

Pimp That Snack Ltd

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O/Ref: 2423035/Team C/TLONG
Y/Ref: Pimp That Snack
Date: 14 January 2007

Please reply by 14 March 2007 quoting our reference.

Dear Sir,

Application No: 2423035 in Classes 09, 16, 25, 38, 41
For the Mark: Pimp That Snack
Applicant: Pimp That Snack Ltd. 

EXAMINATION OF TRADE MARK APPLICATION

Thank you for your letter of 20. 2006 on the above application.

I have noted your arguments but they do not persuade me that the objection should be waived. I must apologise that my letter of 09.11.2006 caused some confusion, however I would argue that the same arguments apply to the words "Pimp that" as they do to "Pimp My". Your argument that the phrase was not in common use and not known to the public prior to the applicants website rise in prominence is not a valid reason for acceptance. If I may quote a passage from the "Doublemint case (Case C-191/01 P)

"in order for OHIM to refuse to register a trade mark under Article 7(1)(c) of Regulation No 40/94 it is not necessary that the signs and indications composing the mark that are referred to in that article actually be in use at the time of the application for registration in a way that is descriptive of the goods or services such as those in relation to which the application is filed, or of characteristics of those goods or services. It is sufficient, as the wording of that provision itself indicates, that such signs and indications could be used for such purposes. A sign must therefore be refused registration under that provision if at least one of its possible meanings designates a characteristic of the goods or services concerned."

I must therefore maintain my argument that the average consumer would not see the mark "Pimp that snack" as anything other than an indication of goods that relate to the development or improvement of ordinary snacks. I do not think they would associate the mark with one particular undertaking without having been educated to do so.

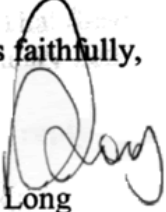
Application No: 2423035

With reference to the accepted Classes these cannot yet proceed to advertisement until the objections to the remaining classes are overcome. You do have the option of dividing the Classes into a separate application by filing a form TM12 with the appropriate fee.

As we are unable to reach a conclusion through correspondence I would strongly urge you to now apply for a hearing at which your case may be argued.

If you do not reply by the date requested above, the application will be refused under the provisions of Section 37(4) of the Trade Marks Act 1994.

Yours faithfully,


Tony Long
Trade Marks Examiner