

**THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF
THE TTAB**

Mailed: March 9, 2004
Paper No. 16
PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Ole K. Nilssen**

Serial No. 76160862

Steven R. Trybus of Roper & Quigg for **Ole K. Nilssen**.

Heather D. Thompson, Trademark Examining Attorney, Law Office 103 (**Michael Hamilton**, Managing Attorney).

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

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

Ole K. Nilssen has filed an application to register on the Principal Register the mark SIGMALON for a variety of goods in International Classes 9 and 11. The Examining Attorney refused registration on the ground that the identification of goods was indefinite and required amendment. Applicant filed a response amending the existing identification of goods. The Examining Attorney declined to accept the amended identification of goods and

made final the refusal with respect to the identified goods in both classes. Applicant filed a notice of appeal and request for reconsideration wherein he further amended the identification of goods in both classes. Upon reconsideration, the Examining Attorney declined to accept the further amendment to the identification of goods, and continued the final refusal on the ground that applicant's identification of goods is indefinite. In addition, the Examining Attorney noted that, depending upon the precise nature of the goods in class 11, such goods may be improperly classified. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested.

The identification of goods In International Classes 9 and 11 (as amended in applicant's request for reconsideration) is as follows:

Centralized electrical power supplies; electrical power distribution networks for centralized power supplies; uninterruptible power networks; centralized electrical power supplies operable, within a building, to generate and supply a voltage of frequency distinctly different from that of the AC voltage normally present on an ordinary electric utility power line; centralized uninterruptible power networks, each operable to distribute electrical power to each of plural different loads disposed at different locations within a building; receptacles connected by way of an electrical power distribution network with a centralized source of voltage of frequency distinctly

different from that of the AC voltage normally present on an ordinary electrical utility power line; electrical loads adapted to be powered from or by a voltage provided by a central source of voltage of frequency distinctly different from that of the AC voltage on an ordinary electrical power utility power line; distribution networks operative, within a building, to supply electrical power from a centralized power supply to plural electrical loads disposed at different locations within the building; fire-initiation-safe electrical power supplies and networks, distribution networks operative, within a building, to distribute electrical power, electronic and optical data and signals to plural locations within the building in class 9; and

Lighting systems and products, namely gas discharge lamps, arc discharge lamps, incandescent lamps and any other types of electrically and optically actuated light emitting means; lighting fixtures and luminaries namely, gas discharge lamps, arc discharge lamps, incandescent lamps, electrically actuated light emitting devices and optically actuated light emitting devices; electrical power distribution networks characterized as being able to distribute power, data and voice transmissions alone or combined in class 11.

The indefinite portions of the identification of goods, as asserted by the Examining Attorney, relate to use of the term "**networks**," and are set forth below:

electrical power distribution networks;

uninterruptible power networks;

centralized uninterruptible power networks;

distribution networks; and

fire-initiation-safe electric power networks.

It is the Examining Attorney's position that an acceptable identification of goods must specify the components of any networks.

Applicant maintains that the term networks would be readily understandable to the relevant purchasers of electrical goods and services. Further, applicant argues that he has specified the function of the networks and thus it is unnecessary to recite the components thereof. Applicant has submitted copies of eight third-party registrations wherein the term "network(s)" is used in the identification of goods as evidence that the term is acceptable to the USPTO. With respect to the potential classification problem, applicant maintains that the goods are properly classified in class 11.

We find no error in the requirement that applicant specify the components of the networks in the identification of goods. Even in the context of the full identification of goods, it is not clear what comprises such "networks," or whether the components should be properly listed in other classes if sold separately. Further, it is not enough, as applicant argues that knowledgeable purchasers of the goods would understand what

is meant by networks; rather the identification of goods in an application should be sufficiently clear that the average purchaser would understand what the goods are. In re Air Products and Chemicals, Inc., 192 USPQ 84 (TTAB 1976). Further, it is within the discretion of the USPTO to require that an applicant's goods be identified with particularity. In re Water Gremlin Co., 635 F.2d 841, 208 USPQ 89 (CCPA 1980) and cases cited therein.

With respect to the third-party registrations relied on by applicant, as the Examining Attorney correctly points out:

These third-party registrations can easily be distinguished from the applicant's case because applicant is using the term networks alone to identify its goods. In [the third-party registrations], power networks or power distribution networks are terms used to *modify* already specified goods and to indicate the field of use or application for such goods. (Brief, p. 6) (emphasis in original).¹

¹ For example, Registration No. 2,205,441 for the mark ONE-LINER covers "computer software for creating and monitoring a one-line drawing of an electrical power distribution network"; Registration No. 1,292,670 for the mark POLAREX covers, inter alia, "manually settable relay switched adapted for connection to a power network ..."; and Registration No. 1,244,273 for the mark SMART DUTY CYCLER covers "microcomputer based radio receivers for shaving peak demand in an electrical power distribution network."

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Decision: The refusal to register applicant's mark, on the ground that the identification of goods in Classes 9 and 11 is indefinite, is affirmed.