Commissioner of Patents and Trademarks
Patent and Trademark Office (P.T.O.)

RE: TRADEMARK REGISTRATION OF DAN WANSTRATH, DOING BUSINESS AS GLASS TECHNOLOGY
87-49
December 14, 1987
***1** Petition Filed: June 17, 1987

For: GT GLASS TECHNOLOGY and DESIGN
Registration No. 1,423,776
Issued: January 6, 1987

Attorney for Petitioner

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Assistant Commissioner for Trademarks

On Petition

Dan Wanstrath, doing business under the name of 'Glass Technology,' has petitioned the Commissioner to correct what he alleges are mistakes in the certificate of registration. Trademark Rules 2.146(a)(3) and 2.176 provide appropriate authority for the review.

Petitioner filed an application to register the trademark, 'GT GLASS TECHNOLOGY,' in a stylized form for goods identified as an 'automobile windshield repair kit comprising pump, drill motor, ultraviolet lamp, seals, resin material.' The Examining Attorney required a disclaimer of the descriptive word, 'glass,' under Section 6 of the Trademark Act.

The mark appeared in the Official Gazette on July 15, 1986 with the following disclaimer:

> No claim is made to the exclusive right to use 'glass' apart from the mark as shown.

On August 14, 1986, Glasstech Inc., of Perrysburg, Ohio filed a request for an extension of time to file an opposition with the Trademark Trial and Appeal Board. The Board granted a one month extension to September 15, 1986. Glasstech Inc. then requested and received, with petitioner's consent, a second extension to November 13, 1986 so that the parties could consider settlement.

September 19, 1986, after the second granting of an extension by the Trademark Trial and Appeal Board, petitioner requested an amendment to the application to insert a disclaimer reading, 'applicant makes no claim to the exclusive right to use the word, 'technology,' apart from the mark as shown.' The Examining Attorney approved the amendment, and

the trademark registered on January 6, 1987 with the following disclaimer:

No claim is made to the exclusive right to use 'glass technology' apart from the mark as shown.

On March 19, 1987, petitioner filed a request under Trademark Rule 2.174 for a certificate of correction of the registration. Petitioner argued that no disclaimer of the composite 'glass technology' had either been requested by the Examining Attorney or authorized by the petitioner. Petitioner requested the Office correct the registration so that the disclaimer would read:

No claim is made to the exclusive right to use 'Glass' apart from the mark as shown.

No claim is made to the exclusive right to use 'Technology' apart from the mark as shown.

The Trademark Post-Registration Examiner refused the request in a letter dated May 22, 1987. That letter advised the petitioner that the new printing format would not allow for the separate printing of disclaimers and that, since the petitioner had disclaimed both 'glass' and 'technology,' the disclaimer of both words had appeared in the standard format.

***2** Petitioner filed this request for relief June 17, 1987. Petitioner argues that it did not authorize a disclaimer of the composite, 'glass technology,' and that publication of the registration with such a disclaimer constitutes an error. Petitioner argues that allowing a discrepancy between the disclaimer authorized in the record and that printed on the registration will lead to confusion by misleading the public as to the scope of published registrations. Petitioner suggests that, if a single disclaimer is required, the following should appear on the certificate of registration:

No claim is made to the exclusive right to use 'Glass' or 'Technology' apart from the mark as shown.

Petitioner's arguments are unpersuasive. There are two issues to be considered in relation to petitioner's request. The first, addressed by the Post-Registration Examiner, is the Office policy concerning standardized disclaimer format, and the second is the question of appropriate disclaimer of unitary expressions.

The stated Office policy regarding the standard printing format for disclaimers was published in the Official Gazette in the Commissioner's Notice, 1022 TMOG 44, on September 28, 1982, over three years before petitioner filed this trademark application. See TMEP section 904.06. All marks published as of November 9, 1982, and certificates of registration issued as of February 1, 1983, contain the uniform disclaimer language. TMEP section 904.06. The announcement in that issue of the Official Gazette emphasized that the policy regarding the standard wording of disclaimers was required both for printing and for the automated data base.

Requiring uniform wording in the printing of disclaimers allows for the expediting of the printing of the Official Gazette and the registration certificates. This policy has no effect on the disclaimer of record, which may appear in another form with the approval of the Trademark Examining Attorney. The purpose of the disclaimer is to show

that there is no claim to the exclusive appropriation of the disclaimed portion of the mark except in the precise relation and association in which it appears in the drawing and the description. In re Hercules Fasteners, Inc., 97 USPQ 355, 357 (CCPA 1953). A disclaimer has no effect on any common law rights in the composite mark. In re Franklin Press, Inc., 201 USPQ 662, 664 (CCPA 1979). The standard wording of a disclaimer does not affect the rights of a registrant with respect to the scope of its protection in published registrations. In re Owatonna Tool Co., 231 USPQ 493 (Comm'r. 1983). Therefore, it will not confuse the public as to the scope of published registrations.

Petitioner's request for entering two separate disclaimers of 'glass' and 'technology' in the uniform wording is inappropriate. To allow two separate disclaimers of the individual words in the standard printing format would effectively permit piecemeal disclaimers of a unitary, descriptive term. Disclaimers of individual components of complete descriptive phrases are improper. In re Surelock Mfg. Co., 125 USPQ 23 (TTAB 1960). Unitary expressions should be disclaimed as a composite. American Speech-Language- Hearing Assn. v. National Hearing Aid Society 224 USPQ 798 (TTAB 1984). 'Glass Technology' is a unitary phrase which is descriptive of the automobile windshield repair kits. Therefore, the wording must be disclaimed in the composite. Separate disclaimer of the individual words, 'glass' and 'technology,' in the standard printing format is improper.

***3** It is clear that no error occurred in printing the certificate of registration with the standard disclaimer language, and there was no abuse of discretion in the refusal of the Post-Registration Examiner to amend the certificate of registration. Petitioner unilaterally requested a disclaimer of 'technology.' The request came after the record already contained a disclaimer of glass; after publication of the mark in the Official Gazette with that disclaimer in the standard format; and over three years after the announcement of stated Office policy in the Official Gazette. Petitioner gave no special instructions regarding the printing format with its request for the additional disclaimer. Such instructions might have alerted the Trademark Examining Attorney as to petitioner's concerns before the registration issued, although the result would remain the same. Since stated Office policy required disclaimer of the terminology in the mark as a composite, it was reasonable for the Office to print the disclaimer in the composite form as 'No claim is made to the exclusive right to use the words, 'glass technology,' apart from the mark as shown.'

Accordingly the petition is denied. The disclaimer will remain as it appears on the certificate of registration.

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