

LAW OFFICES
MALESON, UDELL & ROSENBERG

P. O. BOX 1010
QUAKERTOWN, PA. 18951-1010

(215) 538-4500

PATENT, TRADEMARK AND COPYRIGHT MATTERS

CABLE: QUAKERPAT

WALTER B. UDELL
PAUL MALESON
MORTON J. ROSENBERG*

*MD. BAR ONLY

OF COUNSEL
STANLEY SILBER
EDWARD N. FARRELL

PHILADELPHIA OFFICE
1407 LEWIS TOWER BLDG.
PHILADELPHIA, PA. 19102
(215) 738-2678

WASHINGTON AREA OFFICE
SUITE 430
2000 CENTURY PLAZA
COLUMBIA, MD. 21044
(215) 985-9166

December 5, 1988

L. Victoria Ross, Director
Deep Muscle Therapy Center
651 S. Gulph Road
King of Prussia, PA 19406

Re: Three applications in the United
States Patent and Trademark Office
for the registration of various marks
Our Dockets 4938, 4939 and 4940

Dear Vicki:

Considering first our Docket 4938 which was the application for registration of the mark shown on the Pfrimmer Association Deep Muscle Therapy logo, this collective membership mark was refused registration as shown in the enclosed Action from the United States Patent and Trademark Office, indicated in the upper right-hand corner as #4938. During a conference with the Examiner it was agreed that if the words "DEEP MUSCLE THERAPY" were disclaimed apart from the mark as shown that the Examiner would allow the application and pass it for publication. I agreed to this amendment, and the Examiner attended to this by what is known as an Examiner's Amendment. In due course we should receive a copy of the Examiner's Amendment. Accordingly, as far as is known by me at this time, this application has been passed for publication.

With regard to our Docket 4939 you will note that there is a three page Office Action refusing registration of this mark, the Pfrimmer Deep Muscle Therapy and design, on a number of grounds including the objection by the Examiner that the mark is not a certification mark. While I disagree with the Examiner, since this is a Final Action, our only recourse would be to file an appeal to the Trademark Trial and Appeal Board. This would be a costly procedure, and not what I would recommend in view of the Examiner's suggestion shown in a note at the top of page 3 of this Office Action which seemed to indicate that the filing of a substitute application converting the application to one for registration of Association Services would be favorably viewed.

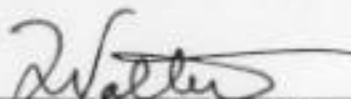
December 5, 1988

I also conferred with the Examiner on this point and she agreed that a substitute application which included the various statements and disclaimers required by the previous Office Actions would be satisfactory, and would be passed for publication. Accordingly, I prepared a substitute application and forwarded it for signature to Ruthann Hobbs. The application was received back from Mrs. Hobbs and forwarded to the United States Patent and Trademark Office together with various remarks setting forth the agreements arrived at during the conferences with the Examiner. A copy of these documents is also enclosed.

Regarding application Docket #4940 for the word mark Pfrimmer Deep Muscle Therapy, again, the Examiner indicated that the filing of a substitute application for Association Services would be viewed favorably with regard to the application. The substitute application was prepared, executed, and filed in the United States Patent and Trademark Office. However, with regard to this application, it is necessary to file what is known as a Statement under Section 2(f), and I will have to attend to this. However, we will have several months to take care of this particular.

The foregoing sets forth the status of all of these applications as of the present time, and in summary is that the applications corresponding to the Dockets 4938 and 4939 are expected to be passed for publication in their present form, and the application corresponding to Docket 4940 requires some further work before passage to publication.

Sincerely,



Walter B. Udell

WBU/aw

Enclosures