

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB      JULY 27, 99

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Ride King Corporation

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Serial No. 75/137,368

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Hugh D. Jaeger for Ride King Corporation.

Janice L. McMorrow, Trademark Examining Attorney, Law  
Office 104 (Sidney Moskowitz, Managing Attorney).

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Before Quinn, Wendel and Bottorff, Administrative Trademark  
Judges.

Opinion by Wendel, Administrative Trademark Judge:

Ride King Corporation has filed an application to  
register the mark RIDE KING and design, as shown below, for  
"bicycle shock absorbers."<sup>1</sup>

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<sup>1</sup> Serial No. 75/137,368, filed July 18, 1996, claiming dates of  
first use of Mar. 18, 1996.

Registration has been finally refused under Section 2(d) of the Trademark Act, on the ground of likelihood of confusion with the registered mark RIDE KING (stylized) for "shock absorbers."<sup>2</sup> Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

Looking first to the marks involved, we agree with the Examining Attorney that the dominant portion of both applicant's mark and the registered mark is the word portion RIDE KING. Although it is true that in determining likelihood of confusion, the marks must be considered in their entireties, there is nothing improper in giving more or less weight to a particular feature of a mark. In re National Data Corp., 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). If the word portion of a mark rather than the design feature is more likely to be remembered and relied upon by purchasers in referring to the goods, it is the word portion which will be accorded more weight. See In re Appetito Provisions Co., 3 USPQ2d 1553 (TTAB 1987).

Here neither the tree design of applicant's mark nor the stylized lettering of registrant's mark have much impact on the commercial impressions of the marks. Needless to say, the sound of the marks, as would be used in calling for the goods, is identical. Applicant has

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<sup>2</sup> Reg. No. 722,179, issued Oct. 3, 1961, first renewal.

offered no argument at all with respect to any distinction between the marks.

It is only when we turn to the goods of the respective parties that applicant raises its arguments. Applicant contends that the registered mark is for use with an automobile shock absorber, not a bicycle shock absorber, and these two types of absorbers do not travel in the same channels of trade and are not sold adjacent to one another.

The Examining Attorney, on the other hand, points out that the goods of the registration are not limited in any way and thus cannot be restricted as to type or as to channels of trade. In addition, the Examining Attorney has made of record copies of third-party registrations showing the adoption by a single entity of the same mark for shock absorbers for both bicycles and automobiles.

It is a well established principle that the issue of likelihood of confusion must be determined on the basis of the goods as identified in the application and in the cited registration. *Canadian Imperial Bank of Commerce v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987). There are no limitations as to type of shock absorbers covered by the cited registration. Similarly, there are no restrictions in the registration as to channels of trade and thus registrant's goods must be presumed to travel in

the normal channels of trade for these goods. See Kangol Ltd. v. KangaROOS U.S.A. Inc., 974 F.2d 161, 23 USPQ2d 1945 (Fed. Cir. 1992). Applicant's argued distinctions on the presumption that registrant's shock absorbers are only for automobiles are to no avail.

In addition, from the third-party registrations made of record there is evidence that there are single entities which produce shock absorbers for bicycles, motorcycles, and automobiles, and use the same mark on all. Accordingly, purchasers, upon coming in contact with the RIDE KING mark of applicant on bicycle shock absorbers and the RIDE KING mark of registrant, even if only on motorcycle or automobile shock absorbers, might well assume that the goods emanate from the same source. See In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993); In re Mucky Duck Mustard Co. Inc., 6 USPQ2d 1467 (TTAB 1988).

Accordingly, in view of the high degree of similarity of applicant's and registrant's RIDE KING marks and the use of these marks on closely related, if not legally identical goods, we find that confusion is likely.

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Decision: The refusal to register under Section 2(d)  
is affirmed.

T. J. Quinn

H. R. Wendel

C. M. Bottorff  
Trademark Administrative Judges,  
Trademark Trial and Appeal Board

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