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Paper No.8
RFC
Mailed:
March 9, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Meriliat Industries, Inc.**

Serial No. 76357504

Edgar A. Zarins of Masco Corporation for Meriliat Industries, Inc.

Wendy B. Goodman, Trademark Examining Attorney, Law Office 103 (Michael Hamilton, Managing Attorney).

Before Cissel, Quinn and Bottorff, Administrative Trademark Judges.

Opinion by Cissel, Administrative Trademark Judge:

With the above-referenced application, as amended, applicant seeks registration of the mark "BENTLEY" on the Principal Register for "cabinetry, namely, kitchen and bathroom cabinets and cabinet doors," in Class 20. Registration has been refused under Section 2(e)(4) of the Lanham Act, 15 U.S.C. 1052(e)(4), on the ground that the mark is primarily merely a surname. We affirm the refusal to register.

The test for registrability under this section of the Act is well settled. A mark is primarily merely a surname, and hence unregistrable, if its primary significance to the purchasers of the goods is that of a surname. In re Kahan & Weisz Jewelry Mfg. Corp., 508 F.2d 831, 184 USPQ 421 (CCPA 1975). The Board has identified five factors to be considered in determining whether be surname significance of the term is its primary significance: (1) whether the surname is a rare surname; (2) whether the name in question is the surname of anyone connected with the applicant; (3) whether the word has any recognized meaning other than as a surname; (4) whether it has the "look and feel" of a surname; and (5) whether the presentation of the name is sufficiently distinctive to create a separate commercial impression apart from that of the surname. In re Benthin Management GmbH, 37 USPQ2d 1332 (TTAB 1995).

Notwithstanding applicant's unsupported arguments to the contrary, when each of these factors is considered, we must conclude that the primary significance of "BENTLEY" is that of a surname.

The Examining Attorney submitted in support of the refusal to register the results of her search of the PowerFinder database and of residential listings in the United States, which shows that over 16,000 people use

"Bentley" as their surname. Under these circumstances, the name certainly cannot be characterized as "rare." With her second Office Action, she included a copy of a dictionary page, which shows no listing for the term. Also submitted with that action were excerpts from periodicals published in this country, which make reference to various individuals whose surname is "Bentley." The record is silent as to whether anyone connected with applicant is named "Bentley."

In short, the Examining Attorney has clearly established that the primary significance of "BENTLEY" is that of a surname, that the surname is not rare, and that the term has no significance other than as a surname. It certainly has "the look and feel" of a surname. In that applicant seeks registration of the name in typed form, there is no distinctive display which could be argued to create a commercial impression separate and apart from that of the surname. Applicant's arguments that the primary significance of the term to consumers is as an identifier of applicant's products is simply not supported by any evidence.

Decision: The refusal to register is affirmed and registration to applicant is refused.