

EWH/JS

THIS DISPOSITION IS NOT CITABLE  
AS PRECEDENT OF THE TTAB

NOV. 25, 97

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Sports Heritage, U.S.A. Inc.

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Serial No. 74/620,198

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Leland P. Schermer of Dickie, McCamey & Chilcote, P.C.

Kim Saito, Trademark Examining Attorney, Law Office 109  
(Deborah S. Cohn, Managing Attorney)

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Before Sams, Seeherman and Hanak, Administrative Trademark  
Judges.

Opinion by Hanak, Administrative Trademark Judge:

Sports Heritage, U.S.A. Inc. (applicant) seeks  
registration of PHILADELPHIA BLAZERS in typed capital  
letters for "clothing, namely t-shirts, sweatshirts,  
jerseys, hats/caps, and sport shirts." The intent-to-use  
application was filed on January 11, 1995.

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The Examining Attorney refused registration pursuant to Section 2(d) of the Lanham Trademark Act on the basis that applicant's mark, as applied to applicant's apparel, is likely to cause confusion with the mark BLAZERS, previously registered in typed capital letters for a wide array of apparel including t-shirts, sweat shirts, jerseys, hats and sports shirts. This Registration No. 1,774,223 is owned by Trail Blazers, Inc., an Oregon corporation located in Portland, Oregon.

When the refusal was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

In any likelihood of confusion analysis, to key factors are the similarities of the goods and the similarities of the marks. Federated Foods, Inc. v. Ford Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976) ("the fundamental inquiry mandated by Section 2(d) goes to the cumulative effect of differences in essential characteristics of goods and differences in marks").

In this case, applicant's goods are absolute identical to some of registrant's goods (t-shirt, sweat shirts, jerseys, hats and sports shirts).

Turning to a consideration of the marks, it is important to remember that "when marks would appear on virtually identical goods or services, the degree of

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similarity [of the marks] necessary to support the conclusion the likelihood of confusion declines." Century 21 Real Estate Corp. v. Century Life of America, 970 F2d 874, 23 USPQ 2d 1698, 1700 (Fed. Cir. 1992). In this case, the cited mark BLAZERS is owned by an its the nick name of famous basketball team, namely the Portland Trail Blazers. Applicant has taken the well known name of a famous basketball team (BLAZERS) merely added their two geographically descriptive term PHILADELPHIA, which applicant has quite properly disclaimed. There are such circumstances, we find that the use of PHILADELPHIA BLAZERS and BLAZERS on identical items of apparel which are associated with sports would result on a likelihood of confusion.

Decision: The refusal to register is affirmed.

J. D. Sams

E. J. Seeherman

E. W. Hanak  
Administrative Trademark  
Judges, Trademark Trial  
and Appeal Board