

Applicant submits that the Section 2(d) refusal over the 5893873 registration is improper with respect to differences in the marks themselves, as the refusal does not give proper weight to the cited mark in its entirety. Specifically, the mark in the '873 registration is focused on the term "haler" as relevant to inhalers. Indeed, review of the registrant's products seems to suggest that the mark was only used for inhaler type devices, and that the registrant is no longer in business.

Specifically, while a dominant portion of the mark may be considered as such, generic and descriptive terms should not be considered as a source-indicating feature of the mark. See *In re Bed & Breakfast Registry*, 791 F.2d 157, 159 229 USPQ 818, 819 (Fed. Cir. 1986) (reversing TTAB's holding that contemporaneous use of BED & BREAKFAST REGISTRY and BED & BREAKFAST INTERNATIONAL is likely to cause confusion, because, inter alia, the descriptive nature of the shared wording weighed against a finding that the marks are confusingly similar). As applicable here, the term "green" appears to describe environmental aspects and/or use of the '873 registration, and is integral with "haler." As such, the term "green" is explicitly tied to the term "haler" and the mark "GREENHALER" must be considered as a whole.

Accordingly, Applicant submits that the Section 2(d) refusal is improper under a proper du Pont analysis, as the Office Action has not established that the marks are sufficiently related. Applicant therefore requests that the refusal be removed.