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Paper No. 14
GDH/TAF

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re United States Olympic Committee

Serial No. 74/507,816

James L. Bikoff and Courtney H. Bailey of Arter & Hadden for
United States Olympic Committee.

Vivian Micznik First, Trademark Examining Attorney, Law Office
104 (Sidney I. Moskowitz, Managing Attorney).

Before Rice, Simms and Hohein, Administrative Trademark Judges.

Opinion by Hohein, Administrative Trademark Judge:

The United States Olympic Committee, a Congressionally chartered corporation having a business address of One Olympic Plaza, Colorado Springs, Colorado, has filed applications to register the mark "USA SHOOTING" for the following goods and services:¹

¹ Ser. No. 74/507,816, filed on April 1, 1994, which alleges a bona fide intention to use the mark in commerce. Although the application as originally filed also included goods in International Classes 6, 14, 24, 25 and 26, such goods were divided out at applicant's request and are now included in Ser. No. 75/975,209.

"Gift and party supplies made of paper, namely, napkins, tablecloths, paper coasters,

hats, bags, invitations, gift wrap, table centerpieces, placemats, crepe paper; stationery and school supplies, namely, portfolios, theme pads, notebooks, note paper, binders, pens, pen and pencil kits, calendars and adhesive note paper; posters, greeting cards, decals, paper heat transfers, coloring books and activity books, printed teaching materials featuring sports subject, magazines, books and journals dealing with athletes, souvenir programs, roadmaps, playing cards, trading cards, bumper stickers, coaches' clipboards, passport folders, portfolios and photographs," in International Class 16;

"Entertainment in the nature of shooting and riflery exhibitions and matches; publication of newspapers, magazines and books; educational services, namely arranging and conducting shooting and riflery clinics; [and] sports officiating services," in International Class 41; and

"Association services, namely, promoting the interest of member shooting and riflery clubs, scheduling matches, and promoting interest in shooting and riflery," in International Class 42.

Registration has been finally refused, as to all three classes, under Section 2(e)(2) of the Trademark Act, 15 U.S.C. §1052(e)(2), on the ground that, as applied to the goods and services, applicant's mark "USA SHOOTING" is primarily geographically descriptive of them. Registration has also been finally refused, with respect to International Classes 41 and 42, under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, when used in connection with its services, so resembles the mark "U.S. SHOOTING TEAM," which

is registered for "fund raising services; namely for receiving tax-deductible donations to train men and women shooters to represent the United States in international competition,"² as to be likely to cause confusion, mistake or deception.

Applicant has appealed. Briefs have been filed, but an oral hearing was not requested. We affirm the refusals to register.

Turning first to the Section 2(e)(2) refusal, we note that in order for registration of a mark to be properly refused on the ground that it is primarily geographically descriptive of an applicant's goods and/or services, it is necessary to establish that (i) the primary significance of the mark is that of the name of a place generally known to the public and (ii) that the public would make a goods/place association, that is, believe that the goods and/or services for which the mark is sought to be registered originate in that place. See, e.g., University Book Store v. University of Wisconsin Board of Regents, 33 USPQ2d 1385, 1402 (TTAB 1994); and In re California Pizza Kitchen Inc., 10 USPQ2d 1704, 1705 (TTAB 1988), *citing* In re Societe Generale des Eaux Minerales de Vittel S.A., 824 F.2d 957, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987). Provided that these conditions are met, and the goods and/or services come from the

² Reg. No. 1,445,553, issued under the provisions of Section 2(f) of the Trademark Act, 15 U.S.C. §1052(f), on June 30, 1987, which sets forth dates of first use of August 1, 1979; combined affidavit §§8 and 15, The words "SHOOTING TEAM" are disclaimed.

place named by or in the mark, the mark is primarily geographically descriptive.

Moreover, where there is no genuine issue that the geographical significance of a term is its primary significance, and where the geographical place named by the term is neither obscure nor remote, a public association of the goods and/or services with the place may ordinarily be presumed from the fact that the applicant's goods and/or services come from the geographical place named in the mark. See, e.g., In re California Pizza Kitchen Inc., supra; and In re Handler Fenton Westerns, Inc., 214 USPQ 848, 850 (TTAB 1982). In addition, the presence of generic or highly descriptive terms in a mark which also contains a primarily geographically descriptive term does not serve to detract from the primary geographical significance of the mark as a whole. See, e.g., In re Cambridge Digital Systems, 1 USPQ2d 1659, 1662 (TTAB 1986); and In re BankAmerica Corp., 231 USPQ 873, 875 (TTAB 1986).

Applicant asserts that "the term 'USA' is not meant to indicate the origin of the goods [or services] on which the mark is to be used, nor will consumers perceive 'USA' to indicate the place of manufacture [or rendition]," and further contends that, "[a]s applied to the goods and services in the application, the mark is geographically arbitrary, not descriptive." Citing, in particular, Hamilton-Brown Shoe Co. v. Wolf Bros. & Co., 240 U.S. 251, 36 S. Ct. 269, 60 L. Ed. 629 (1916), which held that the mark "THE AMERICAN GIRL" was neither geographical nor descriptive of shoes since "[i]t does not signify that the shoes are

manufactured in America, or intended to be sold or used in America, nor does it indicate the quality or characteristics of shoes," applicant argues that, likewise, the mark "USA SHOOTING," as a whole, "conveys a general impression relating to riflery as a sport practiced by anyone anywhere in the United States," but it "does not carry any geographical message about the goods and services in connection with which it will appear."

The Examining Attorney, on the other hand, argues that, when considered in its entirety, the mark "USA SHOOTING" is neither arbitrary nor suggestive as applied to applicant's goods and services. She maintains, instead, that when used in connection therewith, such mark projects a primarily geographical connotation. Of record in support of her position that the mark "USA SHOOTING" is primarily geographically descriptive of applicant's goods and services are definitions from The Random House College Dictionary (1973), which lists "USA" at 1448 as meaning, inter alia, "United States of America" and sets forth "shooting" at 1216 as a noun connoting, among other things, "the act of shooting with a bow, firearm, etc." and "a match or contest at shooting."³ As the Examining Attorney points out:

The letters "USA" are a well-recognized abbreviation for "United States of America;" the "United States of America" has a commonly known geographic significance; the applicant is located in the "United States of America;" and the applicant's goods and services

³ The same dictionary defines "shoot" at 1216 as a verb meaning, in relevant part, "to hit, wound, damage, kill, or destroy with a missile discharged from a weapon" and "to send forth a discharge (a missile) from a weapon: *to shoot a bullet.*"

originate from the geographical place named in the mark.

The presence of the word "SHOOTING" in the mark does not obviate the geographic descriptiveness refusal because the word "SHOOTING" merely describes the applicant's goods which feature shooting in picture or written form, and services in the field of

shooting. The mark "USA SHOOTING," taken as a whole, is primarily merely geographically descriptive because it would be perceived by consumers as merely the geographical term "USA" to which the descriptive word "SHOOTING" has been added.

We concur with the Examining Attorney that, when considered in its entirety, the mark "USA SHOOTING" is primarily geographically descriptive of applicant's goods and services. Plainly, applicant's goods could be expected to incorporate a shooting theme as their subject matter and its services similarly would be directed to those interested in the sport of competitive shooting. Absent any other readily apparent meaning for the term "USA"--and applicant has offered none--the combination of such term with the descriptive term "SHOOTING" results in a mark which has as its primary significance a geographical connotation when applied to applicant's goods and services.⁴

Turning next to the Section 2(d) refusal, applicant insists that confusion is not likely because, among other things, its services are in the nature of various "entertainment" and

⁴ While applicant additionally asserts that the mark "U.S. SHOOTING TEAM" in the cited registration "was registered despite containing a geographic term" we observe, as has the Examining Attorney, that the fact that the registration issued pursuant to the provisions of Section 2(f) is indicative that, absent a showing of acquired distinctiveness, such mark is primarily geographically descriptive of the registrant's services.

"association" services, while the registrant's services are directed to "the receipt of funds". Specifically, while acknowledging in its response to the initial Office action that "[a]pplicant's services arguably are distributed in the same channels of trade as the services provided under the registered mark," applicant emphasizes in its main brief that "its services are in the general nature of promoting the sport of shooting and lobbying efforts on behalf of shooting organizations" and thus "do not entail the collection of tax-deductible donations."

The Examining Attorney, however, maintains that the respective services are closely related, contending that, inasmuch as registrant raises funds for training individuals to represent the United States in international shooting competitions while applicant conducts, promotes and officiates at international shooting competitions and arranges and conducts shooting and riflery clinics, it is clear that registrant's fund raising efforts support applicant's activities. The Examining Attorney, as support for her position, submitted with her final refusal several excerpts from articles retrieved from the "NEXIS" database, using the search request "OLYMPIC SHOOTING W/20 INTERNATIONAL COMPETITION," which refer to applicant's formation of the U.S. Olympic shooting team and the participation thereof in international competition.⁵

⁵ Applicant, in its reply brief, has objected to the Examining Attorney's reliance upon such excerpts, arguing that the Examining Attorney must base her arguments solely on the services as recited in the application and cited registration and may not refer to extrinsic evidence. However, aside from having waived such objection by not raising it in its initial brief, the objection is not well taken inasmuch as the evidence merely confirms the broad scope of

It is well settled that services or goods need not be identical or even competitive in nature in order to support a finding of likelihood of confusion. Instead, it is sufficient that the services or goods are related in some manner and/or that the circumstances surrounding their marketing are such that they would be likely to be encountered by the same persons under situations that would give rise, because of the marks employed in connection therewith, to the mistaken belief that they originate from or are in some way associated with the same provider or producer. See, e.g., Monsanto Co. v. Enviro-Chem Corp., 199 USPQ 590, 595-96 (TTAB 1978) and In re International Telephone & Telegraph Corp., 197 USPQ 910, 911 (TTAB 1978). Moreover, it is also well established that the issue of likelihood of confusion must be determined in light of the services or goods set forth in the involved application and cited registration and, in the absence of any specific limitations therein, on the basis of all normal and usual channels of trade and methods of distribution for such services or goods. See, e.g., CBS Inc. v. Morrow, 708 F.2d 1579, 218 USPQ 198, 199 (Fed. Cir. 1983); Squirtco v. Tomy Corp., 697 F.2d 1038, 216 USPQ 937, 940 (Fed. Cir. 1983); and Paula Payne Products Co. v. Johnson Publishing Co., Inc., 473 F.2d 901, 177 USPQ 76, 77 (CCPA 1973).

applicant's services as defined in the application. Moreover, it is notable that applicant has not denied the Examining Attorney's assertions concerning its sponsorship of the U.S. Olympic shooting team. In any event, it is pointed out that even if no consideration were to be given to the "NEXIS" excerpts, our decision regarding the issue of likelihood of confusion would not be different.

In the present case, applicant's various entertainment, publication, educational, sports officiating and association services, like registrant's tax-deductible fund raising services, are broadly defined, and as identified applicant's services encompass activities devoted to shooting and riflery exhibitions and competitions. Moreover, registrant's tax-deductible fund raising services are not conducted in the abstract or simply for the sake of seeking donations. Instead, such activities are undertaken for the purpose of supporting and otherwise promoting the sport of shooting through raising the funds necessary to train individuals to represent the United States in international competitive events. Applicant similarly seeks to promote interest in the sport of shooting through its sponsorship of clubs, exhibitions and matches, including international competitions, and its other association and entertainment services likewise would encompass providing printed information, educational clinics and officiating with respect to international and other shooting events. Clearly, applicant's and registrant's services are so closely related, in the sense of promoting and sustaining interest in participation by representatives of the United States in shooting events featuring international competitors, that confusion as to the origin or affiliation thereof would be likely if the respective services were rendered under the same or similar marks.

Considering, therefore, the marks at issue, applicant concedes in its main brief that "the common word 'SHOOTING' relates to the sport of shooting, with which both the Registrant

and the Applicant are involved." Applicant insists, however, that:

The dominant portion of the phrase "USA SHOOTING" is "SHOOTING." The mark therefore conveys a general impression relating to riflery as a sport practiced by anyone anywhere in the United States. In "U.S. SHOOTING TEAM," however, the word "SHOOTING" is not dominant because it is in the middle of the phrase. Also, in "U.S. SHOOTING TEAM," "SHOOTING" acts as an adjective

appended to "TEAM," as opposed to in "USA SHOOTING" where it acts as a noun.

....

The significance of the difference between USA SHOOTING and U.S. SHOOTING TEAM is that in "U.S. SHOOTING TEAM," "SHOOTING TEAM" is a unit. The focus of the mark is therefore on "TEAM," rather than "SHOOTING." Thus the mark brings to mind a concrete image of a organized group, rather than an abstract notion of a sport. The registered mark conveys a much more specific impression than does "USA SHOOTING," and therefore consumers seeing "USA SHOOTING" are not likely to be confused by Applicant's mark.

We are nevertheless in agreement with the Examining Attorney that "applicant's 'USA SHOOTING' mark is similar to the registrant's 'U.S. SHOOTING TEAM' mark because, like the registered mark, the applicant's mark combines an abbreviated form of 'United States' and the word 'SHOOTING.'" This overall similarity in structure of the respective marks, coupled with the obvious similarities in their sound, appearance and connotation, results in marks which, in their entireties, project substantially the same commercial impression. That registrant's mark includes the word "TEAM" while applicant's mark does not is

not sufficient to distinguish such otherwise substantially similar marks since applicant's services, like those of registrant, include or are directed to team shooting competitions. Given the merely descriptive significance of the words "SHOOTING TEAM" in registrant's mark and that the same is true of the term "SHOOTING" in applicant's mark, consumers interested in the sport of competitive shooting could readily believe that the same organization or entity which, under the mark "U.S. SHOOTING TEAM," raise tax-deductible donations to fund the training of men and women shooters to represent the United States in international competition also provides, under the substantially similar mark "USA SHOOTING," such closely related entertainment, publishing, educational, officiating and association services as those of applicant, which are likewise intended to promote and support interest in the United States in international and other competitive team shooting events. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 752 (Fed. Cir. 1985) [mark "THE CASH MANAGEMENT EXCHANGE" for "computerized cash management services" is likely to cause confusion with mark "CASH MANAGEMENT ACCOUNT" for "financial services involving ... loans to card holders from their brokerage equity account" since marks "are, in large part, identical in sound and appearance and have the same cadence," "the words ACCOUNT and EXCHANGE, while not synonyms, both have the connotation of monetary transactions, so that the marks carry the same overall connotation," and sole different feature in marks "is not sufficiently different to distinguish the marks to the public"].

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Decision: The refusals under Sections 2(e)(2) and 2(d) are affirmed.

J. E. Rice

R. L. Simms

G. D. Hohein
Administrative Trademark Judges,
Trademark Trial and Appeal Board