

R. C. Rogers

September 14, 1971

Jon S. Rubiak

Jean Allard

Brake-In-A-Box

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Ray Lippitt has reported that the three proposed trademarks as set forth in my letter to him of August 12 are available. We will need to advise Ray as to the specific name being selected, furnish him with a copy of the logo or form which is used in connection with a sale of the product in interstate commerce and thirdly advise him as to the date on which such trademark was first used in an interstate sale. As you are aware, the initial sale date does not necessarily have to concur with the date on which the entire program is implemented but may be an arranged sale to a friendly customer in another state. Please advise me as to your decision so that I might alert Lippitt that the trademark will be put into process.

Lippitt has reported that the concept of putting all the various items in a box is not patentable. Even if the particular box were designed to have a "unique cooperation or accommodation" with the parts contained therein which would allow the securing of a utility patent, such protection would be of limited value since the competitor merely could throw the parts into a different box and probably maintain the position that it did not infringe our patent.

Lippitt did indicate however that there may be some limited marketing advantage in applying for a patent. As you may know, once a patent is applied for, it usually takes up to two years for the examiner to rule whether the novelty being covered by the patent is of a sufficient nature which would allow a patent to issue. During such two year period, the company could put on the box the words "Patent Pending". This might defer some competitors from embarking upon exactly the same concept since the patent which might ultimately be issued could cover the exact program being used by the competitor. A savvy competitor would of course vary the box design as well as the method by which the parts are being incorporated therein so as to avoid the potential infringement problem.

In the event you desire this limited protection as a market strategy, Lippitt has advised that the filing of an application for a design patent (i.e., only covering the unique appearance of the product or package) would run about \$300. In the event

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that we would take the time to work up a utility patent (somehow combining or tying in the packaging with the product in a unique or novel manner), Lippitt estimates the cost to run about \$1,000.

I suggest that if you desire to pursue this matter further, you should directly contact Ray Lippitt for further clarification.

JSK:pjp
Encl.

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