

Lackebach

INTELLECTUAL PROPERTY
ATTORNEYS SINCE 1923

Siegel, LLP

LACKENBACH SIEGEL today!

VOLUME 4 - NUMBER 5 - FALL 2003

Welcome to the Lackebach Siegel today! Online Newsletter.

Lackebach Siegel, whose history and achievements in intellectual property law span most of the Twentieth Century, has practice areas which include patents, trademarks, copyrights, unfair competition, antitrust, licensing, litigation and all facets of computer, Internet and domain name law.

Lackebach Siegel today and Since 1923 is all about Patents, Trademarks, Copyrights, Domain Names, Internet and Computer Law

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From Fall 2003 Newsletter

Attorney Profile **Nancy Dwyer Chapman**

Position at Firm:
U.S. Trademark Department
Head



As head of the U.S. Trademark Department Nancy Dwyer Chapman is responsible for all U. S. trademark application filing, prosecution and maintenance matters. Ms. Chapman was admitted to the New York Bar in 1983, the Tennessee Bar in 1974 and the Ohio Bar in 1975. Ms. Chapman has been a trademark

- Patent Corner: *Featuring patent 6,483,542, plus notable, recent Patents secured by Lackebach Siegel*
- Trademark Corner *plus notable, recent Trademarks secured by Lackebach Siegel*

ACKNOWLEDGEMENT ZONE

The Trademark Insider's Second Quarter 2003 report, listing the Top 25 U.S. Trademark Attorneys, ranks Howard N. Aronson of Lackebach Siegel LLP 8th!

From Fall 2003 Newsletter

The Tax Man Cometh... *Sorry*

By Howard N. Aronson & Robert Golden

Many businesses have sought to avoid or lower state taxes by assigning their trademarks - intangible assets - to a subsidiary in a state or country that does not tax intangible assets, e.g. Delaware or the Bahamas. In most instances, the corporate architecture of having one entity own the trademarks and license them back to an operating entity for a reasonable royalty, effectively reduces or eliminates state tax.

EXAMPLE...

A New York State business with \$200 million in sales operating under a 6% license would pay a \$12 million royalty to its wholly owned subsidiary in Delaware. Avoiding the 7.5 % (minimum) New York State corporate tax on \$12 million of revenue represents a bottom line savings of \$900,000.

But now New York, New Jersey, Massachusetts, and some other states are seeking to eliminate such corporate tax savings by passing new legislation. Much of the new

attorney for nearly 29 years and previously an in-house trademark counsel to The Procter & Gamble Company, PepsiCo, Inc., Bristol-Myers Squibb Company, and independent trademark attorney to Wyeth (formerly American Home Products Corporation), Abbott Laboratories and Avaya Inc. Ms. Chapman is the author of numerous articles on trademark issues and trade dress practice and has spoken at conferences in the United States and Europe on matters of interest to the trademark bar, including:

"Exhaustion of Rights/Parallel Imports and the Effects of Repackaging - BMS et al. v. Paranova, UCB SA v. Paranova and Astra AB et al. v. Paranova Parallel Importation and the Apparent Ascendency of Aesthetics in Light of the Decision from the European Court of Justice" - MARQUES The Association of European Brand Owners Annual Conference - September 1997, Dublin, Ireland, ECTA Newsletter, May 1997; Author: "BMS et al. v. Paranova Parallel Importation in Light of the Decision from the European Court of Justice" Trademark World, November/December 1996; Author: "WHO, WHAT and WHY? The World Health Assembly's Resolution on Nonproprietary Names for Pharmaceutical Substances" Trademark World, December / January 1994/1995; Author: "Proposed State Trademark Legislation" NYSBAIP Section Newsletter "Bright Ideas" Summer 1993; Author: "Trade Dress

legislative activity is based upon a recent decision by the Massachusetts Supreme Judicial Court (The Sherwin-Williams Co. v. Commissioner, 816712), which overruled a decision of the Massachusetts Tax Appeals Tribunal. In that case, Sherwin-Williams utilized a Delaware subsidiary as a trademark holding company, having its New York and Massachusetts based operating subsidiaries pay a royalty to the Delaware entity. The Massachusetts Tax Tribunal rejected the arrangement as a "sham." Sherwin-Williams, however, prevailed before the Massachusetts Supreme Court, which overturned the Tax Tribunal and upheld the corporate arrangement as fulfilling legitimate business purposes, i.e. centralized trademark management and control. As the Court explained in analyzing the transactions, "in the corporate world a company does have the right to make a bona fide complete transfer of a tree and then whoever owns the tree, they get the fruit."

In response to this decision, Massachusetts lawmakers changed the law, thereby closing the "loophole" left open by the Massachusetts Supreme Court. The new Massachusetts statute provides:

For purposes of computing its net income under this chapter, a taxpayer shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related members.

Contrary to the Massachusetts Supreme Court, the New York Tax Appeals Tribunal did not find legitimacy in Sherwin-Williams' centralized trademark ownership in Delaware. The New York Tribunal found that the actual purpose for creating the subsidiaries "was a tax avoidance tool and there is absolutely no economic substance to the transactions." Based on this finding, Sherwin-Williams was required to pay New York State taxes. An appeal is expected.

The New York legislature, perhaps hoping to moot the anticipated Sherwin-Williams appeal, recently passed legislation aimed at closing the loophole. And while current challenges to the recent New York Tax Appeal Tribunal are mounting, various other states in addition to New York and Massachusetts, are looking to close down the heretofore favorable tax scheme. During 2002, New Jersey changed its laws in connection with general tax legislation hindering the favorable tax treatment of out-of-state trademark holding companies. Pennsylvania has announced it is seeking to likewise legislate away the possibility of avoiding Pennsylvania State taxes. The Maryland legislature passed measures reforming its tax laws in this area, which were vetoed for unrelated issues. Renewed tax legislation in Maryland is anticipated. Of course, legal challenges to all of the new legislation are expected.

New York's quest to change its tax laws is based upon its analysis of the true nature of a

Protection in the United States After the Supreme Court Decision in Two Pesos" Practising Law Institute, Advanced Seminar on Trademark Law 1993; Author: "Selecting, Clearing, and Establishing Rights to a Trademark" Practising Law Institute, Seminar on Current Issues in Trademark Law June 1986; Speaker: "Parallel Imports and the Paranova Cases" - PTMG Fall Meeting 1996, Berlin, Germany; Speaker: "Pharmaceutical Trademarks and WHA Resolution 46.19. The World Health Assembly's Resolution on Non-Proprietary Names for Pharmaceutical Substances" - PTMG Fall Meeting 1994, Monte Carlo, Monaco; Speaker: "Trademarks in Cyberspace - Trademarks, Domain Names, Unfair Competition and Jurisdiction on the Internet" - NYSBAIP Section Annual Meeting 1997, New York, NY; Speaker: "Trademarks, Domain Names and Unfair Competition on the Internet" - NYSBAIP Section Continuing Legal Education Seminar 1996, Rochester, NY.

E-mail: ndchapman@Lackenbach.com

PATENT CORNER

Featuring a recently issued patent to a client of Lackenbach Siegel

United States Patent Number:

6,483,542

**ELECTRIC STEEL
CAMERA**

trademark asset. The New York Tax Appellate Court believes that a trademark is not a passive asset that exists separate and apart from the actual management of an entity, but requires management, and that in most corporate situations, it is the parent firm that determines and controls its subsidiaries. Moreover, strict scrutiny of Delaware or off-shore entities, looking for independent and bona fide management, underlies tax audits in states such as New York, Massachusetts, Pennsylvania, and New Jersey.

There has always been a tension between trademark counsel and accountants regarding trademarks. Unlike patents and copyrights, ownership of a trademark cannot be bounced around between corporate entities without possible jeopardy, including loss of trademark significance. In our fall 2002 Newsletter we reported in Naked Licensing Isn't Sexy about the risk of the loss of trademark rights due to licensing without quality control. In corporate tax situations, where accountants look to place title to trademarks in different corporate entities based upon value assessments, trademark attorneys are loath to approve assignments and licenses, preferring to look to the essence of control of the goods bearing the marks. Separation of ownership from the actual control, without proper licensing, can seriously damage a trademark asset--in some instances, the single most valuable corporate asset.

Thus, while proper management and quality control can legally be effected through license arrangement by "out-of-state" parent companies, various states' legislatures are vetoing the concept for purposes of tax avoidance, and tax courts are beginning to analyze the location of the bona fide management activities with a view toward disallowing the royalty payment deduction.

We highly recommend that any "out-of-state" revenue royalty deductions pursuant to previous asset transfers of trademarks be reviewed by your accountant.

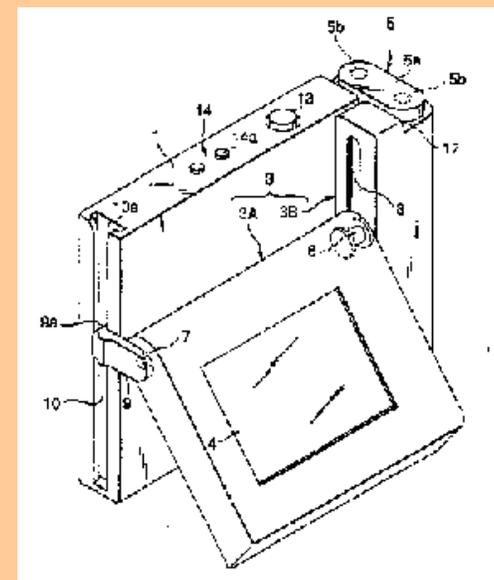
A noted trademark author in discussing the foundation of trademarks stated:

A trademark is a kind of property, but a very delicate right it is. Great care must be taken in the nature of its use, and in the manner in which it is assigned or licensed, lest the significance of the mark be lost. As Justice Holmes put it: A [trademark] deals with a delicate matter that may be of great value but that is easily destroyed, and therefore should be protected with corresponding care (citing a 1923 U.S. Supreme Court decision).

Date of Patent: November 19, 2002

Inventor: Kenichi Morinaga

Assignee: Funai Electric Co., Ltd., Osaka, Japan



An electronic still camera comprises: a image pick-up section including a front surface and a image pick-up lens provided on the front surface; an image receiving section having a rear surface and a monitor provided on the rear surface, for displaying an image which has been taken; and a connecting portion for pivotally connecting between one end of the image pick-up section and one end of the image receiving section, the connecting portion including a vertical shaft such that the monitor is set being opposite to the image pick-up lens when the image receiving section is rotated backward round the vertical shaft, and the monitor is set being faced with the

Trademark Shams, Scams and Flim-Flams

By Howard N. Aronson & Nancy Dwyer Chapman

Due to the importance of trademark registration generally and, most notably, the benefits thereof in connection with prosecuting domain name disputes, there has been a recent noticeable upturn in the number of scams aimed at trademark registrations and their owners. These con artists solicit payments for "services" that are utterly worthless.

Bogus notices and official-looking form letters are being sent to trademark owners, taking advantage of necessary renewal and proof of use requirements, both in the USA and throughout the world. The authors of these scam letters creatively use intentionally misleading language and formats that are designed to look like official government correspondence. One slick company issues correspondence boldly entitled:

[Trademark or Service Mark Cancellation Alert](#) on letterhead without a company name at the top of the page. The name and address of the company is set forth in tiny type at the bottom of the "Alert," and it is a name and address intended to be misunderstood for that of the U.S. Trademark Office, which actually is in Arlington, Virginia:

Trademark Renewal Service
910 17 Street NW, 8th Floor
Washington, D.C. 20006

Another scam, ZDR, in Frankfurt, Germany, requests a US\$1,452.34 payment for registration of their rights on the "Central Data Register for International Patents (or Trade Marks)" which has no governmental or legal authority. The situation is so severe in Europe that the European Patent Office, the World Intellectual Property Organization (WIPO), and the Office of Harmonization in the European International Market have issued warnings against ZDR, such as:

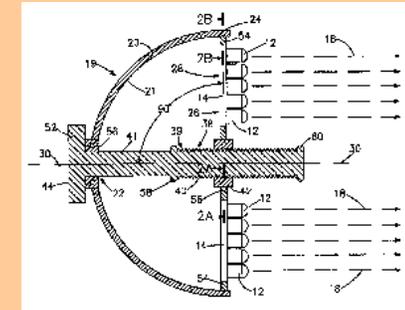
ZDR-Datenregister is a private German company, previously denounced for sending such letters seeking payment for entries in a private register containing information relating to industrial property titles already recorded in the German Patent and Trademark Office or elsewhere. That company and those responsible for its operations are currently under investigation by German law

image pick-up lens when the image receiving section is rotated forward round the vertical shaft.

Patent Corner Digest:
Notable, recent Patents secured by Lackebach Siegel

VARIABLE BEAM LIGHT EMITTING DIODE LIGHT SOURCE SYSTEM

Patent No.: 6,585,395 Assignee: Altman Stage Lighting Co., Inc.



ADAPTOR WITH A FILTER THAT CAN BE COUPLED TO VALVES FOR FLUIDS Patent No.: D476,718 Assignee: Valvulas Arco, S.A.
METHOD FOR CARRYING OUT THE ELECTRICAL BREAKDOWN OF A GASEOUS DIELECTRIC IN A HIGHLY NON-UNIFORM FIELD Patent No.: 6,545,480 Assignee: Valery Venginovich Starikov
PILOT SIGNAL STRENGTH ADJUSTING METHOD IN MOBILE COMMUNICATION SYSTEM Patent No.: 6,539,206 Assignee: Hyundai Electronics Industries Co., Ltd.
KIND OF ECONOMICAL HOUSEHOLD VENTILATOR Patent No.: 6,539,170 Inventor: Huang Shih-Ying
METHOD FOR SEARCHING ACCESS CHANNEL AND

enforcement authorities for alleged fraud and other offences. The register that ZDR-Datenregister refers to, if it exists at all, is likely to be of no value for Community trade mark owners.

INFONET, Golf, IL, writes trademark owners requesting \$625.00 for a three-year listing in a worthless publication "Register of Protected Trademarks in the TMG Trademark Guide on the Internet." While this solicitation letter notes "such registration is no substitute for official registration for national or international and trademark protection," this scammer's efforts have gulled more than one company in paying the fee, while giving no value except an expensive object lesson to the trademark owner.

One longstanding, confusing-to-the-layman flim-flam outfit is:

Company for Publications and Information
Anstalt Societății Pentru Publicații Et
Informații S.Ė.R.L.

Anstalt sends its correspondence to each owner of a mark that is published in the U.S. Official Gazette. A clipping from the Gazette is included in the Notice, with a request for payment of \$1,950 for "registration to the Publication of Brand Names of the International Economy." Their murky explanation of what the payment purchases:

"Costs for registration to the Publication of Brand Names of the International Economy. By paying the stated amount, you confirm this offer and that the company registration wording is correct. We kindly request you to send us your crossed cheque named to CPI, company for Publications and Information Anstalt..."

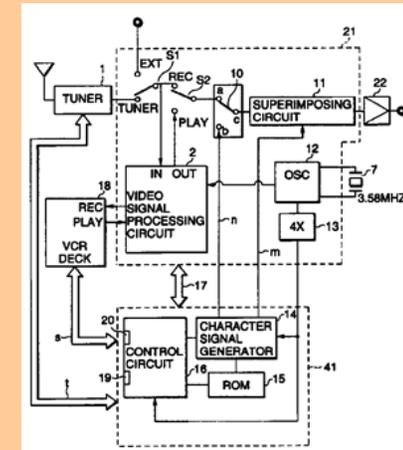
One need not scam many people at that price to have a thriving business. The publication is not affiliated with any government, nor does it provide any service or evidence one can use to enforce trademark rights. It is a deceptive hoax. Our office routinely receives inquiries from clients about this scam, which we explain is a worthless, costly fraud.

Although important organizations like the American Intellectual Property Association and WIPO have issued warnings and condemn such scams, the frauds proliferate. Scams rely on corporate administration procedural flaws and inattention.

The scams lead corporations to pay what appear to be important, "official" bills from an authoritative "governmental" agency or for a listing in a seemingly required or beneficial publication. The shams can

ALLOCATING FINGER FOR BASE
STATION Patent No.: 6,539,005
Assignee: Hyundai Electronics
Industries, Ltd.

VIDEO PROCESSING CIRCUIT
Patent No.: 6,538,703 Assignee: Funai
Electric Co., Ltd.



EQUIPMENT, KIT AND METHOD FO
MICROBIOLOGICAL DIAGNOSIS
Patent No.: 6,537,772 Assignee:
Centro Nacional de Investigaciones
TRANSMISSION/RECEP.
CONCURRENT MATCHING
APPARATUS FOR TDM CHANNELS
AND THEREOF Patent No.: 6,532,239
Assignee: Hyundai Electronics
Industries Co., Ltd. GEOGRAPHICAL
DISPLACEMENT SENSING UNIT AND
MONITORING APPARATUS USING
THE SAME Patent No.: 6,530,284
Assignee: Mitsui Bussan Plant &
Project Corp.

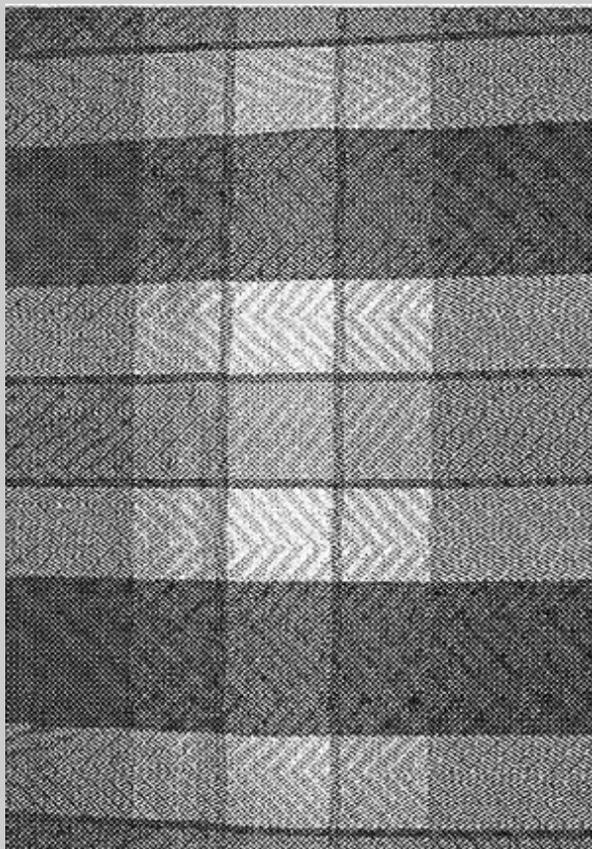
ERGONOMIC POULTRY KNIFE
Patent No.: 6,460,256 Assignee;
Dexter-Russel, Inc.

be as insistent and as annoying as e-mail spam. IP scams, however, can prove costly if a target succumbs to the predator's pitch. When in doubt about unsolicited correspondence discussing your rights, contact us at Lackenbach Siegel to discuss the matter with professionals who can spot and prevent clients from being duped by shams, scams and flim-flam deceptions.

IT'S NO APRIL FOOL'S JOKE

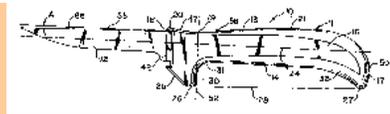
By Howard N. Aronson

It is no laughing matter that Lackenbach Siegel secured U.S. Design Patent D472,391, on April 1, 2003 for the fabric design below:



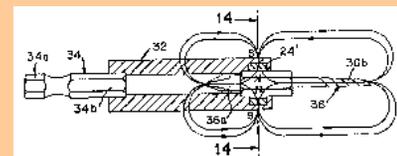
It is not uncommon for fabric designs, specifically plaids, to be protected by trademark registration (as opposed to a design patent grant).

Trademark protection lasts in perpetuity if the mark is continuously used, while design



SYSTEM AND METHOD OF KNOWLEDGE ARCHITECTURE
Patent No.: 6,529,889 Assignee: Acappella Software, Inc. **SWITCH CONTROLLING APPARATUS FOR SMALL CAPACITANCE ATM EXCHANGE** Patent No.: 6,529,509 Assignee: Hyundai Electronics Industries, Ltd. **4-SUBSTITUTED PEPERIDINES** Patent No.: 6,518,284 Assignee: Faes, Fabrica Espanola de Productos Quimicos Y Faramaceuticos S.A. **SEAMLESS FUZZY HANGING DICE WITH ON/OFF VEHICLE PLUG-IN SWITCH** Patent No.: D469,733 Assignee: Liteglow Industries, Inc. **METHOD FOR CONSTRUCTING WVPN (WIRELESS VIRTUAL PRIVATE NETWORK) FOR CDMA** Patent No.: 6,510,327 Assignee: Hyundai Electronics Industries, Co., Ltd.

DRILL ADAPTER WITH EFFICIENT HIGH ENERGY PERMANENT MAGNETIZER
Patent No.: 6,499,168 Inventor: Wayne Anderson



ANTI-CD6 MONOCLONAL ANTIBODIES/THEIR USES Patent No.: 6,572,857 Assignee: Centro de Inmunologia Molecular **CERAMIC FAN HEATER** Patent No.: D466,598 Inventor: Huang Shih-Ying

patents last only 14 years. The benefit, then, of securing a patent resides in the difference in type of protection provided by a patent as opposed to a trademark.

Trademark infringement requires likelihood of confusion at point of purchase. The type of third party use, thus, that would infringe a trademark would be use of the same or similar plaid on the same or related goods (e.g. clothing, luggage or tote bags generally are considered related), creating a likelihood of confusion as to the source of origin of the product.

Patent infringement would, however, exist regardless of confusion if the same or very similar plaid were made, used or sold by a third party as part of fabric—regardless of the use of the fabric.

To obtain design patent protection, an application must be filed within one year of the first use and the plaid must be novel, i.e. not shown or obvious from any other plaid design published anywhere in the world or used in the U.S. more than one year prior to the patent application being filed.

The same plaid can indeed be covered by both a trademark and a patent if the requisite facts exist. If the fabric design is distinctive as opposed to merely decorative or ornamental, and has been used for a long time so that the purchasing public associates the design with one origin—none company—then trademark rights can be secured. It need not be a novel design. The Burberry plaid, which has been granted trademark registration has been in continuous use since March, 1923 on clothing.

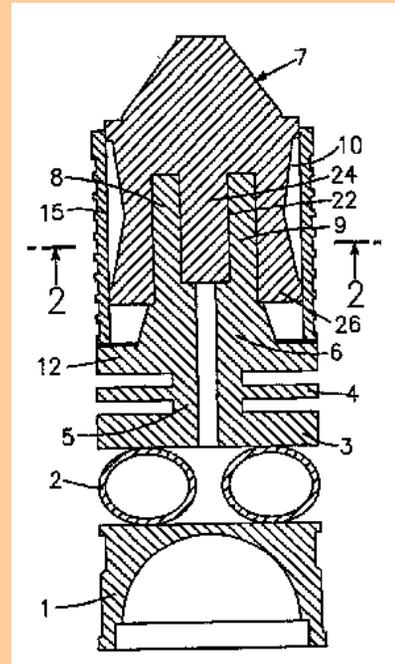
Thus, a design that ultimately enjoys both patent and trademark protection generally achieves patent protection first. While the design is being used and becoming associated with a single source of origin, the design is protected by the design patent. Subsequently, the design may be eligible for trademark registration, after perhaps five or ten years of use.

Lackenbach Siegel has secured both design patent and trademark protection for the same product for Geoffrey Beene and Diane von Furstenberg.

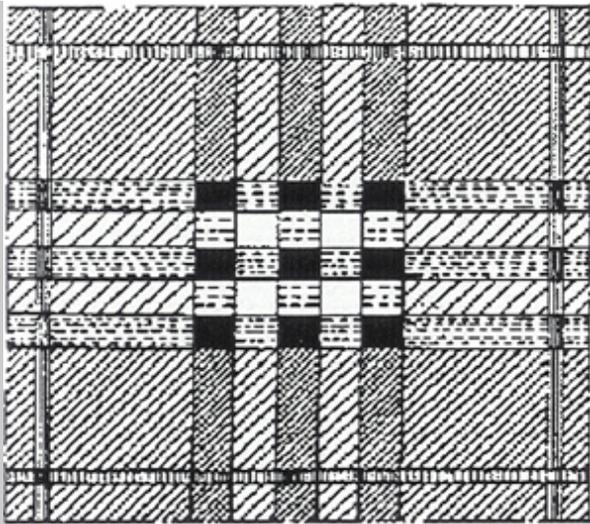
Burberry Ltd. has numerous trademark registrations covering its famous plaid, one of which, U.S. Trademark Registration No. 2,022,789 provides that the trademark consists of: a red, brown, gray, black and white plaid pattern applied uniformly over the goods or significant parts thereof. The broken lines in the drawing are not a feature of the mark. The following colors and shades of colors are claimed as features of the mark; light tan, dark tan, light brown, dark brown, black, white, very dark red, dark red, medium red, light red, dark gray, medium gray and light gray. The color lining symbols for red, brown and gray are shown in the above drawing.

BULLET SETTING OUT MECHANISM FOR HUNTING CARTRIDGES

Patent No.: 6,481,356 Assignee: Elio Gualandi & C. SRL



MINI JIG SAW Patent No.: D465,713
Assignee; Chevron Inter.Trading Co.,
Ltd. ERGONOMIC HANDLE PRY BAR
Patent No.: 6,471,186 Assignee:
Mayhew Steel Products, Inc.
INTEGRATED CIRCUIT ELECTRONIC
EQUIPMENT AND METHOD OF
ASSEMBLY WHICH USES SAID
INTEGRATED CIRCUIT Patent No.:
6,470,133 Assignee: Funai Electric Co.,
Ltd. CHEMILUMINESCENT ARTICLE
Patent No.: 6,467,489 Assignee: Nova
Glo International Ltd. GEOGRAPHICAL
DISPLACEMENT SENSING UNIT AND
MONITORING APPARATUS USING
THE SAME Patent No.: 6,530,284
Assignee: Mitsui Bussan Plant &
Project Toshiba Engineering



A SINGLE DESIGN PATENT AVAILABLE FOR EUROPE

As of April 1, 2003 a single design patent application can be filed to cover all countries of the European Community (presently 15, namely: Belgium, Netherlands, Luxembourg, Germany, France, Spain, Portugal, United Kingdom, Ireland, Austria, Finland, Denmark, Sweden and Greece; and 25 countries are anticipated in 2004). After successful examination of an application for the appearance of a product that is unique, considering prior public designs, a single registration issues for five years, renewable for a maximum total term of 25 years. Therefore, with a single application in one language, English, costing about \$1700, coverage in 15 countries is possible.

And, as of March 2002, unregistered designs of products are protected for three years from the date a design is first made available to the European public. The protection is similar to registered designs, but shorter, and no formalities (filings) are required.

Corporation METHOD OF TREATING
INSULIN RESISTANCE Patent No.:
6,521,665 Inventors: Igor Anatolievich
Pomytkin et al

Foreign Trademark Developments Corner Digest:

***Notable, recent Trademarks secured
by
Lackenbach Siegel***

VENETIA STVDIVM and Design
Registrant: Venetia Studium S.R.L.
(Italy) SAFE-T-VU Registrant: Vaughan
& Bushnell Mfg. Co. 800 REFERRAL.
COM and Design Registrant: Quimby,
William S.

AEROSOLES (Stylized)

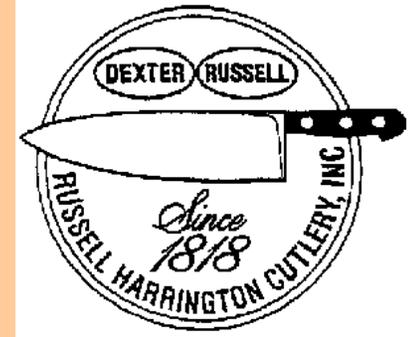
Registrant: Aerogroup International
Holdings, Inc.

AEROSOLES

MERSCH and Design Registrant:
Mersch Design GMBH (Germany) LA
CASERA Registrant: La Casera,
Central de Servicios, S.A. (Spain)
SANTA ANA AROMATIC
ALCOHOLADO ... and Design
Registrant: Edmundo B. Fernandez,
Inc. (Puerto Rico)

DEXTER RUSSELL

Registrant: Dexter-Russell Inc.



HIGHWAY JOEÕS and Design
Registrant: Precision Care Inc.
GENERAL and Design Registrant:
Industria Chimica General SNC (Italy)
CYVAC Registrant: Song, Young-So
(Korea) CNOTE Registrant: Trans
Continental Records, Inc. RHEIN
Registrant: Rhein (Chile) BEE LINE
and Design Registrant: Otkrytoe
Aksionernoie ... (Russia) RAYLITE and
Design Registrant: First NatÕl Battery
Co. Ltd. (South Africa) REACTION
KENNETH COLE (Stylized) Registrant:
K.C.P.L., Inc. ROBINSON CRUSOE
Registrant: Empresa Pesquera
Robinson Crusoe S.A. (Chile) API
HOLDING (Stylized) Registrant: API
Holding S.P.A. (Italy) ENRICHED
PROTECTIVE Registrant: Shiseido
Company, Ltd. (Japan) DOWNHILL
RAZOR Registrant: CandieÕs Inc. IB
and Design Registrant: IntÕl
Baccalaureate Organization
(Switzerland)

IB WORLD SCHOOL ECOLE DU
MONDE COLLEGIO DEL MUNDO
& Design
Registrant: International Baccalaureate
Organisation (IBO) (Switzerland)



INTERNATIONAL BACCALAUREATE
Registrant: IntÖl Baccalaureate
Organization (Switzerland) MA
CHERIE (Stylized) Registrant: Shiseido
Company, Ltd. (Japan) WHITIA
Registrant: Shiseido Company, Ltd.
(Japan) ROBINSON CRUSOE
Registrant: Empresa Pesquera
Robinson Crusoe S.A. (Chile) N W and
Design Registrant: North Wind Yard, S.
L. (Spain) REFERENCE and Design
Registrant: Societe De Production et de
Recherches Appliquees ÖS.O.P.R.A.Ö
(France) ANNALaura Registrant:
Florence Montecarlo, S.A.M.
LÖAmbassador (Monaco)
TECHPOLYMER Registrant: Sekisui
Kaseihin Kogyo Kabushiki Kaisha
(Japan)

**EDOARDO BIANCHI BIANCHI &
Design**

Registrant: Cycleurope AB (Sweden)



Bianchi

BPR 640 Registrant: Dassault
Automatismes et Telecommunications
(France) DOC DENTIST ON CALL

Registrant: Majestic Drug Co., Inc. (France) KENNETH COLE NEW YORK (Stylized) Registrant: K.C.P. L., Inc. BUNGY Registrant: Rodam International, Inc. (Canada) EASY SOURCE Registrant: Thomson Multimedia (France) SAWA and Design Registrant: The Second Abrasive Wheel Factory 〇s Shenzhen Associated Co., Ltd. (China) THE MEDIA TECHNOLOGY CENTERS and Design Registrant: Media Technology Cellten LLC

MAUNA LOA TASTE OF THE TROPICS & Design

Registrant: Mauna Loa Macadamia Nut Corporation (Hawaii)



BIG BOY Registrant: W. Atlee Burpee Company VSKO Registrant: Oy Visko AB (Finland) AMINO VITAL Registrant: Ajinomoto Co., Inc. (Japan) XG300 Registrant: Hyundai Motor America VSKO AB Registrant: Oy Visko AB (Finland)

**FOREIGN
TRADEMARK
DEVELOPMENTS**

By Rosemarie B. Tofano

Hong Kong- As of April 2003 a new Trademark law protects smells, sounds and colors as possible marks, and adds multi-class applications. The newest changes bring the law into accord with prevailing U.S. jurisprudence on Trademarks.

European Union- Now recognizes a single color registrable as a trademark. Distinctive use of color on products or in connection with services that do not stymie competition or traverse the public interest may be protected. The specific shade of the color must be identified.

Egypt- The new trademark law in Egypt establishes significantly increased fees - and effects little else substantively, other than prohibiting registration and use of well known marks by a third party. Registration of well-known marks by other than the recognized source thereof is prohibited for all goods, related or not.

Paraguay- After October 2003 a registration can be attacked and cancelled after five years of non-use.

Taiwan- A new Trademark law comes into force November 2003. Three dimensional shapes, colors and sounds are now recognized as possible trademarks. Internet use of a mark is specifically recognized, and domain name usage is eligible as an infringement of a registered mark.

China- June, 2003 welcomes a significant new law providing protection for "Famous trade marks." Fame is assessed by considering the relevant

public in China during an opposition/
cancellation proceeding. The mark
need not be requested in China.

Contact: Rosemarie Tofano,
(rtofano@Lackebach.com) for more
information.

Lackebach Siegel

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<http://www.Lackebach.com>