

The Examining Attorney has cited Application SN 87340988 as a potential bar and suspended the application. For the reasons discussed below, applicant requests that the application be lifted from suspension and approved for publication.

In the suspension notice, the Examining Attorney continued the Section 2(d) refusal regarding Registration No. 4479909. Registration No. 4479909 subsequently was voluntarily cancelled.

The Examining Attorney also continued the refusal as to the recitation of services in Class 35. Applicant understands the refusal relates to two specific clauses. The first, “warehouse operations management services,” has been amended to “warehouse business operations management services.” The second clause has been deleted in its entirety. Applicant believes the amendments to its description of Class 35 services address the Examining Attorney’s concerns.

The remaining issue is the identification of SN 87340988 as a potential bar.

Applicant submits that when applicant’s mark and the mark shown in Application SN 87340988 are considered in their entirety in the context of the parties’ respective services, there is no likelihood of confusion.

Applicant’s mark is ODYSSEY. Applicant’s mark, on the other hand, includes the word ODYSSEY but is dominated by a red stylized ship design, one reminiscent of a trireme.

As shown by a review of the parties’ description of services, applicant and the owner of Application SN 87340988 are in very different industries and provide very different services. Applicant is an award winning and well-known 4PL transportation logistics services provider (4th party logistics provider in large-scale supply-chain situations) specializing in a variety of transportation modes across and management of a global freight network worth more than 3 billion dollars, while the owner of Application SN 87340988 is a cybersecurity risk management company. Applicant’s services are focused on the transport, and arranging of transport, of commercial freight for business entities to their customers. Conversely, the owner of Application SN 87340988 provides data and computer security services, security system installation, consultation regarding websites and security design, and business risk management services, as discussed in its February 17, 2017 Response To Office Action. Applicant’s application identifies its various freight transportation and logistics services in Class 39 and related business services in Class 35. Application SN 87340988, on the other hand, identifies services in Class 37, services in Class 42 and services in Class 35 relating to business risk management and management related to its cybersecurity business.

Given the foregoing differences in the parties’ marks and services, there is no likelihood of confusion. Applicant’s services in Class 39 are very different from the services listed in Application SN 87340988. The same is true of applicant’s services in Class 35.

While the services listed in Application SN 87340988 include services in Class 35, the fact services fall within the same class does not serve to establish a likelihood of confusion. Nor is there is a *per se* rule that there is a likelihood of confusion because two parties provide a type of business or consulting service. This is illustrated by the co-existence of registrations for ODYSSEY marks in Class 35. See, e.g., Registration Nos. 4145676, 5042306, 5615077, 5917267.

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