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Paper No. 21
RLS/CV

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Bugle Boy Industries, Inc.
v.
Stefcom S.p.A.

Opposition No. 97,405
to application Serial No. 74/537,706
filed on June 14, 1994

Diane L. Becker for Bugle Boy Industries, Inc.

Robert J. Patch of Young & Thompson for Stefcom S.p.A.

Before Simms, Quinn and Hairston, Administrative Trademark
Judges.

Opinion by Simms, Administrative Trademark Judge:

Bugle Boy Industries, Inc. (opposer), a California
corporation, has opposed the application of Stefcom S.p.A.
(applicant), an Italian corporation, to register the mark

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BULL BOYS ("BOYS" disclaimed) for footwear.¹ In the notice of opposition, opposer asserts that it makes and sells a variety of clothing items (sportswear, T-shirts, sweatshirts, sweaters, jackets, casual pants, dress pants, jeans) and footwear under the marks BUGLE BOY and BUGLE BOYS; that opposer and its predecessor have used the trademark and trade name BUGLE BOY since August 1977; that opposer owns a registration covering the mark BUGLE BOY for footwear (Registration No. 1,615,811, issued October 2, 1990, combined Sections 8 and 15 affidavit filed) and another for pants, shirts, vests and jackets (Registration No. 1,113,214, issued February 13, 1979, combined Sections 8 and 15 affidavit filed), and one registration covering the mark BUGLE BOYS for various items of boys' clothing (Registration No. 1,706,900, issued August 11, 1992); that the marks BUGLE BOY and BUGLE BOYS are among the most popular and well known in the United States; and that applicant's mark BULL BOYS for footwear so resembles opposer's previously used and registered marks as to be likely to cause confusion, to cause mistake or to deceive. In its answer, applicant has denied the essential allegations of the notice of opposition.

¹ Application Serial No. 74/537,706, filed June 14, 1994, pursuant to the provisions of Section 44(e) of the Trademark Act, based upon Italian Registration No. 611,057, issued December 9, 1993.

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The record of this case consists of testimony taken by opposer; opposer's three pleaded registrations, relied upon

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by opposer in its notice of reliance; applicant's discovery responses including answers to interrogatories and responses to a request for production of documents, relied upon by opposer pursuant to stipulation; and the application file. The parties have filed briefs but no oral hearing was requested.

According to the testimony of Ms. Diane Becker, opposer's senior vice president and chief legal officer, opposer first used the mark BUGLE BOY in August 1977 and in connection with footwear in June 1987. Opposer uses this mark on men's, young men's, children's and some women's wearing apparel, in addition to footwear. According to Ms. Becker, the mark BUGLE BOYS has been used since November 1984. Opposer's goods are sold through department stores, specialty stores and opposer's own factory retail outlets. Opposer has spent millions of dollars per year, according to opposer's testimony, on the advertising and promotion of opposer's goods under the marks. Opposer's goods have been advertised on national television and in print media and on the radio. Ms. Becker testified that opposer's mark has achieved substantial goodwill.

Applicant's discovery responses reveal that applicant has not used or advertised its mark in this country.

Opposer argues that confusion is likely because the goods of the respective parties are identical and because

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there is phonetic, visual and semantic similarities in the marks. Opposer also notes the substantial renown which its marks and trade name have achieved over the years.

Applicant, on the other hand, while conceding that opposer has standing to bring this opposition, argues that the marks have different connotations. In this regard, applicant argues that opposer's mark calls to mind a young bugler whereas applicant's mark is arbitrary. In addition, according to applicant, both marks contain the term "BOY" or "BOYS," which is assertedly descriptive of the intended class of purchasers of the products.

Upon careful consideration of this record and the arguments of the parties, we agree with applicant that, while the goods, for our purposes, must be considered identical, applicant's mark differs sufficiently so that confusion is unlikely. In so concluding, we have fully considered opposer's argument regarding the fame of its mark but find that applicant's mark differs in sound, appearance and meaning or commercial impression from opposer's trade name and trademarks that confusion is unlikely.

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Decision: The opposition is dismissed.

R. L. Simms

T. J. Quinn

P. T. Hairston
Administrative Trademark Judges,
Trademark Trial and Appeal Board