

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB

SEPT 28, 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 Auto Parts Club, LLC

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Serial No. 74/658,746

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Request For Reconsideration

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Henri J. A. Charmasson for Auto Parts Club, LLC.

Anthony R. Masiello, Trademark Examining Attorney, Law  
Office 104 (Sidney Moskowitz, Managing Attorney).

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Before Cissel, Seeherman and Hairston, Administrative  
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

Auto Parts Club, LLC has requested reconsideration of the Board's June 5, 1998 decision affirming the Examining Attorney's refusal to register AUTO PARTS CLUB, under the provisions of Section 2(f) of the Trademark Act, for "discount wholesale and retail store services in the field of automotive parts." Registration was refused on the ground that AUTO PARTS CLUB, when used in connection with

the identified services is generic and, thus, incapable of distinguishing applicant's services from like services of others.

Applicant maintains that "the Board's decision [holding that AUTO PARTS CLUB is generic] is flawed because there is no evidence on the record that the 'primary significance' of the term CLUB, by itself, is that of a 'discount wholesale or retail store.'" In particular, applicant argues that the record is devoid of any evidence that the term is used by itself as a shortened reference to wholesale or retail discount stores and warehouse-type stores. Further, applicant contends that the Board casually and cavalierly dismissed applicant's evidence, in our alternative determination of whether, if AUTO PARTS CLUB is not considered generic, the designation has acquired distinctiveness.

We have carefully considered the points raised by applicant, but are of the view that our initial decision was correct.

First, it is not true that the record is devoid of any evidence that the term CLUB is used by itself as a shortened reference to wholesale retail discount stores and warehouse-type stores.

We note the following examples from the NEXIS excerpts set forth in our decision:

The **clubs** began as wholesale outlets for small businesses but have become extremely popular with individual consumers interested in saving through bulk buying; and

And the **clubs** are going to continue to gobble up dollars.

In any event, we simply disagree with applicant that because a number of the NEXIS excerpts showed that terms such as "warehouse," "retail," and "store" are used with the word "club," such evidence is not probative in demonstrating that club alone is generic for a type of store.

Second, we reiterate our view that the evidence submitted by applicant in support of its claim of acquired distinctiveness was insufficient, particularly inasmuch as applicant failed to provide any evidence whatsoever directly relating to purchaser perception.

For the reasons discussed in our decision, we adhere to our finding that AUTO PARTS CLUB is generic of applicant's identified services, and even if the term were not considered generic, applicant's evidence is insufficient to establish that AUTO PARTS CLUB has acquired distinctiveness.

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**Decision:** The request for reconsideration is denied.

E. J. Seeherman

R. F. Cissel

P. T. Hairston  
Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board

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