

THIS DISPOSITION IS
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SEPT 11, 98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Circuit City Stores West Coast, Inc.**

Serial No. 75/**050,185**

Mary Dalton Baril of **McGuire, Woods, Battle & Boothe,**
L.L.P. for **Circuit City Stores West Coast, Inc.**

Leigh Case, Trademark Examining Attorney, Law Office **105**
(**Thomas G. Howell**, Managing Attorney).

Before **Sams**, **Cissel** and **Hairston**, Administrative Trademark
Judges.

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

This is an appeal from the Trademark Examining
Attorney's final refusal to register the mark APPLIANCE
STATION (APPLIANCE is disclaimed) for "retail stores
featuring computer hardware, computer software, camcorders,
compact discs featuring music, telephones, cellular
telephones, satellite receiving equipment, facsimile

machines, appliances, housewares and toys utilizing a computerized ordering and information system."¹

Registration has been refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the grounds that the mark is merely descriptive of applicant's services.

Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

In support of the refusal to register, the Examining Attorney submitted an entry from the IBM Dictionary of Computing (1994), wherein "station" is defined as "[a]n input or output point of a system that uses telecommunication facilities, for example, one or more systems, computers, terminals, devices, and associated programs at a particular location that can send or receive data over a telecommunication line." Also, the Examining Attorney submitted the following excerpt from the NEXIS database, which refers to applicant's "Appliance Stations."

. . . Circuit City is installing in-store Appliance Stations, on-line interactive kiosks connected to Amana and General Electric, where shoppers can place special orders for delivery in less than one week. It hopes to extend the service to include other manufacturers.
("Up Dates;" Chain Store Age, October 1, 1996).

¹ Application Serial No. 75/050,185 filed January 30, 1996, and based on a bona fide intention to use the mark in commerce.

It is the Examining Attorney's position that applicant's mark APPLIANCE STATION immediately conveys information about the nature of applicant's services, namely that applicant provides, in its retail stores, computer work stations from which customers may order or obtain information about appliances.

Applicant, in urging reversal of the refusal to register, contends that the Examining Attorney's reasoning is flawed because of her reliance on a "technical" definition of the word "station" with which ordinary consumers are not familiar; that ordinary consumers are more likely to attribute to the word "station" the definition thereof which is found in general reference dictionaries²; and that when such definition is associated with applicant's mark APPLIANCE STATION, the result is an incongruous term. Further, applicant points out that there is no evidence that APPLIANCE STATION is being used by any of its competitors.

A mark is merely descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods or services. In re Abcor Development Corp., 616 F.2d 525, 200 USPQ 215 (CCPA 1978).

² For example, applicant submitted an excerpt from Webster's Ninth New Collegiate Dictionary (1984) wherein "station" is

Moreover, in order to be descriptive, the mark must immediately convey information as to the ingredients, qualities or characteristics as to the goods or services with a "degree of particularity." *Plus Products v. Medical Modalities Associates, Inc.*, 211 USPQ 1199, 1204-1205 (TTAB 1981); *Holiday Inns, Inc. v. Monolith Enterprises*, 212 USPQ 949, 952 (TTAB 1981); *In re TMS Corp. of the Americas*, 200 USPQ 57, 59 (TTAB 1978); and *In re Diet Tabs, Inc.*, 231 USPQ 587, 588 (TTAB 1986).

If however, when goods or services are encountered under a mark, a multistage reasoning process, or resort to imagination, is required in order to determine the attributes or characteristic of the product or services, the mark is suggestive rather than merely descriptive. See *In re Abcor Development Corp.*, supra at 218; and *In re Atavio*, 25 USPQ2d 1361, 1362 (TTAB 1992). To the extent that there is any doubt in drawing the line of demarcation between a suggestive mark and a merely descriptive one, such doubt is resolved in applicant's favor. *In re Atavio*, supra at 1363.

In our view, customers of applicant's retail stores would not obtain an immediate idea of the nature of

defined as "the place or position in which something or someone stands or is assigned to stand or remain."

applicant's services upon seeing the mark APPLIANCE STATION used in connection therewith. We agree with applicant that APPLIANCE STATION used for retail stores is incongruous and requires a modicum of imagination or thought before one is able to determine the nature of applicant's retail stores. That is to say, because there is no evidence that "station" has a recognizable meaning in relation to retail stores or that the term is used in a descriptive sense by the trade, we believe that a multistage reasoning process (i.e. station describes the system in applicant's retail stores by which a customer may order or obtain information about the products sold therein; appliances are among the products sold in applicant's stores; thus a customer may order or obtain information about the appliances sold in applicant's stores at the "appliance station") is necessary in order to ascertain the precise nature of applicant's services. We should note that the writer of the story from which the NEXIS excerpt is taken has used "Appliance Station" in the manner of a service mark. That is, it is capitalized and modifies "on-line interactive kiosks."

Accordingly, because APPLIANCE STATION does not immediately describe with particularity the nature of applicant's services, it is not merely descriptive thereof.

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Decision: The refusal to register is reversed.

J. D. Sams

R. F. Cissel

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

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