

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Kansas City Royals Baseball Corporation**

Serial No. 75/**133,237**

Midge M. Hyman and Robert A. Rosenberg of Willkie Farr & Gallagher for **Kansas City Royals Baseball Corporation**.

Daniel P. Vavonese, Trademark Examining Attorney, Law Office 109 (Ronald R. Sussman, Managing Attorney)

Before Seeherman, Walters and Bucher, Administrative Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Kansas City Royals Baseball Corporation, a Missouri corporation, has filed an application for registration of the mark "the K and crown design," as shown below:



for "clothing, namely, shirts, caps, shorts, dresses, skirts, T-shirts, jogging suits, warm-up suits, underwear, jackets, sweaters, vests, pants, ponchos, visors, bodysuits, raincoats, hats, overalls, cloth bibs, textile infant diaper covers, cloth diaper sets with undershirt and diaper cover, jumpers, rompers, uniforms, uniform jerseys, wind resistant jackets, baby booties, short sets, leotards, unitards, ties, bow-ties, neckties, suspenders, cummerbunds, pajamas, nightshirts, nightgowns; sweatpants, sweatshirts, mittens, gloves, knitted headwear, earmuffs, scarves, footwear, thongs (footwear), hosiery, socks, wristbands, headbands, robes, shoes, slippers, chef's hats, aprons, clothing wrap, sliding girdles, leg warmers, swimwear, berets, bandannas and money belts."¹

The Trademark Examining Attorney issued a final refusal to register based upon Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's proposed mark, "the K and crown design," when used on clothing items, so resembles the registered mark, "K and lion and crown design" as applied to men's trousers, suits, jackets and coats," as to be likely to cause

¹ Serial No. 75/133,237, in International Class 25, filed July 12, 1996, based upon an allegation of a *bona fide* intention to use the mark in commerce.

confusion, or to cause mistake, or to deceive. However, given that the cited registration, Reg. No. 1,775,910, issued on June 8, 1993, and no Section 8 affidavit of continued use has been filed, this cited registration has now been cancelled, and thus the passage of time has made this appeal moot. Accordingly, this appeal is dismissed, and the mark should proceed to publication for opposition.

E. J. Seeherman

C. E. Walters

D. E. Bucher

Administrative Trademark
Judges, Trademark Trial and
Appeal Board