

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB                      MAY 15, 00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **Syntron Bioresearch, Inc.**

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Serial No. 74/736,126

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**Stacy L. Taylor** of **Foley & Lardner** for **Syntron Bioresearch, Inc.**

**Wm. Patrick Shanahan**, Trademark Examining Attorney, Law Office 113 (**Meryl Hershkowitz**, Managing Attorney).

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Before **Hairston**, **Walters** and **Rogers**, Administrative Trademark Judges.

Opinion by **Hairston**, Administrative Trademark Judge:

Syntron Bioresearch, Inc. has applied to register the mark QUIKSCREEN for goods which were subsequently identified as "medical diagnostic reagents bound to immunochromatographic membranes for use in detecting the presence of drugs or drug metabolites in urine."<sup>1</sup>

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<sup>1</sup> Serial No. 74/736,126 filed September 29, 1995, and based on a bona fide intention to use the mark in commerce.

Registration has been finally refused under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, when applied to its goods, so resembles the mark QUICKSCREEN, which is registered for "diagnostic reagents to detect the presence of HLA Class I antibodies for clinical or medical laboratory use."<sup>2</sup>

Applicant has appealed. Briefs have been filed, but an oral hearing was not requested.

Turning first to a consideration of the marks, we note that applicant does not dispute that its mark QUIKSCREEN is virtually identical to the registered mark QUICKSCREEN.

We focus our attention then, as have applicant and the Examining Attorney, on the respective goods. It is the Examining Attorney's position that applicant's goods and the goods in the cited registration are closely related.

According to the Examining Attorney:

Both [goods] are diagnostic reagents for use in the detection of a particular, though different substance, and neither identification is restricted as to trade channels. The respective goods are presumed to travel through identical medical channels to those medical personnel who perform various diagnostic tests. The fact that the respective diagnostic tests are for use in detecting the existence of different substances does not obviate the presumption that the same medical

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<sup>2</sup> Registration No. 2,076,096 issued July 1, 1997.

personnel may come in contact, if not actually use, the respective goods under the essentially identical marks.

Applicant, in urging reversal of the refusal to register, argues that the respective goods are marketed to different purchasers and are used for very different purposes. In particular, applicant maintains that its reagents are used by employers, schools, law enforcement personnel and sports officials to detect the presence of drugs in urine whereas registrant's reagents are used in specialized medical laboratories to detect the presence of HLA Class I antibodies, i.e., genetic testing. In this regard, applicant submitted a definition of the term HLA which shows that it is an acronym for Human Leukocyte Antigens which are proteins found on the surface of white blood cells and other tissues that are used to match donor and patient. In addition, applicant submitted print-outs of information from the Internet which show that there are less than twenty-five medical genetic laboratories worldwide and that the type of testing performed by these laboratories is highly specialized.

We recognize that both applicant's goods and the goods in the cited registration are reagents. However, in determining whether two or more products are closely

related, the inquiry should be whether they appeal to the same market and not whether a common term can be found in the descriptions of the products.

In this case, because it does not appear that the respective goods would come to the attention of the same kinds of purchasers, we believe that confusion as to source or sponsorship is not likely. Although the cited registration contains no restrictions as to purchasers and channels of trade, the evidence submitted by applicant shows that the type of reagents listed in the registration are purchased and used by specialized medical laboratories i.e., medical genetic laboratories, for genetic testing. The Examining Attorney has offered no evidence to the contrary regarding the purchasers of these particular kind of reagents and the channels of trade in which they move. The type of reagents listed in the cited registration would not ordinarily be sold to general medical laboratories, much less the general public. Thus, it is unlikely that customers of applicant's reagents for detecting drugs in the urine would encounter registrant's reagents for genetic testing.

Moreover, the Examining Attorney has offered no evidence that medical genetic laboratories are involved in drug testing such that purchasers or users of registrant's

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reagents would purchase or use applicant's reagents. Even if this were to occur, because the purchasers and users of registrant's reagents are apt to be careful and discriminating in their selection of such reagents, confusion is not likely, even where the respective goods are offered under virtually identical marks.

In view of the foregoing, we conclude that applicant's use of QUIKSCREEN for reagents for medical diagnostic reagents for use in detecting the presence of drugs or drug metabolites in urine is not likely to cause confusion with QUICKSCREEN for diagnostic reagents to detect the presence of HLA Class I antibodies for clinical or medical laboratory use.

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**Decision:** The refusal to register is reversed.

P. T. Hairston

C. E. Walters

G. F. Rogers  
Administrative Trademark Judges  
Trademark Trial and Appeal Board