

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: TMY TECHNOLOGY INC.
APPL. NO.: 88485605
MARK: BBOX
EXAMINER: Josh Galante

RESPONSE

In response to the Trademark Examining Attorney's Office Action dated September 19, 2019, the following amendments and remarks are respectfully submitted in connection with the above-identified application.

IN THE APPLICATION

Please adopt the amended Identification of Goods in International Classes 9 as follows:

Interfaces for computers; ~~magnetic data media~~; Wireless communication devices for voice, data or image transmission; High frequency mobile and sea-based communication antennas; Interface cards for data processing equipment in the form of printed circuits; ~~oscilloscope~~; Spectroscopes; spectrograph apparatus; Electronic integrated circuits; printed circuit boards

REMARKS

Applicant thanks the Trademark Examining Attorney for the very thorough consideration given the present application.

IDENTIFICATION OF GOODS

Applicant deletes "magnetic data media" from the Identification of Goods. Therefore, this refusal is traversed.

SECTION 2(D) LIKELIHOOD OF CONFUSION

The Examining Attorney is respectfully requested to reconsider the refusal to register the present application based on the arguments and remarks as set forth herein below.

The present application has been refused registration on the contention that the Applicant's mark would be likely to be confused as compared with the registered mark as set forth in U.S. Registration No. 3172360. This refusal is respectfully traversed.

The Dissimilarity of the Respective Goods

The goods in question are not related in such a way that consumers expect them to originate from the same source. Applicant has amended the identification of goods to delete "oscillograph" which the Examining Attorney specifically noted to be subject of the Section 2(d) refusal. Therefore, the remaining goods are "Interfaces for computers; Wireless communication devices for voice, data or image transmission; High frequency mobile and sea-based communication antennas; Interface cards for data processing equipment in the form of printed circuits; Spectroscopes; spectrograph apparatus; Electronic integrated circuits; printed circuit boards."

The cited goods are "Electrical monitoring devices for continuous in-line monitoring and reporting on power quality, power conditions, line impedance, and environmental conditions". It is clear that the registrant's goods are directed to devices for the continuous measuring of electricity such as a standard power meter measuring wattage, amperage, and/or current. The other registered goods refer to power line impedance measurement devices used to measure impedance on alternating current (AC) voltage and devices for measuring environmental conditions (e.g., barometer, anemometer, thermometer). By contrast, Applicant's goods do not include such meters for measuring electricity, power line impedance and environmental conditions. For example, Applicant's spectroscopes measure properties of light over a specific portion of the electromagnetic spectrum, which typically are used in spectroscopic analysis to identify materials such as compositions of liquids and matter. These devices are wholly different from those of the registrant.

Indeed, the respective channels of trade are entirely different. Consumers would not expect continuous power meters used by power companies or in personal homes to originate from the same source as manufacturers of interfaces for computers, high frequency mobile and sea-based communication antennas, interface cards for data processing equipment in the form of printed circuits, spectrometers, printed circuit boards, and the rest of Applicant's goods.

Where consumers are faced with various types of goods, it is reasonable that consumers can easily distinguish between them. Thus these cumulative differences obviate a likelihood of confusion between the respective marks. Applicant submits that as a result of these differences, Applicant's and registrant's respective marks are easily distinguishable by relevant consumers, such that they would not be likely to believe they originate from the same source.

Therefore, this factor weighs against a likelihood of confusion because the relevant consumers would less likely to be confused by similarities in the respective marks.

CONCLUSION

In view of the arguments, it is respectfully submitted that the Applicant's mark is not likely to cause confusion, or to cause mistake, or to deceive. In fact, Applicant has shown that the mark cited as an obstacle to the registration of its mark is distinguishable in the difference in the goods and trade channels. Therefore, it is respectfully requested that the Examining Attorney withdraw the refusal to register the Applicant's mark.

It is believed that the present application is in condition for publication. An early Notice of Publication is respectfully requested.

Respectfully submitted,

Muncy, Geissler, Olds & Lowe, P.C

