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PRECEDENT OF  
THE T.T.A.B.**

Oral Hearing: March 29, 2007 Mailed: December 28, 2007

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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Council of Ivy Group Presidents

v.

Gray, Robert R.L.

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Opposition No. 91161051  
to application Serial No. 78241931  
filed on 4/25/03

Glenn A. Gunderson of Dechert LLP for Council of Ivy League Presidents.

Arnold P. Lutzker of Lutzker & Lutzker for Robert R.L. Gray.

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Before Zervas, Cataldo and Bergsman,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

On April 25, 2003, Robert R.L. Gray filed an application to register on the Principal Register the mark IVY LEAGRO in typed or standard character form, based upon an allegation of his bona fide intent to use the mark in commerce on or in connection with the following goods and services:

catalogs, magazines and books in the field of educational services; printed educational and teaching materials, namely, education guide books;

address books, scrapbook albums, printed awards, paper party bags, paper bags, ball-point pens, paper banners, loose leaf binders, book binders, bulletin boards, magnetic boards, date books, engagement books, picture books, sketch books, telephone number books, wire bound books, pencil boxes, stationery boxes, bumper stickers, window stickers or decals, playing card cases, pen cases, coasters made of paper, decals, paper party decorations, desk sets, diaries, paper party hats, letter openers, personal organizers, organizers for stationery use, decorative pencil-top ornaments, stationary, stencils, stickers, table napkins of paper, photograph albums, appliques in the form of decals, appointment books, art etchings, art pictures, art print, merchandise bags, plastic or paper bags of merchandise packing, mechanical binder sets including rings, dividers and folders; blotters, bond paper, book bindings, book covers, book holders, bookends, bookmarks, composition books, notebooks, business cards, calendar desk pads, desk calendars, pocket calendars, wall calendars, cards in the nature of blank cards and business cards, non-magnetically encoded credit cards, non-magnetically encoded debit cards, gift cards, greeting cards, playing cards, trivia cards, checkbook covers, clip boards, desk sets, desk pads, diaries, drawing instruments, namely, pencils, pens and brushes, telephone directories, paper emblems, envelopes, erasers, loose leaf paper, loose leaf binders, markers, note books, note pads, recycled paper, wrapping paper, typewriter paper, writing paper, paper flags, paper name badges, postcards, sketch books, writing tablets for household or office use; paper weights

in International Class 16;

clothing, namely, footwear, t-shirts, sweat shirts, sweatpants, pants, tank tops, jerseys, shorts, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, hats, caps, baseball caps, warm-up suits, jackets, parkas, coats, cloth baby bibs, head bands, wrist bands, pajamas, pullovers, rain coats, rain wear, scarves, jogging suits, play suits, gym suits, body suits, sun visors, suspenders, wind-resistant jackets

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in International Class 25; and

providing information in the field of educational services via the Internet; providing on-line newsletter in the field of educational services

in International Class 41.<sup>1</sup>

Registration has been opposed by Council of Ivy League Presidents ("opposer"). As grounds for opposition, opposer asserts that it is an unincorporated association consisting of Brown University, Columbia University, Cornell University, Dartmouth College, Harvard University, University of Pennsylvania, Princeton University and Yale University; and that it is the owner of numerous marks, which it has previously used and registered on the Principal Register, including the following:

IVY LEAGUE

in typed or standard character form, for "paper products, namely, folders, pens" in International Class 16;<sup>2</sup>

THE IVY LEAGUE

in typed or standard character form, for "printed matter and publications, namely, books, newsletters, pamphlets and brochures in the field of intercollegiate athletics" in International Class 16;<sup>3</sup>

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<sup>1</sup> Application Serial No. 78241931.

<sup>2</sup> Registration No. 2663674 issued on December 17, 2002.

<sup>3</sup> Registration No. 2475096 issued on August 7, 2001 with a disclaimer of "LEAGUE." Section 8 affidavit accepted; Section 15 affidavit acknowledged.

THE IVY LEAGUE

in typed or standard character form, for "clothing, namely, shirts" in International Class 25;<sup>4</sup>

THE IVY LEAGUE

in typed or standard character form, for "educational and entertainment services namely, conducting educational activities such as courses, seminars and conferences and sporting events at the college and university level" in International Class 41;<sup>5</sup> and

THE IVY LEAGUE

in typed or standard character form, for "informational services, namely, providing historical, educational and sports information via a global telecommunications network" in International Class 42.<sup>6</sup>

Opposer alleges that applicant's IVY LEAGRO mark and opposer's previously used and registered IVY LEAGUE, THE IVY LEAGUE, and other IVY formative marks are highly similar; that applicant's goods and services are closely related to those recited in opposer's registrations; that, as a result,

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<sup>4</sup> Registration No. 2096273 issued on September 16, 1997. Section 8 affidavit accepted; Section 15 affidavit acknowledged. Renewed.

<sup>5</sup> Registration No. 2442152 issued on April 10, 2001 with a disclaimer of "LEAGUE." Section 8 affidavit accepted; Section 15 affidavit acknowledged.

<sup>6</sup> Registration No. 2138949 issued on February 24, 1998. Section 8 affidavit accepted; Section 15 affidavit acknowledged. Renewed.

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confusion, mistake and deception are likely among consumers as to the source thereof under Trademark Act Section 2(d); and that opposer will be damaged thereby. Opposer further alleges that its marks are famous and distinctive and were so prior to the filing date of the challenged application; that applicant's mark dilutes the distinctive quality of opposer's marks under Trademark Act Section 43(c)(1); and that opposer will be damaged thereby.

Applicant's answer consists of a general denial of the allegations in the notice of opposition.

**The Record**

The record consists of the pleadings, and the file of the involved application. In addition, during its assigned testimony period, opposer took the deposition, with accompanying exhibits, of Jeffrey Orleans, its Executive Director. Opposer also filed notices of reliance upon the following:

(1) certified copies of its pleaded registrations, which show that the registrations are subsisting and are owned by opposer;

(2) extracts from books, dictionaries, encyclopedias, and other general reference materials, published prior to the filing date of the involved application, which show use of the term IVY LEAGUE in reference to opposer;

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