

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB 6/29/00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Center for Entrepreneurial Leadership, Inc.

Serial No. 75/059,062

Joseph B. Bowman and Constance M. Jordan of Shook, Hardy & Bacon for applicant.

Ronald McMorrow, Trademark Examining Attorney, Law Office 105 (Thomas G. Howell, Managing Attorney).

Before Walters, Chapman and McLeod, Administrative Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

This case concerns an application by the Center for Entrepreneurial Leadership, Inc. on the Principal Register for the mark ENTREWORLD for "educational services, namely conducting classes and seminars in entrepreneurship."¹

Following publication of the mark for opposition and issuance of the notice of allowance, on July 18, 1997,

¹ Application No. 75/059,062, filed February 16, 1996, based on an allegation of a bona fide intention to use the mark in commerce in connection with the identified services.

applicant submitted a Statement of Use accompanied by specimens consisting of an advertising brochure.

The Examining Attorney has issued a final requirement for the submission of substitute specimens showing use of the mark in connection with the services identified in the application. The Examining Attorney contends that the specimens of record show use of the mark in connection with offering information at applicant's Internet web site, but that these services are different from, and not encompassed by, the educational services specified in the application.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested.

When this intent-to-use application was originally filed, applicant recited its services as "education, research, training, support and leadership services for entrepreneurs." The application file contains an "Examiner's Amendment" dated August 19, 1996, reflecting a telephone conversation between the Examining Attorney and applicant's attorney, wherein applicant's attorney agreed to amend the recitation of services as indicated herein.

As indicated above, following publication, applicant submitted its Statement of Use with an advertising brochure

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as its specimen of use. The informational page of the brochure is reproduced below:

The Examining Attorney contends that this brochure demonstrates that applicant is offering a service that is not the same as, or encompassed by, the services as specified in the amended recitation of services; that the services are similarly not the same as, or encompassed by, the services specified in the original recitation of services; and that, regardless, applicant is limited in this application to a recitation of services encompassed by the amended recitation of record.

Applicant contends that the services shown by the brochure are encompassed by the services as recited in the application. We take judicial notice of the definitions, recited in applicant's brief, of "seminar" as "a meeting for an exchange of ideas in a particular area" and of "class" as "a group of students studying the same subject." Applicant contends that a synonym for "educational services" is "instructive services"; that applicant's services could be characterized as "instructional services, namely providing information and ideas for those studying entrepreneurship"; that the meeting place for the exchange of ideas is applicant's web site; and that its seminars are conducted online.

Alternatively, applicant contends that such services are encompassed by the original recitation of services; and

that, if that recitation is indefinite, applicant should be permitted to submit an acceptable amendment thereto.

Applicant contends, essentially, that it is manifestly unfair of the Examining Attorney to require a more specific recitation of services prior to applicant's submission of its specimens and Statement of Use, and then to reject the specimens in view of the limited recitation of services.

We find that the specimens of record do not support use of the mark in connection with "educational services, namely conducting classes and seminars in entrepreneurship." While educational services, *per se*, encompass a broad area and could encompass applicant's informational web site, applicant has limited its recited educational services to "classes and seminars." We agree with applicant that classes and seminars are offered online. However, as indicated by the definitions submitted by applicant, a class or seminar involves some interaction between teacher and student or among students. In a correspondence course or online program this interaction may occur over a period of time. Nonetheless, offering information on a web site is not a seminar or class as these terms are defined or commonly understood. To reach this conclusion would require us, by analogy, to conclude

that any book that contains information is a seminar or a class, which is clearly not the case.

Regarding applicant's alternative argument, our rules and precedent clearly require us to consider the recitation of services as amended. See Trademark Rule 2.71(a) and *In re Swen Sonic Corp.*, 21 USPQ2d 1794 (TTAB 1991). In this regard, we point out that at the time the recitation of services was amended, the application contained no specimens of use and only applicant was in a position to know the nature of the services upon which it intended to use the mark. It was applicant's responsibility to agree to an amendment to its recitation of services that accurately reflected its intended use of the mark.

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Decision: The refusal is affirmed on the ground that the Examining Attorney properly required substitute specimens because the specimens of record do not show use of the mark in connection with the identified services.

C. E. Walters

B. A. Chapman

L. K. McLeod
Administrative Trademark Judges,
Trademark Trial and Appeal Board