

THIS DISPOSITION IS CITABLE AS  
PRECEDENT OF THE TTAB                      MAY 18, 99

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Frankenmuth Chamber of Commerce

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Serial No. 75/113,719

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John F. Learman of Learman & McCulloch for applicant.

James L. Vana, Trademark Examining Attorney, Law Office 108  
(David E. Shallant, Managing Attorney).

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Before Cissel, Hanak and Walters, Administrative Trademark  
Judges.

Opinion by Walters, Administrative Trademark Judge:

The Frankenmuth Chamber of Commerce has filed a  
trademark application to register the mark shown below for  
"arranging and conducting entertainment and educational  
exhibitions, namely a beer tasting event featuring a  
variety of substantially domestic beers; educational  
services, namely, conducting informal classes and seminars

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in the field of home brewing."<sup>1</sup> The application includes a disclaimer of EXPO OF BEER 1996 apart from the mark as a whole.

The Trademark Examining Attorney has issued a final refusal to register based on the requirement, under Section 6 of the Trademark Act, 15 U.S.C. 1056, that applicant disclaim the word WORLD apart from the mark as a whole on the ground that this portion of applicant's mark is deceptively misdescriptive of its identified entertainment services, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1).<sup>2</sup>

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<sup>1</sup> Serial No. 75/113,719, in International Class 41, filed June 4, 1996, based on use of the mark in commerce, alleging first use and use in commerce as of May 17, 1996.

<sup>2</sup> The Examining Attorney, in his brief at page 9, concedes that he does not contend that the word WORLD in the mark herein is deceptively misdescriptive in connection with the educational services identified in the application. Thus, we limit our consideration to the propriety of the disclaimer requirement in connection with the identified entertainment services.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We reverse the refusal to register.

The Examining Attorney contends that in the composite mark herein, WORLD, modifies EXPO to form the phrase WORLD EXPO; that a "world expo" is "an exposition having some international aspect or characteristic"; that the additional words in the mark, OF BEER, and the globe design "identify the world as the source of the beer at the applicant's events"; that the specimen of record lists beers, including imported beers, available at applicant's beer tasting events and, thus, WORLD "identifies the international scope of the beer at the beer tasting events." The Examining Attorney notes, however, that the beers offered in connection with applicant's beer tasting event, as indicated by the identification of services in the application, are limited to "a variety of substantially domestic beers." Thus, he argues that, given the availability and popularity of imported beers, consumers are likely to mistakenly "believe that many imported beers are available at the applicant's beer tasting exhibitions."

The Examining Attorney submitted, *inter alia*, copies of excerpts of articles from the LEXIS/NEXIS database showing use of the phrases "world expo" and "world

exposition," variously, in connection with fairs and exhibits that appear either to be located in several different countries, to be aimed at an international audience, or to feature participants or products from many countries.<sup>3</sup>

Applicant agrees with the Examining Attorney that WORLD modifies EXPO in its mark. Applicant contends that, in view thereof, WORLD is more reasonably understood to "indicate that the expo is 'world class' (high quality), or that the exposition is 'open to the world' in the sense of who might want to attend." Applicant contends that the design of the globe in the mark carries no inference with respect to which of the several possible connotations of WORLD apply herein. Applicant argues that the Examining Attorney is incorrectly equating WORLD EXPO OF BEER with the phrase "expo of internationally produced beer," but that the word WORLD does not modify or describe BEER in the mark. Applicant argues, further, that, while the majority of the beers at applicant's tasting event are domestic, several imported beers are included; and that domestic

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<sup>3</sup> A substantial number of the excerpts submitted are newswire articles. A proprietary newswire article is circulated primarily to newspapers and news journals whose editors select from the releases those stories of sufficient interest to publish. Therefore, we find such evidence to be of minimal evidentiary value herein because the articles' appearance in the NEXIS database do not prove that the news releases appeared as stories in any newspapers or magazines. See, *In re Men's International Professional Tennis Council*, 1 USPQ2d 1917 (TTAB 1986).

beers are commonly sold abroad and, thus, may be considered international in scope. Applicant concludes that the Examining Attorney has not met his burden of proof in this case.

With respect to the Examining Attorney's contention that WORLD is deceptively misdescriptive in connection with the identified services, we note that the inquiry is twofold. First we must determine whether the word at issue here misdescribes a characteristic, quality, function, composition or use of the services. If so, we must determine whether the misdescription is deceptive, in other words, whether prospective purchasers are likely to believe that the word actually describes the services or a characteristic thereof. The burden is on the Examining Attorney to submit sufficient evidence to establish that the term sought to be registered falls within the proscription of the statute. *In re Berman Bros. Harlem Furniture Inc.*, 26 USPQ2d 1514 (TTAB 1993) citing *In re Budge Manufacturing Co., Inc.*, 857 F.2d 773, 8 USPQ2d 1259 (Fed. Cir. 1988).

We find that the Examining Attorney has not established that the word WORLD in applicant's mark misdescribes a characteristic, quality, function, composition or use of applicant's identified entertainment

services. For this reason, it is unnecessary to consider the second prong of the test for determining misdescriptiveness under Section 2(e)(1).

We agree with the preliminary observation made by both the Examining Attorney and applicant that WORLD, in the context of applicant's mark, modifies EXPO. However, we disagree with the Examining Attorney's further conclusion that the phrase WORLD EXPO OF BEERS and the globe design would be perceived by consumers as referring to "the international scope of the beer at the beer tasting events." We find that, considered in connection with the identified entertainment services, the WORLD portion of the phrase WORLD EXPO OF BEERS refers to the nature or scope of applicant's beer tasting events, rather than indicating that "many" of the beers featured at applicant's events are imported.

The record does not establish a specific meaning for the word "world" as it appears in the term "world expo." Rather the LEXIS/NEXIS excerpts indicate some use of "world expo" or "world exposition" as a general term suggesting several concepts, as indicated above, including that participants are from around the world, that attendees are from around the world, that the expos are held in various locations around the world, or that the products or

services demonstrated at the expos are available worldwide.<sup>4</sup> There is no evidence or argument that, as it appears in the mark herein, WORLD EXPO misdescribes applicant's identified services in any manner.

We find no reasonable basis for the Examining Attorney's contention that the word WORLD in the mark would be perceived as indicating that applicant's expo is an event featuring "many" imported beers. Even if we were to find that the word WORLD in applicant's mark refers to the beer available at applicant's events, which we do not, it is highly unlikely that the word WORLD would be perceived as indicating that the featured beer, or any necessary percentage thereof, is either domestic or imported. Further, to the extent that a "world expo" is "an exposition having some international aspect or characteristic," even if WORLD referred also to the beer

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<sup>4</sup> There are several cases in which the courts have declined to find that the word "world" is either merely descriptive or primarily geographically descriptive. See, *O'Brien Int'l., Inc. v. Mitch et. al.*, 209 USPQ 212, 220 (N.D. Ca. 1980) (WORLD in the mark WORLD TEAM for water skis and accessories is neither generic nor descriptive); *Armstrong Cork Company v. World Carpets, Inc., et. al.*, 199 USPQ 30, 34 (N.D. Ga. 1978) (finding WORLD and WORLD with globe design confusingly similar to ARMSTRONG WORLD INDUSTRIES INC., court stated that WORLD is arbitrary for carpets and is not descriptive of goods or services of carpet manufacturer, nor does it indicate geographic origin); and *World Carpets, Inc. v. Dick Littrell's New World Carpets et. al.*, 168 USPQ 609, 613 (5<sup>th</sup> Cir. 1971) (finding NEW WORLD confusingly similar to WORLD for carpets, the court stated that WORLD is "far too broad to suggest any identifiable unit or place of origin [;] nor can it be said that the term is used in a descriptive fashion, for it neither relates to the place of origin of the goods so marked, nor is it descriptive of the bounds within which the trademark owner functions").

served at applicant's events, we note that applicant's services as identified do not exclude imported beers and its specimens of record indicate that at least some imported beers are available. That alone, without further evidence as to the nature or scope of applicant's beer tasting events, lends these events and "international aspect or characteristic." Thus, the term WORLD would not misdescribe applicant's services.

*Decision:* The requirement for a disclaimer of WORLD apart from the mark as a whole, on the ground that it is deceptively misdescriptive, is reversed. The application will be forwarded for publication for opposition in due course.

R. F. Cissel

E. W. Hanak

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