

THIS DISPOSITION IS
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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re ZD Inc.

Serial Nos. 75/183,788 and 75/183,790

Mark D. Engelmann of Fross, Zelnick, Lehrman and Zissu, PC
for ZD Inc.

Gary R. Thayer, Trademark Examining Attorney, Law Office
103 (Michael A. Szoke, Managing Attorney).

Before Hanak, Hohein and Wendel, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

ZD Inc. (applicant) seeks to register HOMESHOPPER for
"providing information of general interest to consumers via
a global computer network and providing multiple-user
access to global computer information network for the
transfer and dissemination of a wide range of information."
This intent-to-use application (Serial Number 75/183,788)
was filed on October 18, 1996. The same applicant also

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seeks to register the same mark for "printed publications, namely, magazines and newspapers and sections and columns therein and supplements thereto, newsletters, journals, directories, pamphlets and brochures featuring information of general interest to consumers." This intent-to-use application (Serial Number 75/183,790) was also filed on October 18, 1996. Also, on October 18, 1996 the same applicant filed a third intent-to-use application (Serial Number 75/183,789) seeking to register the same mark (HOMESHOPPER) for "entertainment in the nature of on-going television programming providing information of general interest to consumers."

In all three applications, the same Examining Attorney refused registration on the same three grounds, namely, that (1) the mark was merely descriptive of the types of services or goods specified; (2) applicant's identifications of services or goods were unreasonably broad; and (3) applicant refused to provide information concerning the nature of its services and goods.

In a decision in Application Serial Number 75/183,789 issued October 5, 1999, this Board stated on page 2 that "each of the three grounds of refusal is without merit, and accordingly the refusal to register is reversed."

We have now compared to one another the voluminous files in each of these three applications. The briefs of applicant and the Examining Attorney in each of the three files are nearly identical, and the evidentiary records are substantially identical. Moreover, as previously noted, in each of the three applications the applicant is identical; the mark is identical; and the three grounds of refusal are identical. In addition, the services and goods recited in the three applications are extremely similar in that the differences are not so much in content, but rather in the medium. In Application Serial Number 75/183,789 (which was the subject of this Board's decision of October 5, 1999), the services were essentially television programming of general interest to consumers. In Application Serial Number 75/183,788 the services are essentially providing, transferring and disseminating information of general interest to consumers via a global computer network. In Application Serial Number 75/183,790 the goods are essentially printed publications of general interest to consumers.

In each of the three applications, the same words in the identification of services or goods (general interest to consumers) were the direct basis for the Examining Attorney's refusals to register the mark HOMESHOPPER on the

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basis that the identifications of goods or services were overly broad and that applicant failed to provide information regarding its goods or services. As for the Examining Attorney's refusal to register on the basis that the mark HOMESHOPPER is merely descriptive of applicant's goods and services, we note that in all three cases applicant's goods and services are essentially the same in content, but differ only in the medium in which they are conveyed (i.e. television v. computer networks v. printed publications). The Examining Attorney did not, in any of the three applications, contend that the purported mere descriptiveness of the term HOMESHOPPER related to the medium, but instead contended that the purported mere descriptiveness of the term HOMESHOPPER related to the content of applicant's services and goods.

In view of the foregoing, we find that the same reasons set forth in our opinion of October 5, 1999 in reversing the refusal to register in Application Serial Number 75/183,789 are equally applicable to the current two applications, namely, Application Serial Number 75/183,788 and Application Serial Number 75/183,790.

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Decision: The refusals to register in both applications (Serial Numbers 75/183,788 and 75/183,790) are reversed.

E. W. Hanak

G. D. Hohein

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