefore, by definition the applied-for mark does not describe – in any way – an ingredient, quality, characteristic, function, feature, purpose, or use of Applicant’s services.

Also, as will be shown below the wording “NET” does not have any meaning in the trade or industry in which applicant’s goods and/or services are manufactured or provided, it has no meaning or significance with respect to applicant’s goods and/or services and it is not a term of art within applicant’s industry.

The Office Action correctly states that Applicant’s services employ an “oleophilic fiber belt.” However, as shown in Exhibit A, the oleophilic fiber belt employed by Applicant is not a net and would clearly not fit any of the definitions of “net” set forth in the Attachments to the Office Action. In fact, it is the opposite of a net: it consists of separate tendrils that are sewn to a central belt, but the ends of which are not connected at all.

The Attachments to the Office Action fail to prove that the applied-for mark is descriptive. The attachments relating to ABANAKI Oil Skimmers do not use the word “net” in any context. Therefore, they are not probative to the descriptiveness issue.

The other attachment is an advertisement for an oil separator made by Uni Magnetic Industrial Co., Ltd. (“Uni Mag”). This advertisement states that “[f]loating oil on coolant surface is removed by stainless steel net...” This indicates that the Uni Mag product does not perform “environmental remediation services, namely, treatment of ground water,” but removes oil from coolants used with some sort of industrial machinery instead. In fact, as shown in Exhibit B, “Uni Mag is a leading coolant filtration system manufacturer ... in manufacturing filtration system for cutting and grinding fluid.” From this, it is clear that industrial cutting and grinding systems employ coolant fluid into which oil seeps as part of the cutting and grinding process and that the Uni Mag oil separator separates this oil from the cooling fluid. The cooling fluid is part of a machine’s cooling system and is not groundwater.

Clearly, the Uni Mag device is not used in any sort of environmental remediation services and it certainly is not applicable in any way to the treatment of ground water.

Therefore, because “NET” does not describe Applicant’s services; nor does it describe any ingredient, quality, characteristic, function, feature, purpose, or use of an Applicant’s services; and because it has no meaning or significance related to Applicant’s services; and because it is not term of art within applicant’s industry; and because the evidence fails to establish any link between “NET” and any sort of groundwater remediation services, the applied-for mark is not descriptive of Applicant’s services.

For this reason, Applicant believes that this refusal has been overcome and respectfully requests that it be withdrawn.

2. Amendment to the Supplemental Register

The Examining Attorney suggested amendment to the Supplemental Register. However, as Applicant has demonstrated that the applied-for mark is not descriptive, Applicant declines to make such an amendment in this Response.

3. Information request

The Examining Attorney has requested the following information:

- (1) *Explain whether the wording "NET" has any meaning or significance in the trade or industry in which applicant's goods and/or services are manufactured or provided, any meaning or significance as applied to applicant's goods and/or services, or if such wording is a term of art within applicant's industry.*

Response: Applicant hereby states that the wording "NET" does not have any meaning in the trade or industry in which Applicant's goods and/or services are manufactured or provided. Applicant further states that no meaning or significance is applied to Applicant's goods and/or services. Additionally, Applicant states that such wording is not a term of art within Applicant's industry.

- (2) *Provide additional information regarding the form of the belt used in applicant's process.*

Response: The belt that Applicant uses in its process, as shown in Exhibit A, includes a stack of separate oleophilic tendrils that are sewn to a central belt and that extend laterally from each side of the belt. The oleophilic tendrils are not connected to each other and are held in place by the central belt; thus, they do not form any sort of net.

Conclusion

Applicant believes that the refusals and other issues have been overcome for the reasons recited above. Therefore, Applicant respectfully requests that the present application be advanced to registration.