

Hearing:

October 1, 1997

THIS DISPOSITION IS NOT

CITABLE AS PRECEDENT OF THE TTAB 8/7/98

Paper No. 14

HANAK/MD

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Fairfield Line, Inc.**

Serial No. 75/063,713

Edmund J. Sease of **Zarley, McKee, Thomte, Voorhees & Sease**
for **Fairfield Line, Inc.**

Andrew D. Lawrence, Trademark Examining Attorney, Law Office
108 (**David Shallant**, Managing Attorney)

Before **Seeherman**, **Hanak** and **Hairston**, Administrative
Trademark Judges.

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

Fairfield Line, Inc. (applicant) seeks registration of
FEATHERLITE in typed capital letters for "gloves." The
intent-to-use application was filed on February 26, 1996.

The Examining Attorney refused registration pursuant to
Section 2(e)(1) of the Lanham Trademark Act on the basis
that applicant's mark is merely descriptive of gloves.

When the refusal was made final, applicant appealed to
this Board. Applicant and the Examining Attorney filed

briefs and were present at a hearing held on October 1, 1997.

At the outset, one matter should be clarified. In its reply brief, applicant quite properly objects to material (a printout from the PTO's TRAM database) which the Examining Attorney attached to his brief and which was not previously made of record by the Examining Attorney. In reaching our decision, we have given no consideration to this material.

In arguing that FEATHERLITE is not descriptive of gloves, applicant makes essentially three arguments.

First, applicant argues that upon encountering the mark FEATHERLITE, "an average consumer is unlikely to immediately think of gloves." (Applicant's brief page 5). Applicant's statement is true, but is irrelevant. The descriptiveness of a mark is not determined in the abstract, but rather is determined in relationship to the goods for which registration is sought. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978).

Second, applicant argues that "although the term FEATHERLITE may arguably describe the lightweight feature of some goods, this is not a characteristic of appellant's goods." (Applicant's brief page 2). Whether applicant's particular gloves are lightweight, medium weight or heavy weight is irrelevant. Applicant's own chosen description of goods is simply "gloves." Obviously, some gloves are

lightweight. As our primary reviewing Court has stated, "the authority is legion that the question of registrability of an applicant's mark must be decided on the basis of the identification of goods set forth in the application regardless of what the record may reveal as to the particular nature of applicant's goods." Octocom Systems Inc. v. Houston Computers Services Inc., 918 F.2d 737, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990). In upholding the Board's decision refusing registration of the term SCANNER for "antennas" on the ground that the mark is merely descriptive of said goods, the Court rejected applicant's argument that its particular antennas were not scanning antennas. In so doing, the Court noted that "trademark cases must be decided on the basis of the identification of the goods as set forth in the application." Continuing, the Court noted that "since the goods are described merely as 'antennas' and that term is broad enough to encompass 'scanning antennas,' the mark SCANNER as applied to the goods is merely descriptive." In re Allen Electric & Equipment Co., 458 F.2d 1404, 173 USPQ 689, 690 (CCPA 1972).

Finally, at page 4 of its brief, applicant notes that the tag for its gloves "states that the insulation of the glove is 'warm', 'lightweight', 'quick drying', 'comfortable', and 'conserves body heat.' ... However, 'lightweight' refers only to the insulation of the glove and

is not alleged to be a property of the overall glove." Even assuming for the sake of argument that applicant's proposed mark FEATHERLITE and the term "lightweight" refer only to the insulation for a glove, the purported mark FEATHERLITE is still descriptive of the glove. Obviously, insulation is an important component or characteristic of a glove. As has been repeatedly stated, "a term is descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods." Abcor Development, 200 USPQ at 218 (emphasis added). Thus, even assuming arguendo that the purported mark FEATHERLITE does not describe an entire glove, it would nevertheless be descriptive as applied to gloves when, as is the case here, it forthwith conveys an immediate idea of a significant component or characteristic of gloves.¹

¹ Of course, applicant has never disputed that the word "featherlight" (which is the equivalent of applicant's mark FEATHERLITE) is defined as meaning "extremely light." See photocopy of Webster's Third New International Dictionary, (1976) Attached to Office action No. 1.

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Decision: The refusal to register is affirmed.

E. J. Seeherman

E. W. Hanak

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

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