

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB APRIL 11, 00
Paper No. 14
HRW

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Michael Maynard, M.D.

Serial No. 75/165,418

Lawrence E. Abelman of Abelman, Frayne & Schwab
for applicant.

K. Margaret Le, Trademark Examining Attorney, Law Office
103 (Michael Szoke, Managing Attorney)

Before Hairston, Chapman and Wendel, Administrative
Trademark Judges.

Opinion by Wendel, Administrative Trademark Judge:

Michael Maynard, M.D. has filed an application to
register the mark JOCKDOC¹ for the following goods and
services:

Class 9: Pre-recorded computer disks, pre-recorded
video tapes and disks, pre-recorded audio
disks, tapes, and cassettes, and CD ROM,
all featuring educational information

¹ Serial No. 75/165,418, filed September 13, 1996, based on an
allegation of a bona fide intent to use the mark in commerce.

relating to sports and sports injuries.

Class 16: Books, magazines, printed educational materials, brochures, pamphlets, newsletters all relating to sports and sports injuries.

Class 41: Educational services, namely, conducting classes, seminars, conferences, and workshops in the field of sports and sports injuries; Programming and scheduling of programs in the field of sports and sports injuries on a global computer network; Entertainment in the nature of ball, racket, swimming and other games; Providing sports information and information concerning sports injuries via a computer network; Providing entertainment services relating to sports and sports injuries; and providing audio visual and multimedia interactive and non-interactive programming and informational services concerning sports and sports injuries over computer networks.

Class 42: Computer programming for others in the field of sports and sports injuries; providing medical information in the field of sports medicine and sports injuries.²

Registration has been finally refused on the ground that the mark is merely descriptive under Section 2(e)(1) of the Trademark Act. Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

The Examining Attorney takes the position that applicant's mark JOCKDOC creates the same commercial impression as the term JOCK DOC, which from the evidence of

² It appears from the briefs that certain changes have been agreed upon with respect to the identification of goods and services submitted by applicant on November 23, 1998, although no paper to this effect is found in the record.

record has been shown to be a slang term used to refer to a physician specializing in the field of sports medicine. As such, the Examining Attorney maintains that the mark merely describes a feature of the Class 9 and 16 goods, namely, that the goods are sponsored by or produced by a doctor specializing in sports medicine or sports injuries, i.e., a JOCK DOC. She argues similarly with respect to the services involved, that is, applicant's mark would be merely descriptive of the person or persons rendering or sponsoring applicant's educational and information services. As a second basis for finding the mark descriptive, she argues that if the Class 16 publications are in fact intended to be sold to physicians in the field of sports medicine, the mark would be merely descriptive of the class of purchasers to whom the publications are directed.

Applicant argues that the evidence produced by the Examining Attorney is insufficient to establish that the average consumer would understand applicant's mark JOCKDOC as having a specific meaning; that the few Nexis articles relied upon the Examining Attorney show use only of the two word combination "jock doc"; that most excerpts use this combination in quotation marks, suggesting acknowledgment

by the authors that the wording is not widely recognized or commonly used; that most of the excerpts appear to use "jock doc" as a synonym for a doctor treating professional athletes and not a doctor of sports medicine; and that none of these excerpts show use of the term JOCKDOC in connection with goods or services similar to applicant's.

As for its mark, applicant argues that JOCKDOC is, at most, suggestive of its goods and services; and that it is a clever alliterative word combination which creates a commercial impression beyond a mere description of the goods and services. Applicant further argues that its mark incorporates a double entendre, in that there are other meanings for both the word "jock" and "doc," particularly "document" for "doc," which would give rise to other plausible interpretations of the mark. Applicant also contends that the "personification" in the mark would cause consumers some mental pause so as to determine the relationship between a doctor and the inanimate objects with which the mark is being used. In addition, applicant states that its goods and services are not intended to target sports medicine doctors.

A term or phrase is merely descriptive within the meaning of Section 2(e)(1) if it immediately conveys information about a characteristic or feature of the goods

or services with which it is being used. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215 (CCPA 1978). It is not necessary that the term or phrase describe all the characteristics or features of the goods or services in order to be merely descriptive; it is sufficient if the term or phrase describes a significant attribute thereof. See In re H.U.D.D.L.E, 216 USPQ 358 (TTAB 1982).

We first turn to the evidence made of record by the Examining Attorney to support her contention that the term "jock doc" is a slang term used to refer to a physician specializing in the field of sports medicine. While applicant refers only to the eight Nexis database excerpts made of record in the first Office action, we note that the evidence was expanded by thirty-seven excerpts in the Examining Attorney's response to applicant's request for reconsideration, although with considerable duplication. The following are representative of the excerpts:

Hughes, who specializes in treating sports injuries, like many other "jock docs" in the bay area, including Koco Eaton.... *St. Petersburg Times* (Mar. 12, 1997);

The will to win has served Andrews well. At 54, he is America's "top jock doc," as Newsweek recently dubbed him, the orthopedic surgeon who fixed Bo Jackson's hip, Scottie Pippen's ankle, Troy Aikman's... *The Washington Post* (Jan. 28, 1997);

...general population in the same way that we have made it on those more athletically inclined. It was

never intended that we should only be "jock docs." We are physicians, and we must continue to be interested in the broad arena of sports medicine and health. *The American Journal of Sports Medicine* (July 1992); and

With the large number of injuries and a burgeoning business for surgeons and "jock docs," it is surprising how little is known about the natural history of even the most common sports injuries. *Science* (Aug. 21, 1987).

From this Nexis evidence we are convinced that "jock doc" is a recognized term, albeit slang, used to refer to a physician specializing in sports medicine and sports injuries. The fact that it is a slang term and often used in quotation marks does not detract from the public's understanding of the meaning of the term. Furthermore, although it appears that the term is most frequently used when referring to a doctor who treats professional athletes, we fail to see how this creates a meaningful distinction. These doctors are also practicing sports medicine and treating sports injuries.

While the slang term normally used is the two word combination "jock doc," we are without any doubt that applicant's mark JOCKDOC would be perceived by the public to be the equivalent of "jock doc." Although applicant argues that its mark is a "clever alliterative word combination," it remains a word combination that already has a recognized meaning. Furthermore, even a slight

Ser No. 75/165,418

misspelling of a descriptive term, which is clearly a greater variance than the mere joinder of two words, is insufficient to avoid the proscription of Section 2(e)(1), so long as the term is likely to be perceived by the public as the equivalent of the descriptive term. See *In re State Chemical Manufacturing Co.*, 225 USPQ 687 (TTAB 1985) and the cases cited therein.

Here the subject matter of applicant's various goods in Class 9 and 16 covers educational information relating to sports injuries. Applicant's services in Class 41 and 42 are similarly directed. Thus, we find that applicant's mark JOCKDOC, when encountered by potential purchasers in connection with these goods and/or services, would immediately convey the information to these purchasers that the goods and/or services originate from, or are sponsored by, a physician specializing in sports medicine. We cannot agree with applicant that making the correlation between a person, a JOCKDOC, and the inanimate objects with which the mark is intended to be used, would require any amount of mental gymnastics or imagination. The descriptive significance of the term JOCKDOC as referring to the author

or sponsor of goods and/or services relating to sports injuries is clear.³

Finally, we fail to see that any double entendre is projected by applicant's mark JOCKDOC. The mere fact that the individual words "jock" and "doc" are capable of more than one interpretation does not create a double meaning for the combined terms. Although applicant stresses that "doc" might well be perceived as an abbreviation for "document," applicant has provided no evidence which would support such an interpretation when "doc" is used in combination with the word "jock."

Accordingly, we find applicant's mark JOCKDOC to be merely descriptive of a feature or characteristic of applicant's recited goods and services.

Decision: The refusal to register under Section 2(e)(1) is affirmed.

P. T. Hairston

³ The Examining Attorney is equally correct in stating that if the publications were intended to be sold to physicians in the field of sports medicine, the mark JOCKDOC would be merely descriptive of the class of purchasers to whom the publications are directed. Since, however, applicant has flatly stated that its goods and services are not intended to target sports medicine doctors, we find no need to consider this further potential for descriptiveness.

Ser No. 75/165,418

B. A. Chapman

H. R. Wendel
Administrative Trademark Judges,
Trademark Trial and Appeal Board

Ser No. 75/165,418