

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB

MARCH 30,99

Paper No.
RFC

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Champion Spark Plug Company**

Serial No. 75,078,400

Donna Weinstein of Fish & Richardson for Champion Spark
Plug Company.

Andrew Roppel, Trademark Examining Attorney, Law Office **108**
(David Shallant, Managing Attorney).

Before Cissel, Hairston and Walters, Administrative
Trademark Judges.

Opinion by Cissel, Administrative Trademark Judge:

On March 25, 1996, applicant applied to register the
mark shown below



on the Principal Register for "clothing," in Class 25. The basis for filing the application was applicant's claim of use of the mark on the goods in interstate commerce since December 31, 1975.

In addition to raising several informal problems which were subsequently resolved, the Examining Attorney refused registration under Section 2(d) of the Act on the ground that applicant's mark, as used in connection with applicant's goods, so resembles the mark shown below, which is registered¹ for "shoes,"

CHAMPION

and the mark "CHAMPION," which is registered² for "hosiery," that confusion is likely.

Responsive to the refusal to register, applicant amended the identification-of-goods clause in its application to read as follows: "clothing, namely, headwear, t-shirts, shirts, sweatshirts, jackets, shorts, rainwear." Applicant also presented argument that confusion is not likely.

¹ Reg. No. 68,468, issued to National India Rubber Co. on July 4, 1908; Now owned by Keds Corporation; Fourth renewal on August 13, 1990.

² Reg. No. 274,178, issued to Champion Knitting Mills Corporation on August 19, 1930; Now owned by Kayser-Roth Corporation; Third renewal on July 10, 1990.

The Examining Attorney was not persuaded, and he made the refusal to register final. Applicant filed a timely Notice of Appeal. Both applicant and the Examining Attorney filed briefs, but no oral hearing was requested by applicant.

Based on careful consideration of the record before us and the arguments and precedents argued by applicant and the Examining Attorney, we hold that both of the cited registrations present bars to registration under Section 2(d) of the Act, so the refusal to register must be affirmed.

Applicant essentially makes two arguments, that the marks, when considered in their entireties, "are easily distinguishable from each other," and that the word "champion" is "one of the paradigmatic(sic) 'laudatory' marks and so is accorded a very narrow scope of protection." (brief, p. 3). Applicant refers to "the notoriety" of its "bow tie logo" in "the automotive field," but this record contains no evidence that the design would be perceived as a bow tie, or that the mark possesses the claimed notoriety.

Applicant did not contest the finding of the Examining Attorney that the goods named in the cited registrations

are closely related to the goods, as amended, in applicant's application.

The Examining Attorney is correct in pointing out that the dominant component of applicant's mark is the same word, "CHAMPION," that is the entire mark in each of the cited registrations. Although we have considered these marks in their entireties, they closely resemble each other because of this word, which has more significance in applicant's mark than the design element does. The fact that "champion" might be considered to be laudatory does not alter the fact that these marks are similar in appearance, pronunciation, connotation and commercial impression. They may be "distinguishable from each other," as applicant argues, but that is not the test for determining whether they so resemble each other that confusion is likely when they are applied to the goods set forth in the registrations and the application, respectively.

We also agree with the Examining Attorney's finding that the goods specified in the application are related to those set forth in each of the two cited registrations because they are all items of apparel which travel through the same channels of trade and are sold to ordinary consumers under similar marketing conditions. We

incorporate by reference the case law cited by the Examining Attorney wherein clothing and shoes have been held to be commercially related, as well as the cases which have found hosiery and various clothing items to be related.

In summary, because these marks are similar and the cited "CHAMPION" marks are registered for apparel items which are related to the clothing items identified in the application, we hold that confusion is likely. The refusal to register is therefore affirmed.

R. F. Cissel

P. T. Hairston

C. E. Walters
Administrative Trademark Judges
Trademark Trial and Appeal Board

Ser No. 75/078400