



IP NEWS QUARTERLY



IP Attorneys Group, LLC

Fall 2015

Cancellation Of Redskins' Trademark Registrations

The "Redskins" trademark was first used by the Washington Redskins football team in 1933. The name "Redskins" was chosen to distinguish the football team from the Boston Braves professional baseball team and the team has used the name ever since. In 1967, the United States Patent and Trademark Office ("USPTO") approved and registered the trademark. Later, five variations of "Redskins" trademarks were approved and registered between 1974 and 1990 (collectively "Redskins Marks"). The registrations of the Redskins Marks have been renewed since 1967 (the most recent renewal occurred in 2015).

Amanda Blackhorse, et al., brought a cancellation proceeding before the Trademark Trial and Appeal Board ("TTAB") pursuant to Section 14 of the Trademark Act of 1946, 15 U.S.C. §1064(c) stating grounds that the registrations were obtained contrary to §2(a) 15 U.S.C §1052(a). The two part test for determining whether the mark is disparaging under §2(a) is: 1) Establishing the meaning in relation to the goods and services, and 2) if the meaning disparages the referenced group. In June of 2014, the TTAB ruled that the Redskins Marks should be cancelled under §2(a) of the Lanham Act, 15 U.S.C. §1052(a). Pro-Football, Inc. ("PFI"), the owner of the Redskins Marks, appealed that decision to the District Court, which affirmed the TTAB ruling and ordered the cancellation of the Redskins Marks.

In affirming the TTAB decision, the District Court considered 'whether a substantial composite of Native Americans deem the term "redskin" as one that "may disparage" in the context of PFI's Redskins Marks under §2(a) of the Lanham Act during the relevant time period. Section 2(a) of the Lanham Act prohibits registration of a trademark that consists of or comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute. The District Court held that the evidence submitted supported the contention that between 1967 and 1990, the Redskins Marks consisted of matter that "may disparage" a substantial composite of Native Americans and ordered cancellation of the "Redskins" Registrations.' *Pro-Football, Inc. v. Amanda Blackhorse, et al. Case 1:14-cv-01043-GBL-IDD*. On August 6, 2015, an appeal was filed with the 4th Circuit. The cancellation will not go into effect until the appeals process is complete.

The Court's judgment is not an order that precludes the owner, Pro-Football, Inc. ("PFI"), from using the marks in commerce (the TTAB lacks statutory authority to issue rulings concerning the right to use trademarks). Nor does the Court's ruling that the Redskins Marks consisted of matter that "may disparage" a substantial composite of Native Americans during the relevant time period preclude sports fans from collecting, wearing, or displaying the Redskins Marks.

Continued on page 2

In this issue:

Cancellation Of Redskins' Trademark Registrations

1

Page 1-2

Unlikely Patents

2

Page 2

Did you know?

The USPTO has a Facebook Page!

The official United States Patent and Trademark Office (USPTO) [Facebook page](#) promises to deliver the latest USPTO news, photos and videos.

Through Facebook the USPTO will directly connect with the public and the intellectual property community.

Cancellation Of Redskins' Trademark Registrations *continued*

However, although cancellation of the Redskins Marks will result in loss of the presumptions of validity and ownership in the Redskins Marks provided by U.S. federal trademark registration, PFI is not prohibited from continuing use of its Redskins Marks in commerce. The Redskins Marks are:

1. Reg. No. 0836122 (reg. Sept. 26, 1967) for the mark THE REDSKINS (stylized), for "entertainment services-namely, football exhibitions rendered in stadia and through the media of radio and television broadcasts," Class 41;
2. Reg. No. 0978824 (reg. Feb. 12, 1974) for the mark WASHINGTON REDSKINS, typed drawing form, for "entertainment services-namely, presentations of professional football contests," Class 41;
3. Reg. No. 0986668 (reg. June 18, 1974) for the mark WASHINGTON REDSKINS and design, for "entertainment services-namely, presentations of professional football contests," Class 41;
4. Reg. No. 0987127 (reg. June 25, 1974) for the mark THE REDSKINS and design, for "entertainment services-namely, presentations of professional football contests," Class 41;
5. Registration No. 1085092 (reg. Feb. 7, 1978) for the mark REDSKINS, typed drawing form, for "entertainment services-namely, presentations of professional football contests," Class 41; and
6. Registration No. 1606810 (reg. July 17, 1990) for the mark REDSKINETTES, typed drawing form, for "entertainment services, namely, cheerleaders who perform dance routines at professional football games and exhibitions and other personal appearances," Class 41.

Unlikely Patents

Yes, there are some unusual patents out there. Here are some examples:

Glasses with subliminal message (US 5175571) The present invention relates to an individual, personal, subliminal message device, and in particular, to a pair of subliminal imaging spectacles

Fork With Timer (US 5421089) A fork with a countdown timer to cue the user when to take a bite!

Interactive Life-Sized Bowl of Soup (US 6168531) The large bowl includes, "a fog layer at the top of the bowl-shaped member; and an imaging device producing an image," according to the 1999 patent.



Learn more about us at
www.ipattorneysgroup.com



IP Attorneys Group, LLC

Patents—Trademarks—Copyrights

16 Oxford Road, 2nd Floor

Milford, CT 06460

Tel: 203 298 4830

Fax: 203 298 4832