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9/9/98

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **Panavise Products, Inc.**

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Serial No. 74/581,437

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**Kit M. Stetina** of Stetina Brunda & Buyan for **Panavise Products, Inc.**

**Howard Smiga**, Trademark Examining Attorney, Law Office 102  
(**Myra K. Kurzbard**, Managing Attorney).

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Before **Hohein**, **Hairston** and **Walters**, Administrative Trademark Judges.

Opinion by **Hohein**, Administrative Trademark Judge:

Panavise Products, Inc. has filed an application to register the term "INDASH" for "cellular telephone mounts."<sup>1</sup>

Registration has been finally refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the basis that, when used in connection with applicant's goods, the term "INDASH" is merely descriptive thereof.

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<sup>1</sup> Ser. No. 74/581,437, filed on October 3, 1994, which alleges a bona fide intention to use such term.

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 term 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 term describe 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 term describes a significant attribute or idea about them. Moreover, whether a term 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 term would have to the 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).

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Applicant, referring to its promotional literature, argues that such evidence "clearly and conclusively establishes that its cellular telephone mounts are not disposed 'in, into, or within' the dashboard of the vehicle, but rather are mounted to the dashboard" (underlining in original). Specifically, applicant maintains that "its cellular telephone mounts are attached to the dashboard, without the necessity of having to re-work the dashboard." As a result, applicant notes, such mounts "are intended for aftermarket sales to the general consumer rather than being targeted primarily to dealers, as are automotive components that typically require specialized or extensive installation procedures."

In view thereof, applicant contends that the term "INDASH" is not merely descriptive of its goods because (underlining in original):

[T]he mark "INDASH" does not directly give some reasonably accurate or tolerably distinct knowledge of the characteristics of cellular telephone mounts which are not disposed or mounted in, into or within the dashboard of the vehicle. Nor does the mark "INDASH" tell the potential customer "only" what the goods are, their function, characteristics, use or ingredients. Indeed, the NEXIS articles made of record by the Examining Attorney demonstrate that the terms "indash" and "in-dash" are also used in relation to flashers, electronic temperature gauges, cellular phones, compasses, CD changers, car stereo components, radios, and personal computers. Interestingly, none of these articles specifically refers to a "cellular telephone mount". Due to the wide range of different components with which the terms "indash" and "in-dash" are used, there is simply no basis from the evidentiary record to conclude that a consumer, upon encountering Appellant's mark in the marketplace, would immediately form a mental

association between such mark and "cellular telephone mounts".

The Examining Attorney, on the other hand, insists that the term "INDASH" merely describes "the most important and central feature of the applicant's goods," namely, "that the goods are installed in the dashboard panel for use in mounting cellular telephones" and thus are in-dash or "indash" cellular telephone mounts. In support thereof, the Examining Attorney relies upon the dictionary definitions, "NEXIS" database excerpts and applicant's product literature as discussed below.

Specifically, the record shows that The American Dictionary (2d coll. ed. 1982) defines "in" as a preposition meaning "[w]ithin the limits, bounds or area of" and as a prefix connoting "[i]n, into, within."<sup>2</sup> The same dictionary also defines "dash" as a noun signifying, inter alia, "[a] dashboard," which is in turn defined as "[a] panel under the windshield of a vehicle, containing indicator dials, compartments, and sometimes control instruments."

In addition, the record contains various excerpts retrieved from searches of the "NEXIS" database. The following examples are representative and demonstrate the common manner in which the terms "indash," "in-dash" or "in the dash" are used (**emphasis added**):

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<sup>2</sup> In addition, we judicially notice that Webster's New World College Dictionary (3d ed. 1997) similarly lists "in" as a preposition meaning "in, into, within, on, toward". It is settled that the Board may properly take judicial notice of dictionary definitions. See, e.g., Hancock v. American Steel & Wire Co. of New Jersey, 203 F.2d 737, 97 USPQ 330, 332 (CCPA 1953) and University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc., 213 USPQ 594, 596 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

"[P]olice said coins, two **in-dash** stereos and a cellular telephone were reported missing." -- Chicago Tribune, November 9, 1994;

"Honda offers as an option on the Accord, Prelude and Acura Integra a hands-free, **in-dash, cellular telephone.**" -- Washington Times, July 22, 1994;

"Honda's new **cellular telephone** features a compact transceiver and **mounts in the dash** where the radio usually is located." -- Chicago Tribune, November 21, 1993;

"Honda is taking this evolutionary step in its 1994 Accord, Prelude and Acura Integra models, offering the **indash phone** as a dealer-installed option." -- Popular Mechanics, November 1993;

"Kenwood recently introduced the industry's smallest 10-disc **indash** CD changer that offers space-saving benefits." -- HFD-The Weekly Home Furnishings Newspaper, March 29, 1993;

"**In-dash** single disc players and trunk-mounted CD changers are the fastest moving autosound products around, and new **indash** CD changers will only add fuel to sales." -- Stereo Review, November 1992;

"Recognize the trend toward **in-dash mobile telephones** and make adjustments in your business accordingly." -- Cellular Marketing, April 1992;

"There'll be a factory CD changer available, though a single disc **indash** unit is standard." -- Autoweek, October 28, 1991; and

"Few consumer electronics products today are as complex as the **indash** 'head units' of car stereo systems." -- Stereo Review, May 1988;

Furthermore, the product literature which applicant made of record refers to "*InDash Custom Mounts*" and contains the

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prominently displayed statement: "**Introducing InDash** -- Cellular Phone Dash Mounts with *Just the Right Fit!*" Applicant's literature additionally touts the fact that its "[i]ndash mounts eliminate mounting holes in exposed areas of the vehicle" and states, in reference to photographs illustrating its product and its manner of use (**emphasis added**):

AS THESE PHOTOS ILLUSTRATE, **INDASH** INSTALLATIONS ARE CLEAN AND EASY. THE PHOTO ABOVE SHOWS THE MOUNT INSTALLED **IN THE DASH PANEL**: IF THE MOUNT IS REMOVED, NONE OF THE INSTALLATION HOLES WILL BE VISIBLE. ....

The Examining Attorney, particularly in light of applicant's advertising literature, consequently urges that applicant's contention that its cellular telephone mounts are to be attached to, rather than being installed in, a dashboard is without merit (**underlining and emphasis in original**):

[T]he applicant's goods, as evidence[d] by its own promotional material, are installed **in** the dashboard panel. The applicant's reliance on the argument that the "mounts are **not** disposed 'in, into or within' the dashboard of the vehicle, but rather are **mounted to** the dashboard" is merely a fine point in semantics, and further, is incorrect. The applicant's goods are not a freestanding device, rather, the goods require some type of installation in the dashboard. Further, whether the applicant's goods require "cutting or reworking" of the dashboard or that the goods are intended for after market sales, rather than being dealer installed[, ] are not determinative and are irrelevant on the issue of descriptiveness.

Upon consideration of the arguments presented and the evidence of record, we agree with the Examining Attorney that, when applied to cellular telephone mounts, the term "INDASH" immediately describes, without conjecture or speculation, a

significant feature or characteristic of applicant's goods, namely, that they install in the dashboard of a vehicle and thus provide in-dash mounting for cellular telephones. When viewed in the context of the intended use of applicant's goods, as shown for example by the photographs in its advertising literature, there is nothing which is inaccurate, indistinct, incongruous or indefinite about the term "INDASH". Applicant's promotional material, as well as the dictionary definitions and "NEXIS" excerpts, all make clear that there is nothing which requires the exercise of imagination, cogitation, mental processing or gathering of further information in order for purchasers of and prospective customers for applicant's goods to readily perceive the merely descriptive significance of such term as it pertains to cellular telephone mounts which are designed to be installed on or within a dashboard. Plainly, whether cellular telephone mounts are "disposed" in, into or within the dash of a vehicle, such as through an opening in the dashboard, or are attached to or mounted on the vehicle's dash, such as "via the passage of screws through the mounting holes and into the dashboard" as is actually the case with applicant's goods, in either instance the installation is merely described as being "in-dash". Applicant's advertising, in fact, refers to a photograph of its product which "SHOWS THE MOUNT INSTALLED **IN THE DASH** PANEL" (**emphasis added**).

As the evidentiary record makes clear, the combination of the words "IN" and "DASH" into the term "INDASH" has a meaning which ordinary usage would ascribe to those words in combination. See *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1112

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(Fed. Cir. 1987). Indeed, the "NEXIS" excerpts demonstrate that the purchasing public is aware that a wide range of electronic and other components, including cellular telephones, are in-dash mountable. Consequently, the term "INDASH" would convey forthwith to consumers of applicant's cellular telephone mounts that a significant characteristic or feature thereof is that they install in a vehicle dashboard to provide in-dash mounting for cellular telephones. Such term is therefore merely descriptive with the meaning of the statute.

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

G. D. Hohein

P. T. Hairston

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

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