

Brand Battles: Sprint, Cartier, Viacom

By **Bill Donahue**

Law360, New York (January 24, 2014, 6:54 PM ET) -- In Law360's latest roundup of new actions at the Trademark Trial and Appeal Board, Sprint battles over the sound of its old Nextel walkie-talkies, Cartier doesn't "love" the sound of a rival gold trademark and Viacom isn't kidding around about its Nickelodeon property.

Markelodeon

Viacom Inc. asked the board to block a registration from Nickster Inc., a New York startup launched in September that sells educational toys and smartphone apps for kids. The company had applied to register its name.

Why Nickster? Because Viacom owns the children's cable network Nickelodeon, which often goes by the abbreviated Nick, as in Nick at Nite and Nicktoons.

In opposing the registration, Viacom was careful to note that it has long sold physical toys and other merchandise under the Nickelodeon mark.

"The Nickster mark is intended to be used or is being used in connection with interactive video games and children's toys," Viacom said. "These are the same type of goods and services that have long been offered by Viacom on Nickelodeon and the Nick websites under the Nickelodeon marks."

Viacom is represented by Cantor Colburn LLP. Nickster is represented by DLA Piper.

Chrrrrrrp

When Nextel Communications Inc. was bought up by Sprint Corp. in 2005, it continued to license its name in foreign countries to a company called NII Holdings Inc. Nine years later, the two Nextel successor entities are now fighting — over an onomatopoeia.

Nextel made a name for itself in the early 2000s with its introduction of push-to-talk technology that turned its cellphones into high-tech walkie-talkies. When a user would push the button to blast a message to a fellow user, the phone would make a characteristic beep.

The sound was so recognizable that the company registered the sound itself as well as a trademark for a phoneticization of it — "chirp" — back in 2002. Flash forward to last year, when NIIH went to the

trademark office to register a similar sound-word: "prip."

The move didn't sit well with Sprint, which went to the board this week to block the registration of the similar-sounding sound-word.

"[NIIH]'s mark 'prip' is an onomatopoeia of [Sprint]'s word and sound mark 'chirp' [and] applicant uses opposer's 'chirp' sound mark with 'prip' and thereby educates consumers that 'prip' is an onomatopoeia of the 'chirp' sound mark," the notice of opposition said.

"[NIIH] deliberately created the 'prip' mark ... to trade on the goodwill opposer has developed in the 'chip' ... trademarks," Sprint added.

Sprint is represented by Abelman Frayne & Schwab. NIIH is represented by Posz Law Group PLC.

TTA-Mobile

Speaking of oppositions from mobile service providers, T-Mobile USA Inc. lodged a case over a script-lettering "T" registration from RLOGS LLC, a Texas company that wanted it for software that could be used to collect and manage scientific and business data and information.

T-Mobile is represented by Mayer Brown LLP.

No 'M'ty Threat

Telecommunications equipment manufacturer Motorola Mobility LLC and candymaker Mars Inc. both went after companies that tried to register stylized one-letter "M" marks similar to the the companies' respective logos.

In Motorola's case, the company filed an opposition over a bid by a company called MobileIron Inc. to register a similar-looking "M" in white lettering inside a black circle, which it wanted for various types of mobile software.

As for Mars, it cited its world-famous M&Ms "M" in lodging a case against New York hospitality and gaming company Empire Resorts Inc., which was seeking to register a thin black "M" inside a black ring, presumably for its Monticello Raceway track and casino north of New York City.

Motorola is represented by Katten Muchin Rosenman LLP. Mobile Iron is represented by Sheppard Mullin Richter & Hampton LLP. Mars is represented by Arent Fox LLP. Empire Resorts is represented by Fox Rothschild LLP.

All You Need Is "Love"

French jeweler Societe Cartier holds a federal registration for a stylized "Love" logo that it uses for selling its popular Love Bracelet line, which it's been selling since 1969.

That's bad news for the World Gold Council, an international trade group and market development organization for the gold industry that wanted to register a somewhat similar-looking stylized logo for "LoveGold," one of the council's marketing initiatives.

Cartier is represented by Fross Zelnick Lehrman & Zissu PC. The World Gold Council is represented by Epstein Drangel LLP.

The Trademark Keeps Going ... and Going ... and Going

Energizer batteries, a brand of the Eveready Battery Co. Inc., is perhaps best known by its marketing: the never-tiring pink Energizer Bunny and the slogan "They Keep Going ... and Going ... and Going..."

Unsurprisingly, the company has a trademark registration for the phrase, as well as several other iterations. Equally unsurprising, the company lodged an opposition this week over an application from Bay EagleEyes International Trade Co. for "GOINGPOWER" for selling batteries.

Eveready is represented by Thompson Coburn LLP. Bay EagleEyes is represented by Raj Abhyanker.

--Editing by Katherine Rautenberg.

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