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MAY 22, 1998

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re RCM Enterprises, Inc.

Serial No. 74/574,975

Warren A. Sturm of Sturm & Associates for RCM Enterprises, Inc.

George C. Pologeorgis, Trademark Examining Attorney, Law Office
107 (Thomas Lamone, Managing Attorney).

Before Hohein, Hairston and Walters, Administrative Trademark
Judges.

Opinion by Hohein, Administrative Trademark Judge:

RCM Enterprises, Inc. has filed an application to
register the phrase "SPECIALTY COFFEE RETAILER" for "magazines
dealing with the business and activities of coffee retailers".¹

Registration has been finally refused under Section
2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the basis

¹ Ser. No. 74/574,975, filed on September 19, 1994, which alleges dates
of first use of July 5, 1994.

that, when used in connection with applicant's goods, the phrase "SPECIALTY COFFEE RETAILER" is merely descriptive of them.

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

It is well settled that a phrase is considered to be merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality, characteristic or feature thereof or if it directly conveys information regarding the nature, function, purpose or use of the goods or services. See *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). It is not necessary that a phrase describes all of the properties or functions of the goods or services in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the phrase describes a significant attribute of idea about them. Moreover, whether a phrase is merely descriptive is determined not in the abstract but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with those goods or services and the possible significance that the phrase would have to average purchaser of the goods or services because of the manner of its use. See *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). Consequently, "[w]hether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re American Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

Applicant essentially argues that the phrase "SPECIALTY COFFEE RETAILER" is not merely descriptive of the purchasers of its magazines because, in addition to retailers of specialty coffees, there "are dozens of others [who are] also interested in the field," including "sources of coffee beans" and suppliers of "ancillary goods such a[s] confections and bakery" products. We agree with the Examining Attorney, however, that the phrase "SPECIALTY COFFEE RETAILER" merely describes the primary audience or readership of applicant's publications, namely, retailers of specialty coffees.

As the Examining Attorney correctly points out, the Board in *In re Hunter Publishing Co.*, 204 USPQ 957, 962 (TTAB 1979), stated that "if titles of publications are to be treated in the same manner as trademarks for other goods in determining their registrability, and it is the correct practice to preclude the registration of marks on the Principal Register that serve to describe the class or classes of users of the merchandise for which they are used on the ground that they are merely descriptive designations under Section 2(e)(1), it follows that registration of titles of publications should be equally proscribed if they describe those to whom the magazines are directed." Likewise, in *In re Camel Manufacturing Co., Inc.*, 222 USPQ 1031, 1032 (TTAB 1984), the Board "embrace[d] the holding that a mark is merely descriptive if it describes the type of individuals to whom an appreciable number or all of a party's goods or services are directed."

Here, as the Examining Attorney accurately notes, specialty coffee retailers constitute at least a significant portion--if not the primary audience or readership--of applicant's magazines dealing with the business and activities of coffee retailers". Applicant, in fact, does not deny that its publications are principally directed to retailers of specialty coffees. Moreover, as the Examining Attorney further observes, the publisher's note appearing in the premier issue of applicant's goods, copies of which issue were submitted by applicant as specimens, states unequivocally that "Specialty Coffee Retailer" is "a monthly magazine for managers and owners of specialty coffee businesses." Lest there be any doubt that such businesses are known as specialty coffee retailers, the publisher's note goes on to state that, "[i]n short, we're a nuts and bolts business magazine for the specialty coffee retailer" and that "[t]his magazine is being mailed to 9,000 specialty coffee retailers."

Thus, while applicant's magazine, as the specimens show, also contains advertisements by coffee bean and related brewing equipment suppliers, and the readership of such publication would extend to those who provide goods and/or services to the specialty coffee retailing industry, it is plain that the primary audience for applicant's magazines are specialty coffee retailers. The phrase "SPECIALTY COFFEE RETAILER" is accordingly merely descriptive of applicant's magazines dealing with the business and activities of coffee retailers. See, e.g., Hunter Co. v. Caulfield Publishing Ltd., 1 USPQ2d 1996, 1998

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(TTAB 1986) [term "SYSTEMS USER" held merely descriptive of a trade journal directed toward users of data processing systems] and in re Hunter Publishing Co., supra [phrase "JOBBER AND WAREHOUSE EXECUTIVE" for a trade magazine circulated to jobbers and warehouse executives in the automotive aftermarket merely describes "the class or classes of purchasers to whom applicant's publication is primarily directed"].

Decision: The refusal under Section 2(e)(1) is affirmed.

G. D. Hohein

P. T. Hairston

C. E. Walters
Administrative Trademark Judges,
Trademark Trial and Appeal Board