

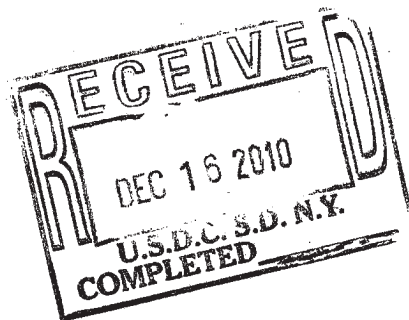
JUDGMENT

10 CV 9392

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

OLAYAN INVESTMENTS COMPANY
ESTABLISHMENT and

CREL/OAC L.L.C.

Plaintiffs,

vs.

JOHN DOES 1 through 10,

Doe Defendants.

CIVIL ACTION NO. _____

**COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES**

JURY TRIAL DEMANDED

Plaintiffs Olayan Investments Company Establishment and CREL/OAC L.L.C. (collectively, "Plaintiffs" or "OLAYAN"), by and through their undersigned counsel, Shearman & Sterling LLP, for their Complaint against John Does 1 through 10 (collectively, the "Doe Defendants"), allege as follows:

NATURE OF THE ACTION

1. This is a civil action seeking injunctive relief and damages for the Doe Defendants' fraudulent, deceptive, and misleading conduct. Plaintiffs are part of an enterprise of affiliated companies doing business as The Olayan Group, and they use their federally-registered OLAYAN® and THE OLAYAN GROUP® marks for an array of goods and services, including investment services. The Doe Defendants masquerade as OLAYAN and infringe the OLAYAN® and THE OLAYAN GROUP® marks as part of an elaborate online scam designed to bilk innocent third-parties out of thousands of dollars.

2. The Doe Defendants have consciously and deliberately attempted to capitalize on the strong reputation and good will of Plaintiffs' name by confusing consumers into believing that the Doe Defendants are part of The Olayan Group and/or are authorized, licensed or approved representatives of The Olayan Group. The Doe Defendants expressly use the OLAYAN® and THE OLAYAN GROUP® marks to identify and commercially promote their "investment services" even though the Doe Defendants have no affiliation with OLAYAN and are not part of The Olayan Group. The Doe Defendants' purpose is to defraud the consumers they target out of thousands of dollars.

3. The Doe Defendants' improper conduct has caused, and unless enjoined will continue to cause, OLAYAN to suffer irreparable harm and an incalculable loss of goodwill and damage. To combat the Doe Defendants' illicit conduct, OLAYAN asserts claims for trademark infringement under 15 U.S.C. §§ 1114, 1125(a); (2) false designation of origin, false description and false representation under 15 U.S.C. § 1125(a); (3) cybersquatting under 15 U.S.C. §

1125(d); (4) deceptive trade practices under Section 349 of the New York General Business Law; and (5) dilution under Section 360-1 of the New York General Business Law.

PARTIES

4. Olayan Investments Company Establishment is an "Anstalt" (an, "establishment") organized and existing under the laws of Liechtenstein, with a place of business in Athens, Greece.

5. Olayan America is the registered "dba" (in New York and Delaware) of CREL/OAC L.L.C., a Delaware limited liability company, with a place of business at 505 Park Avenue, 11th Floor, New York, NY 10022. Olayan America is an indirect wholly-owned subsidiary of Olayan Investments Company Establishment.

6. One or more of the Doe Defendants are infringing the OLAYAN® and THE OLAYAN GROUP® marks and passing themselves off as OLAYAN in this state, including in this judicial district. The identities of the various Doe Defendants are not presently known.

JURISDICTION AND VENUE

7. This is an action arising under the Trademark Act of 1946, 15 U.S.C. § 1051 et seq. (the "Lanham Act") and under the laws of the State of New York.

8. This Court has jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 with respect to the claims arising under federal law. This Court has jurisdiction pursuant to 28 U.S.C. § 1367 with respect to the claims arising under state law. Although the true identity of each defendant is unknown to OLAYAN at this time, this Court may also have jurisdiction pursuant to 28 U.S.C. § 1332.

9. This Court has personal jurisdiction over the Doe Defendants because they have committed acts that violate trademark and false advertising law, and constitute deceptive trade practices, in this state and in this judicial district.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to each claim occurred in this judicial district.

PLAINTIFFS' BUSINESS AND MARKS

11. Plaintiffs are part of The Olayan Group, a private multinational enterprise comprising several affiliated entities engaged in distribution, manufacturing, services and investment. From its beginnings in the late 1940's, The Olayan Group has forged business relationships that transcend geographic and cultural barriers. These business relationships are at the heart of its success and are built upon the Olayan name. The Olayan Group has earned an unimpeachable reputation for conducting its business with strong character and strong integrity such that its name is its greatest asset.

12. Olayan America is the United States office of The Olayan Group, which has had a presence in New York City since 1971. Its New York office has a staff that includes equity analysts with sector expertise as well as legal, accounting, corporate communications, and business development specialists. The Olayan Group's substantial investment portfolios in North, Central and South America include public and private equities diversified across a variety of sectors, from financial and communications companies to consumer product manufacturers, energy, and real estate.

13. OLAYAN is the owner of the OLAYAN® and THE OLAYAN GROUP® marks (collectively, the “OLAYAN Mark”), a brand that is renowned for a powerful combination of corporate resolve, entrepreneurship and an unflinching commitment to growth and value, and which is the subject of federal trademark registrations. OLAYAN is the owner of the entire right, title and interest in and to the following federal trademark registrations: “THE OLAYAN GROUP,” Registration No. 2922150, and “OLAYAN,” Registration No. 2920452. Copies of the registration certificates from the United States Trademark Office’s online database are attached hereto as Exhibit A.¹

14. All of the registrations set forth in Exhibit A are valid, subsisting and unrevoked, constitute presumptive evidence of their validity and ownership by OLAYAN, and are conclusive evidence of OLAYAN’s exclusive right to use the OLAYAN Mark in commerce in connection with the goods identified therein. The registration of the OLAYAN Mark constitutes constructive notice to Doe Defendants of OLAYAN’s ownership and exclusive rights in the OLAYAN Mark. OLAYAN also owns common law rights in and to these marks.

15. OLAYAN has exercised great care, skill and diligence in the conduct of its business and has maintained standards of high quality in providing goods and services under the OLAYAN Mark. OLAYAN has devoted substantial time, money and effort to marketing and promoting the OLAYAN Mark, including in the United States and this judicial district. In doing so, OLAYAN has established the OLAYAN Mark as a valuable and prominent identifier of the goods and services that originate exclusively with OLAYAN and the OLAYAN Mark has acquired commercial distinctiveness.

¹ The actual registrant is Olayan Investments Company Establishment.

THE DOE DEFENDANTS' WRONGFUL ACTS

16. The Doe Defendants are well aware of the enormous recognition and good will in and to the OLAYAN Mark and, for that reason, consciously and deliberately chose to capitalize on it and confuse the consuming public into believing that the counterfeit services they provide are authentic OLAYAN services.

17. The Doe Defendants, without authorization or license from OLAYAN, have knowingly and willfully used, reproduced and copied the OLAYAN Mark in connection with a multitude of fraudulent schemes aimed at consumers around the world, including within the United States, the State of New York, and within this judicial district. In particular, the Doe Defendants have been masquerading as OLAYAN on the professional networking Web site www.linkedin.com ("LinkedIn"). LinkedIn is an Internet company focused on connecting the world's professionals. LinkedIn purports to be the largest professional networking site in the world with more than 85 million members representing 200 countries and executives from every Fortune 500 company. The company's worldwide corporate headquarters is in California, and it has offices in other places including New York. LinkedIn is free to join, although there is also a premium version with some enhanced tools. When people join, they create a profile that summarizes their professional expertise and accomplishments. They can then form "connections" by inviting other individuals to become part of their "network." Using LinkedIn, users can specify the information that is publicly available about them as professionals; find and be introduced to potential clients and service providers; be found for business opportunities and find potential partners; gain insights from discussions with likeminded professionals in private group settings; and discover inside connections that can help close deals.

18. Using counterfeit LinkedIn profiles that hijacked the identities of actual OLAYAN shareholders and executives, the Doe Defendants have been engaging in communications with third-party businesses under the ruse that OLAYAN is interested in investing in their businesses. The Doe Defendants have sent these communications within the LinkedIn network as well as via other means such as email accounts with Internet Service Providers, expressly identifying their services as OLAYAN services. The Doe Defendants have attempted to bilk these innocent third-party businesses out of thousands of dollars, representing themselves as authorized OLAYAN representatives under at least the following names, some of which are the names of actual OLAYAN shareholders or executives: (i) Ibrahim Suleiman, (ii) Hadiza Abdul; (iii) Khaled Olayan (OLAYAN Chief Executive Officer); (iv) Nadim Tabbara (OLAYAN Chief Financial Officer); and (v) Halim F. Aziz. Plaintiffs are informed that the Doe Defendants have already been successful at defrauding at least one of these third-party businesses out of over ten thousand dollars.

19. Pursuant to an intentional plan to capitalize unfairly on the business reputation and good will associated with the OLAYAN Mark and further and commercially promote their fraudulent scheme:

(a) The Doe Defendants created and utilized multiple accounts on LinkedIn pretending to be OLAYAN, without the authorization of OLAYAN. Notably, the Doe Defendants created and used LinkedIn accounts under the names Khaled Olayan and Ibrahim Suleiman. Khaled S. Olayan is, in fact, the name of the Chairman of OLAYAN, while the other name is not the name of a real OLAYAN representative. In addition to LinkedIn, the Doe Defendants have passed themselves off as OLAYAN, without the authorization of OLAYAN, on

at least three other business networking websites, which can be accessed at www.gobignetwork.com, www.biznik.com, and www.gogreen.com. On these websites the Doe Defendants again pretended to be Khaled Olayan seeking to make an investment on behalf of OLAYAN.

(b) The Doe Defendants sent emails from an email address of “[insert name of OLAYAN employee]” followed by “@olanyagroup-sa.com.” The domain name is obviously a misspelling of the OLAYAN name, with “-sa” referring to Saudi Arabia, where OLAYAN was founded. For instance, the Doe Defendants used the email addresses of khaled.olayan@olanyagroup-sa.com and ibrahim.suleiman@olanyagroup-sa.com. In contrast, the actual, legitimate OLAYAN website can be accessed at www.olayan.com or www.olayangroup.com. The email address of nduburisi@yahoo.com was used to register the domain name of olanyagroup-sa.com.

(c) The Doe Defendants engaged in a practice referred to as “spoofing” where they make it appear as if email from them came from someone else; namely, third-parties are led to believe that communications from the Doe Defendants are authorized communications sent from OLAYAN. For instance, as a result of email spoofing, email could be sent from the Doe Defendants or received by the Doe Defendants at “info@olayan.com,” “support@olayan.com,” or even a misspelling or alternative presentation of someone’s name, followed by “@olayan.com.”

(d) The Doe Defendants sent emails to businesses located in various states within the United States, including New York and within this judicial district, purporting to be from OLAYAN for the purpose of establishing a business partnership, although they actually have no

affiliation with OLAYAN and are part of a scheme to defraud the email recipients. The Doe Defendants used email accounts from Internet Service Providers, such as haziz.olayangroup@gmail.com, khlaedlayan@gmail.com, and khaledlayan@gmail.com, to engage in these communications while pretending to be OLAYAN.

20. Upon learning of the Doe Defendants' fraudulent activities, OLAYAN has sought to stop the Doe Defendants from perpetrating their fraud on the public. For example, when contacted by third-parties that the Doe Defendants approached under the guise that they are OLAYAN representatives looking to make an investment, OLAYAN has clarified that the Doe Defendants are in no way affiliated with or authorized by OLAYAN. OLAYAN also sent a cease-and-desist letter, although it did not cause the Doe Defendants' to stop their unauthorized and deceptive practices.

21. The Doe Defendants' use of the OLAYAN Mark is unauthorized, infringing and likely to cause consumer confusion, mistake or to deceive. The Doe Defendants' actions were designed to make it appear and have actually made it appear as though OLAYAN was attempting to do business with the third-parties when that is not the case. Several third-parties have believed that the Doe Defendants were OLAYAN and offering authentic OLAYAN services, which is not particularly surprising given that the Doe Defendants explicitly claim to be OLAYAN.

22. The Doe Defendants' activities complained of herein have been willful, wanton and in deliberate disregard of OLAYAN's rights, and for the purpose of causing confusion or mistake, or to deceive the public.

23. The OLAYAN Mark is entitled to protection under federal and state trademark laws.

24. This is an exceptional case. The Doe Defendants' unauthorized and bad-faith use of the OLAYAN Mark substantially and irreparably injures OLAYAN by impairing and threatening to impair the good will OLAYAN has created in its OLAYAN® and THE OLAYAN GROUP® brand of products and services, and by permitting the Doe Defendants to misappropriate and trade on the enormous good will associated with the OLAYAN Mark.

25. OLAYAN has no adequate remedy at law.

FIRST CLAIM

Sections 32 and 43 of the Lanham Act

Trademark Infringement under 15 U.S.C. §§ 1114 and 1125

26. OLAYAN repeats and re-alleges the allegations contained in paragraphs 1-25 as if fully set forth herein.

27. The OLAYAN Mark and the goodwill of the businesses associated with them in the United States and throughout the world are of great and significant value, are highly distinctive and arbitrary, and have become renown in the mind of the consuming public with the products and services of the highest quality, integrity and reputation.

28. The Doe Defendants' unauthorized use of the OLAYAN Mark is likely to cause confusion and mistake, or to deceive the public as to the source, origin, or sponsorship of their counterfeit services, and is likely to deceive the public into believing that the services offered

and sold by the Doe Defendants originate from, are associated with, or are otherwise authorized by Plaintiffs, in violation of 15 U.S.C. § 1114 and 15 U.S.C. §1125(a).

29. The actions of the Doe Defendants complained of herein, including the unauthorized use of the OLAYAN Mark in interstate commerce, have caused, are causing and, unless enjoined by this Court, will continue to cause irreparable harm, damage and injury to OLAYAN, including substantial damage to its business reputation and goodwill, for which OLAYAN has no adequate remedy at law.

30. The actions of the Doe Defendants complained of herein have damaged, are damaging and will continue to damage OLAYAN in an amount not yet determined.

SECOND CLAIM

Section 43(a) of the Lanham Act

**False Description, False Representation and False Designation of Origin
under 15 U.S.C. § 1125(a)**

31. OLAYAN repeats and re-alleges the allegations contained in paragraphs 1-25 as if fully set forth herein.

32. The Doe Defendants' acts alleged herein regarding use of the OLAYAN Mark are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Doe Defendants with OLAYAN, or as to the origin, sponsorship, or approval of Doe Defendants' services by OLAYAN, in violation of 15 U.S.C. § 1125(a)(1)(A).

33. The Doe Defendants statements, made on LinkedIn and through other means, are false and deceptive and constitute misrepresentations in commerce, in that the Doe Defendants

make it appear as though OLAYAN was communicating with and attempting to steal from these third-parties when that is not the case, in violation of in violation of 15 U.S.C. § 1125(a)(1)(B).

34. The Doe Defendants' actions complained of herein, including but not limited to their unauthorized use in commerce of the OLAYAN Mark, constitute a false designation of origin, false and misleading descriptions of fact, and false and misleading representations of fact, which have caused, are causing and, unless enjoined by this Court, will continue to cause irreparable harm, damage and injury to OLAYAN, including substantial damage to its business reputation and goodwill, for which OLAYAN has no adequate remedy at law.

35. The actions of the Doe Defendants complained of herein, including the unauthorized use of the OLAYAN Mark in interstate commerce, have damaged, are damaging and will continue to damage OLAYAN in an amount not yet determined.

THIRD CLAIM

Section 43 of the Lanham Act Cybersquatting under 15 U.S.C. § 1125(d)

36. OLAYAN repeats and re-alleges the allegations contained in paragraphs 1-25 as if fully set forth herein.

37. The OLAYAN® and THE OLAYAN GROUP® marks are distinctive marks entitled to protection.

38. The domain name registered by the Doe Defendants, olanyagroup-sa.com, is confusingly similar to the OLAYAN® and THE OLAYAN GROUP® marks.

39. The Doe Defendants registered the domain name with a bad faith intent to profit from it.

40. The actions of the Doe Defendants complained of herein, including the unauthorized registration and use of the olanyagroup-sa.com domain name in interstate commerce, have caused, are causing and, unless enjoined by this Court, will continue to cause irreparable harm, damage and injury to OLAYAN, including substantial damage to its business reputation and goodwill, for which OLAYAN has no adequate remedy at law.

41. The actions of the Doe Defendants complained of herein have damaged, are damaging and will continue to damage OLAYAN in an amount not yet determined.

FOURTH CLAIM

Deceptive Acts and Practices under New York General Business Law § 349

42. OLAYAN repeats and re-alleges the allegations contained in paragraphs 1-25 as if fully set forth herein.

43. The Doe Defendants' acts constitute deceptive trade practices in violation of New York General Business Law § 349.

44. The Doe Defendants' acts have been willful, wanton and deliberate.

45. The actions of the Doe Defendants complained of herein have caused, are causing and, unless enjoined by this Court, will continue to cause irreparable harm, damage and injury to OLAYAN, including substantial damage to its business reputation and goodwill, for which OLAYAN has no adequate remedy at law.

46. The actions of the Doe Defendants complained of herein, including the unauthorized use of the OLAYAN Mark in interstate commerce, have damaged, are damaging and will continue to damage OLAYAN in an amount not yet determined.

FIFTH CLAIM

Dilution under New York General Business Law § 360-1

47. OLAYAN repeats and re-alleges the allegations contained in paragraphs 1-25 as if fully set forth herein.

48. The Doe Defendants' acts have diluted and tarnished and are likely to dilute and tarnish the distinctive OLAYAN Mark, in violation of New York General Business Law § 360-1.

49. The Doe Defendants' acts have been willful, wanton and deliberate and have been undertaken in bad faith.

50. The actions of the Doe Defendants complained of herein have caused, are causing and, unless enjoined by this Court, will continue to cause irreparable harm, damage and injury to OLAYAN, including substantial damage to its business reputation and goodwill, for which OLAYAN has no adequate remedy at law.

51. The actions of the Doe Defendants complained of herein, including the unauthorized use of the OLAYAN Mark in interstate commerce, have damaged, are damaging and will continue to damage OLAYAN in an amount not yet determined.

DEMAND FOR RELIEF

WHEREFORE, OLAYAN respectfully prays for judgment to be entered against Doe Defendants as follows:

(a) A judgment against the Doe Defendants and in favor of OLAYAN, finding that Doe Defendants have (i) infringed the OLAYAN® and THE OLAYAN GROUP® marks and made false descriptions, false designations of origin and false advertising, in violation of 15 U.S.C. §§ 1114 and 1125, and (ii) committed unfair and deceptive practices and diluted the OLAYAN® and THE OLAYAN GROUP® marks, in violation of New York General Business Law.

(b) Preliminary and permanently enjoining the Doe Defendants and the Doe Defendants' agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns, and all persons acting in concert or participation with each or any of them, from directly or indirectly:

1. Using on or in connection with any goods or services, or the advertising, sale, offering for sale, manufacture, delivery, promotion or for any commercial purpose whatsoever the mark OLAYAN® or the mark THE OLAYAN GROUP® or any variation or derivation thereof that is likely to cause confusion therewith;

2. Representing by any means whatsoever, directly or indirectly, that any products, services, or activities that the Doe Defendants sell, offer, or engage in are associated with, sponsored, endorsed, authorized by, connected, or affiliated with OLAYAN;

3. Committing further acts of deceptive trade practices with respect to any product or service of the Doe Defendants, including, but not limited to, by falsely representing that they are a current or former employee, independent contractor, agent, or representative of OLAYAN;

4. Engaging in any other activity constituting an infringement or dilution of OLAYAN's trademarks (or of OLAYAN's rights in, or right to use or to exploit said trademarks), whether protected by federal law or state law, regardless whether now in existence or hereafter created; and

5. Causing, engaging, assisting, encouraging, aiding, facilitating, inducing, or permitting any individual or entity to perform any of the aforementioned acts.

(c) Directing the Doe Defendants to account to OLAYAN for any and all gains, profits and advantages derived from the Doe Defendants' wrongful acts complained of herein and awarding OLAYAN a sum equal to three times such profits or the damages as it has sustained as a consequence of the Doe Defendants' wrongful acts complained of herein (whichever is greater), pursuant to 15 U.S.C. § 1117.

(d) Awarding OLAYAN on its state law claims compensatory damages and punitive damages in an amount to be determined at trial.

(e) Ordering the Doe Defendants to pay to OLAYAN both the costs of this action and the reasonable attorneys' fees incurred by it in prosecuting this action, pursuant to 15 U.S.C. § 1117 and New York General Business Law § 349.

(f) Directing the Doe Defendants to supply Plaintiffs with a complete list of entities from whom they have offered or delivered services while masquerading as OLAYAN.

(g) Directing the Doe Defendants to file with the Court and serve on counsel for Plaintiffs within thirty (30) days after entry of any injunction issued by the Court in this action, a sworn written statement pursuant to 15 U.S.C. § 1116(a) setting forth in detail the manner and form in which the Doe Defendants have complied with any injunction which the Court may enter in this action.

(g) Granting such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

OLAYAN hereby requests that this case be tried by a jury as to all issues triable by a jury.

Dated: New York, NY
December 16, 2010

Respectfully submitted,

SHEARMAN & STERLING LLP

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Counsel for Plaintiffs

EXHIBIT A

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,922,150

Registered Feb. 1, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

THE OLAYAN GROUP

OLAYAN INVESTMENTS COMPANY ESTABLISHMENT (LIECHTENSTEIN COMPANY ESTABLISHMENT)
111 POSEIDONOS AVENUE
P. O. BOX 70228, GLYPADA
ATHENS, GREECE 16610

FOR: PROVIDING BUSINESS REPRESENTATION AND/OR BUSINESS PARTNERING IN THE NATURE OF MANAGEMENT, CONSULTATION, PLANNING, OPERATIONS AND/OR ORGANIZATION IN THE MIDDLE EAST IN REGARD TO CONSUMER, MEDICAL, INDUSTRIAL, CONSTRUCTION, ENGINEERING, AND OIL AND GAS PRODUCTS AND SERVICES; DISTRIBUTORSHIPS

IN THE FIELD OF CONSUMER, MEDICAL, INDUSTRIAL, CONSTRUCTION, ENGINEERING AND OIL AND GAS PRODUCTS AND SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-1-1975; IN COMMERCE 4-1-1975.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE GROUP, APART FROM THE MARK AS SHOWN.

SER. NO. 76-538,933, FILED 8-7-2003.

ZACHARY BELLO, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,920,452

Registered Jan. 25, 2005

SERVICE MARK
PRINCIPAL REGISTER



OLAYAN INVESTMENTS COMPANY ESTABLISHMENT (LIECHTENSTEIN COMPANY ESTABLISHMENT)
111 POSEIDONOS AVENUE
P.O. BOX 70228, GLYFADA
ATHENS, GREECE 16610

FOR: PROVIDING BUSINESS REPRESENTATION AND/OR BUSINESS PARTNERING IN THE NATURE OF MANAGEMENT, CONSULTATION, PLANNING, OPERATIONS AND/OR ORGANIZATION IN THE MIDDLE EAST IN REGARD TO CONSUMER, MEDICAL, INDUSTRIAL, CON-

STRUCTION, ENGINEERING, AND OIL AND GAS PRODUCTS AND SERVICES; DISTRIBUTORSHIPS IN THE FIELD OF CONSUMER, MEDICAL, INDUSTRIAL, CONSTRUCTION, ENGINEERING AND OIL AND GAS PRODUCTS AND SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-1-1975; IN COMMERCE 4-1-1975.

SER. NO. 76-538,931, FILED 8-7-2003.

ZACHARY BELLO, EXAMINING ATTORNEY