

RESPONSE ARGUMENTS FOR “ISO-PLUS”

(S/N 88/328,124)

2d Arguments: The Examiner has refused registration of the applied-for mark under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d) in view of Registration No. 3,181,643 for the mark ISOPLUS (the “‘643 Mark”). For the reasons stated herein, Applicant respectfully disagrees, and requests that the Examiner reconsider her rejection of the Application in view of the following arguments and Applicant’s amendment of the statement of goods.

An Examining Attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the Examining Attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E.I. DuPont de Nemours & Co.*, 177 U.S.P.Q. 563 (CCPA 1973). Second, the Examining Attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 U.S.P.Q. 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 U.S.P.Q. 910 (TTAB 1978); *Guardian Products Co. v. Scott Paper Co.*, 200 U.S.P.Q. 738 (TTAB 1978). Applicant respectfully asserts that after review of the first and second prongs of the likelihood of confusion analysis, there is no likelihood of confusion between Applicant’s “ISO-PLUS” mark for use with the revised description of goods and the ‘643 Mark.

Turning first to the comparison of the actual marks. While ISO-PLUS and the ‘634 Mark are somewhat similar in appearance, the similarity alone does not lend itself to creating confusion in the marketplace when each of the following are also considered: (i) the goods associated with the respective marks, (ii) the use of said goods, and (iii) the types of purchasers of said goods; each of which are vastly different, as explained more fully below. Therefore, any likelihood of confusion between the respective marks is minimal at best.

Having addressed the first prong of the likelihood of confusion analysis with respect to the ‘634 Mark, Applicant now turns its attention to the second prong of the analysis. Applicant respectfully asserts that the goods themselves are substantially different from one another and the channels of trade are substantially different, such that the likelihood of confusion, if any, is minimal at best. More specifically, Applicant has amended its identification of goods to “*Ethernet cables, namely, ethernet RF filter*” as suggested by the Examiner, and those goods are primarily directed at sophisticated purchasers/owners of networked devices to isolate said devices in high radio frequency (RF) noise environments. For example, the goods may be used to keep motor noise in an industrial environment from interfering with data on the networked devices. Stated differently, there are highly technical goods that are being offered to very sophisticated purchasers.

By comparison, the goods in relation to the '643 Mark are integrated circuits, semiconductors and microprocessors, and the registration owner, IXYS, LLC, is a manufacturer of power semiconductors and relays for automotive and industrial applications. As used by IXYS, ISOPLUS refers to ways to manufacture semiconductor packaging to efficiently remove heat from high current devices, and has nothing to do with high radio frequency (RF) noise environments. More specifically, one of IXYS' specification sheets (which can be viewed at <http://ixapps.ixys.com/DataSheet/CPC1779.pdf>) provides in part: "[t]he unique ISOPLUS-264 package pioneered by IXYS enables Solid State Relays to achieve the highest load current and power ratings. This package features a unique IXYS process where the silicon chips are soft soldered onto the Direct Copper Bond (DCB) substrate instead of the traditional copper leadframe. The DCB ceramic, the same substrate used in high power modules, not only provides 2500Vrms isolation but also very low thermal resistance (0.3 °C/W)."

Further, the goods associated with the '643 Mark are also highly technical and being offered for sale to very sophisticated purchasers, albeit different than those associated with Applicant's goods. More specifically, Applicant's customers are interested in protecting networked devices in high RF noise environments, whereas purchasers of the goods associated with the '643 Mark are interested in achieving the highest possible load current and power ratings in solid state relays.

In summary, because the respective goods of the Applicant and those associated with the '643 Mark are (i) highly technical (as opposed to impulse buys) and vastly different, (ii) used in vastly different applications, (iii) travel in vastly different channels of commerce, and (iv) are purchased by sophisticated purchasers, there is little, if any, likelihood of confusion between Applicant's Mark and the '643 Mark. Accordingly, and for the reasons stated herein, Applicant respectfully requests that the Examining Attorney reconsider the Section 2(d) rejection.