THIS DISPOSITION IS NOT
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Paper No. 9
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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re The Guru of Yoga Center & Spiritual World Society
d.b.a. Everest Publishing Corporation

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Serial No. 75/085,463

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Kit M. Stetina of Stetina Brunda & Buyan for Applicant.

Jeffery C. Coward, Trademark Examining Attorney, Law Office 106 (Mary Sparrow, Managing Attorney).

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Before Quinn, Wendel and Bucher, Administrative Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Applicant, The Guru of Yoga Center & Spiritual World Society, a California non-profit corporation, d.b.a. Everest Publishing Corporation, has filed an application for registration of the mark, “MYSTIC,” for "pre-recorded audio tapes and video tapes featuring the topics of mysticism, yoga and metaphysics,” in International Class 9,

and “printed matter, namely, newsletters, books and correspondence course materials in the fields of mysticism, yoga and metaphysics,” in International Class 16.[1]

The Trademark Examining Attorney issued a final refusal to register based upon Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that applicant's proposed mark, “MYSTIC,” when used on these tapes and printed materials dealing with topics of *mysticism*, yoga and metaphysics, is merely descriptive of the subject matter of applicant’s goods.

Applicant has appealed the final refusal to register. Briefs have been filed, but applicant did not request an oral hearing. We affirm the refusal to register.

Applicant has adopted and intends to use the mark, “MYSTIC,” on educational materials such as videotapes, audiotapes, newsletters, books, and correspondence course materials, all dealing with, *inter alia*, *mysticism*.

The Trademark Examining Attorney contends that the word “mystic” merely describes the subject matter of the applicant's audio and videotapes and printed materials. Attached to the initial Office Action was a copy of a

[1] Serial No. 75/085,463, filed April 8, 1996, based upon an allegation of a *bona fide* intention to use the mark in commerce.

dictionary entry of the word “mystic” from The Random House Unabridged Dictionary Second Edition (1993):

1. involving or characterized by esoteric, otherworldly, or symbolic practices or content, as certain religious ceremonies and art spiritually significant; ethereal.
2. of the nature of or pertaining to mysteries known only to the initiated: *mystic rites.*
3. of occult character, power, or significance; *a mystic formula.*
4. of obscure or mysterious character or significance.
5. of or pertaining to mystics or mysticism.
6. a person who claims to attain, or believes in the possibility of attaining, insight into mysteries transcending ordinary human knowledge, as by direct communication with the divine or immediate intuition in a state of spiritual ecstasy.
7. a person initiated into religious mysteries.

Applicant argues that the word "mystic" has a multiple meaning which "serves to give an ambiguous connotation which does not relate directly to mysticism." In response, the Trademark Examining Attorney contends that substantially all of the definitions given above for the term "mystic" relate directly to "mysticism."

This Board has held consistently that marks that describe the subject matter of publications are merely descriptive under Section 2(e)(1). *In re Gracious Lady*

*Service, Inc.*, 175 USPQ 380 (TTAB 1972) (CREDIT CARD MARKETING descriptive of periodic pamphlet). While applicant argues that most of the cases cited by the Trademark Examining Attorney involve “nouns” rather than adjectives, the outcome in this decision does not turn on which part of speech we conclude consumers might assume this single term to be.

Applicant argues that "Mystic" is suggestive, not descriptive. However, we reject the claim that "Mystic" is suggestive as to applicant's products.

We agree with the Trademark Examining Attorney that from the identification of goods alone, it is clear that applicant's printed publications and audio/video tapes pertain in part to *mysticism*. Furthermore, that the word “mystic” may well have another meaning in some other context is not relevant to the present issue of descriptiveness.

While at times it may be difficult to distinguish between descriptiveness and suggestiveness, such is not the case here. The primary criterion in making this determination is the imaginativeness involved in the suggestion -- how immediate and direct is the thought process from the mark to the particular product. Using this criterion, applicant’s mark is not suggestive. No

mental leap is required to conclude that material sold under the term “Mystic” is designed to help viewers and readers achieve insights into transcendent mysteries. *See Self-Realization Fellowship Church v. Ananda Church of Self-Realization*, 59 F.3d 902, 35 USPQ2d 1342 (9th Cir. 1995) [“SELF-REALIZATION" is descriptive in the context of books, tapes, and other products designed to help the user achieve a state of spiritual growth.]

Therefore, given the present identification, consumers would surely view the term "MYSTIC" as simply describing the subject matter of the applicant's printed publications and audio and videotapes. As the Trademark Examining Attorney correctly contends, the fact that at least one of the dictionary definitions (i.e., “4. of obscure or mysterious character or significance”) might *not* be found descriptive of these goods, is irrelevant. The question of whether a mark is merely descriptive is not determined in the abstract –- i.e., the Trademark Examining Attorney does not need to be able to guess, based solely upon the mark itself, what the goods might be. Rather, we ask in relation to specific goods for which registration is sought whether the mark immediately conveys information about the nature of the goods. *See In re Abcor Development Corp.*,

588 F.2d 811, 200 USPQ 215 (CCPA 1978) ["GASBADGE" is merely descriptive of device to determine and monitor personal exposure to gaseous pollutants]; *In re Eden Foods Inc*., 24 USPQ2d 1757 (TTAB 1992) ["DOUBLE CERTIFIED ORGANIC," for pasta, is merely descriptive]; and *In re American Screen Process Equipment Co*., 175 USPQ 561 (TTAB 1972) ["CAM-LOK" is merely descriptive as applied to screen printing frames].

From the base word “MYSTIC” are derived related words such as mysticism, mystical, mystically -- all used in similar contexts to denote a search for the mysteries of life. This includes applicant’s identification of goods.

Decision: We affirm the refusal of the Trademark Examining Attorney under Section 2(e)(1).

T. J. Quinn

H. R. Wendel

D. E. Bucher

Administrative Trademark
Judges, Trademark Trial and
Appeal Board