

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB

AUG. 28 ,99

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Expressions on Ice**

Serial No. 75/161,125

Theodore J. Lesiak of Oberholtzer Filous & Lesiak for
Expressions on Ice.

Angela M. Micheli, Trademark Examining Attorney, Law Office
108 (**David Shallant**, Managing Attorney)

Before **Simms**, **Hanak** and **Chapman**, Administrative Trademark
Judges.

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

Expressions on Ice (applicant), an Ohio partnership,
has appealed from the final refusal of the Trademark
Examining Attorney to register the mark shown below

for pants, shirts, tops, hats, headwear, gloves, sweaters and jackets.¹ The Examining Attorney has refused registration under Section 2(e)(2) of the Act, 15 USC §1052(e)(2), arguing that applicant's mark is primarily geographically descriptive of applicant's goods. Applicant and the Examining Attorney have submitted briefs but no oral hearing was requested.

We affirm.

A mark is primarily geographically descriptive under Section 2(e)(2) if the primary significance of the mark sought to be registered is the name of a place known to the public and if the public would make a goods/place association, or, in other words, believe that the goods for which the mark is sought to be registered originate in the place named in the mark. See *In re U.S. Cargo Inc.*, 49 USPQ2d 1702, 1703 (TTAB 1998), and *In re California Pizza Kitchen Inc.*, 10 USPQ2d 1704, 1705 (TTAB 1988), and cases cited therein, including *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987). Also, if the geographical significance of a term is its primary significance and the

¹ Application Serial No. 75/161,125, filed September 5, 1996, based upon allegations of use and use in commerce since November 10, 1993. The Examining Attorney has withdrawn refusals under Sections 2(d) and 2(a) of the Act.

geographical place named in the mark is neither obscure nor remote, a public association of the goods with the place may generally be presumed from the fact that applicant's goods come from the geographic place named in the mark. See *In re Handler Fenton Westerns, Inc.*, 214 USPQ 848, 850 (TTAB 1982).

Here, the Examining Attorney argues that the letters "USA" in applicant's mark are a well-known abbreviation for the United States of America and that the primary significance of this part of applicant's mark is the name of a place known to the public. Also, the Examining Attorney argues that the public will make a goods/place association between applicant's clothing and the place named in the mark. Because applicant's goods are assertedly partially made in the United States and because applicant is located here and intends to sell its goods here, applicant's asserted mark is primarily geographically descriptive, according to the Examining Attorney. Further, the Examining Attorney notes that the addition of generic or highly descriptive matter to a geographic term will not

avoid a determination of primary geographic descriptiveness.²

Applicant, on the other hand, argues that the "USA" part of its mark does not merely denote the origin of products but rather implies a certain quality or style of applicant's clothing. More particularly, applicant argues that its asserted mark as a whole denotes "a certain beauty, style and perseverance to excellence Applicant seeks to associate with its brand of clothing." Brief, 3. Applicant has relied upon a 1938 federal District Court decision holding that the term "ALL-AMERICAN" is suggestive of the geographic origin of handkerchiefs.

Upon careful consideration of the arguments of the attorneys, we agree with the Examining Attorney that applicant's asserted mark is primarily geographically descriptive of its goods, for the reasons asserted by the Examining Attorney. There is no question that the primary significance of the "USA" portion is the abbreviation for this country and that the public would make a goods/place association between applicant's clothing and the place named in the mark. While we could find no evidence in this

² The Examining Attorney cites the cases of *In re Cambridge Digital Systems*, 1 USPQ2d 1659 (TTAB 1986) and *In re BankAmerica Corporation*, 231 USPQ 873 (TTAB 1986).

Ser. No. 75/161,125

record concerning the place of manufacture of applicant's clothing, applicant has not disputed the Examining Attorney's assertion that applicant's clothing is made in this country, at least in part. Further, the inclusion of the generic expression "Figure Skating" in applicant's mark for clothing that may be worn for this sport does not detract from the primary geographic significance of the asserted mark.

Decision: The refusal of registration is affirmed.

R. L. Simms

E. W. Hanak

B. A. Chapman
Administrative Trademark
Judges, Trademark Trial and
Appeal Board