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To: USPTO

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From:

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Re: CLEANSLATE 88387342

This response is made to the April 8th, 2020 Office Action and is made timely. The Examining Attorney has refused registration of the Applicant's mark under:

- Section 2(d) Refusal – Likelihood of Confusion
 - Registration No. 5831305 CLEANSLATE BY CARA

The applicant now addresses this remaining issue.

Section 2(d) – Likelihood of Confusion Refusal and Prior Filed Applications

The registered marks are as follows:

The marks in question are different and leave a different commercial impression.

In the seminal case, *Jacobs v. International Multifoods Corp.*, 668 F.2d 1234, 1236 (CCPA 1982), the CCPA held that “[t]o establish the likelihood of confusion a party must show something more than that similar or even identical marks are used for food products and for restaurant services.”

The case of *In re E.I. Dupont de Nemours & Company*, 177 U.S.C.Q. 563 (CCPA 1973) [hereinafter “Dupont”] sets forth the factors to be considered in determining whether a likelihood of confusion exists. There is no bright-line test and each case must be decided on its own facts. TMEP § 1207.01. “The fundamental inquiry mandated by

section 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the mark.” *Interstate Brands v. Celestial Seasonings, Inc.*, 198 USPQ 151, 153 (CCPA 1978). Applicant asserts that the cumulative effect of the factors articulated in *Dupont* as they relate to the Applicant’s mark and the goods that it represents distinguish it sufficiently. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression.

1. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression.
 - a. The marks are significantly different in their entirety, appearance when printed, commercial impression, and sound.

2. The similarity or dissimilarity and nature of the goods . . . described in an application or registration or in connection with which a prior mark is in use.
 - a. The applicant’s services are in the removal and restoration of buildings whereas the CARA services are in the area of janitorial and washing services. The services are not similar and the consumers different.

3. The similarity or dissimilarity of established, likely-to-continue trade channels.
 - a. As stated above the consumers and trade channels are different.

4. The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing.
 - a. A sophisticated purchaser will be looking to restore a building to a good condition, whereas the CARA marks services are geared to general cleaning.

5. The fame of the prior mark.
 - a. NA

6. The number and nature of similar marks in use on similar goods.
 - a. NA

7. The nature and extent of any actual confusion.
 - a. None that is known.

8. The length of time during and the conditions under which there has been concurrent use without evidence of actual confusion.
 - a. NA

9. The variety of goods on which a mark is or is not used.
 - a. The applicant does not offer the cleaning janitorial services offered by the CARA mark.

10. The market interface between the applicant and the owner of a prior mark.
 - a. No interface

11. The extent to which the applicant has a right to exclude others from the use of its mark on its goods.
 - a. NA

12. The extent of potential confusion.
 - a. The two types of buyers here are different.

13. Any other established fact probative of the effect of use.
 - a. NA

Conclusion

As the applicant and the cited mark are distinctly different, The Dupont factors point to the fact that there is no confusion.

Applicant respectfully submits that all outstanding issues have been resolved and the mark is now in sufficient condition for publication. The Examining Attorney is invited to contact the undersigned by telephone at (612) 584 9726 or email to resolve any outstanding issues.

/Ross Brandborg/ 05/06/2019
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