

**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Mailed: 1/15/03

Paper No. 10  
EWH

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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In re Kraftmaid Cabinetry, Inc.  
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Serial No. 76/231,881  
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Edgar A. Zarins for Kraftmaid Cabinetry, Inc.

Brendan Regan, Trademark Examining Attorney, Law Office 113  
(Odette Bonnet, Managing Attorney).

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Before Hanak, Holtzman and Drost, Administrative Trademark  
Judges.

Opinion by Hanak, Administrative Trademark Judge.

Kraftmaid Cabinetry, Inc. seeks to register in typed drawing form REFLECTIONS for "wall-mounted kitchen and bath cabinetry." The intent-to-use application was filed on March 29, 2001.

Citing Section 2(d) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's mark, as applied to applicant's goods, is likely to cause confusion with the identical mark REFLECTIONS, previously registered in typed drawing form

for "wall units - namely, free standing storage units."  
Registration No. 1,208,415.

When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

In any likelihood of confusion analysis, two key, although not exclusive, considerations are the similarities of the marks and the similarities of the goods. Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976) ("The fundamental inquiry mandated by Section 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.").

Considering first the marks, they are absolutely identical, as applicant concedes at page 3 of its brief. Both are for the mark REFLECTIONS depicted in typed drawing form. Thus, the first Dupont "factor weighs heavily against applicant" because applicant's mark is identical to the cited mark. In re Martin's Famous Pastry Shoppe, Inc., 748 F.2d 1565, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Turning to a consideration of applicant's goods and the goods of the cited registration, we note that because the marks are identical, their contemporaneous use can lead

to the assumption that there is a common source "even when [the] goods or services are not competitive or intrinsically related." In re Shell Oil Co., 922 F.2d 1204, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993). However, in this case, we find that applicant's goods (wall-mounted kitchen and bath cabinetry) are clearly related to the goods of the cited registration (wall units - namely, free standing storage units).

To begin with, we note that the term "cabinet" is defined as follows: "a case with drawers or shelves for holding or storing things." Webster's New World Dictionary (2d ed. 1975)(emphasis added). Thus, by definition, a cabinet is a case for storing things. The term "storage units" which appears in registrant's identification of goods is broad enough to encompass cabinets or cabinetry. Moreover, both applicant's cabinets (or cabinetry) and registrant's storage units are designed to be mounted on walls. In sum, despite differences in terminology, we find that the identification of goods in the cited registration is broad enough to encompass applicant's goods.

In an effort to distinguish its goods from registrant's goods, applicant argues that its goods are for use in kitchens and bathrooms, whereas registrant's goods "are going to be used in the living areas of the home such

as a family room, den or bedroom." (Applicant's brief page 3). We have two problems with applicant's argument.

First, the description of goods in the cited registration contains no limitation whatsoever as to where the storage units would be utilized in a home. Absent such a limitation in the identification of goods, we must presume that registrant's storage units would be used in all parts of the home, including in the kitchen and bathrooms.

Second, we note in passing that at page 3 of its brief, applicant contradicts its own argument when it states that registrant's storage units can be used "throughout the home as desired."

In sum, given the fact that the marks are absolutely identical and the fact that, at an absolute minimum, the goods are closely related, we find that there exists a likelihood of confusion.

Decision: The refusal to register is affirmed.