

Re: Trademark Application of
Media Express Co. Ltd.
Serial No. 75/174,741
Filing Date: September 3, 1996
For: SUPER EXPRESS
Petition Filed: November 18, 1996

On Petition

Media Express Co. Ltd. (Media) has petitioned the Commissioner to declare an interference between its above-referenced application and Registration No. 2,030,950, which is owned by Andrew Artistic Distribution, Inc. (Andrew). The petition is denied pursuant to Trademark Rule 2.91, 37 C.F.R. §2.91.

FACTS

On September 3, 1996, Petitioner Media filed an application based upon use in commerce under Section 1(a) of the Trademark Act for the mark SUPER EXPRESS as used to identify the following goods: "printed publications, namely newspapers, journals, magazines, newsletters and booklets featuring information about political, cultural, sport, financial and sociological events." 15 U.S.C. §1051(a). The application asserts a date of first use of the mark in commerce between Poland and the United States on April 6, 1996.

Andrew filed an application based upon a bona fide intent to use the mark in commerce under Section 1(b) of the Trademark Act for the mark SUPER EXPRESS to be used to identify "a Polish language daily newspaper." 15 U.S.C. §1051(b). The mark published for opposition on December 12, 1995, and a Notice of Allowance issued thereafter on March 5, 1996, when no opposition was filed. Andrew timely filed a Statement of Use on November 12, 1996, asserting a date of first use of the mark in interstate commerce on April 1, 1996. The registration subsequently issued on January 14, 1997.

Accordingly, the petition is denied.

Philip G. Hampton, II
Assistant Commissioner
for Trademarks

PGH:LBK

Date:

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