

Hearing:  
May 10, 2000

**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 21  
RLS/AP

9/21/00

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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In re **Strategic Weather Services, L.P.**  
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Serial No. 75/196,907  
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**Rachel Brendzel** of **Blank Rome Comisky & McCauley** for  
**Strategic Weather Services, L.P.**

**Paula B. Mays**, Trademark Examining Attorney, Law Office 114  
(Margaret Le, Managing Attorney)  
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Before **Simms**, **Walters** and **Rogers**, Administrative Trademark  
Judges.

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

Strategic Weather Services, L.P. (applicant), a  
Pennsylvania limited partnership, has appealed from the  
final refusal to register the asserted mark THE WEATHER  
NETWORK for the following services:

Providing short and long range weather  
information services particularly for  
event planning provided via a global  
computer network, television, cable,  
fax and telephone and computer  
services, namely, providing access to

an interactive Web site in the weather field.<sup>1</sup>

Applicant and the Examining Attorney have submitted briefs and an oral hearing was held.

We affirm.

The Examining Attorney has refused registration under Section 2(e)(1) of the Act, 15 USC §1052(e)(1), arguing that the asserted mark is merely descriptive of a characteristic, feature or the nature of applicant's services.<sup>2</sup> Relying upon definitions of the word "weather" and the word "network," from Webster's II New Riverside University Dictionary (1994 edition),<sup>3</sup> the Examining Attorney contends that applicant's asserted mark is merely descriptive because applicant will offer weather information via various communications networks (the Internet, television or other media networks). According to the Examining Attorney, the meaning of applicant's mark

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<sup>1</sup> Application Serial No. 75/196,907, filed November 12, 1996, based upon applicant's allegation of a bona fide intention to use the mark in commerce.

<sup>2</sup> The Examining Attorney also initially refused registration under Section 2(d) of the Act, 15 USC §1052(d), citing a registration of the mark THE WEATHER RADIO NETWORK for providing telephone access to local weather forecasts nationwide. In the registration, there is a disclaimer of the word "NETWORK" apart from the mark as shown. The Examining Attorney subsequently withdrew that refusal.

<sup>3</sup> The term "network" is defined as, among other things, "A chain of interconnected broadcasting stations, usu. sharing a large proportion of their programs <a TV network>."

is readily apparent because no imagination, thought, or perception is required to immediately understand the nature of applicant's services. The Examining Attorney argues that applicant's mark is a combination of descriptive words which forms a composite descriptive phrase clearly indicating that applicant provides weather information via a network or networks. The Examining Attorney contends that applicant's mark is not a source identifier.

The Examining Attorney has relied upon articles from the Nexis database. However, these excerpts are from newswire reports and foreign publications. Accordingly, little weight has been given to them. See *In re Urbano*, 51 USPQ2d 1776, 1778 fn. 3 (TTAB 1999) and cases cited there.

The Examining Attorney also, in the second Office action, required a disclaimer of the word "NETWORK" apart from the mark as shown. When the Examining Attorney made this requirement final, applicant complied with this request in its Request for Reconsideration, p. 2. Applicant's comment in its reply brief, therefore, that the Examining Attorney has failed to address the requirement for a disclaimer is not understood.<sup>4</sup>

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<sup>4</sup> It appears that some of the confusion generated by the papers in this file may be attributed to the fact that both the Examining Attorney and applicant's attorney have adapted for this case submissions originally filed in other cases, with some modifications. However, some of the statements made in the

Applicant, on the other hand, argues that, while an argument may be made that the components of its mark are descriptive, the mark as a whole is a "unique and unitary phrase" that is not merely descriptive. Response, filed August 25, 1998, p. 8. Applicant argues that its asserted mark is subject to several interpretations, including that it is an organization of meteorological offices or broadcasting stations. According to applicant, its mark is sufficiently ambiguous that mental pause, imagination and thought are needed in order to determine the nature of its services. Applicant maintains that its mark consists of the "suggestive" word "WEATHER" and that "[a]pplicant's service is a "network" only in a fanciful, broad sense that it is available through the Internet." *Id.*, p. 9. Also, the method through which applicant intends to provide its services is just a tangential aspect of its service. Brief, 7. Because applicant's mark, according to applicant, does not immediately inform purchasers of the nature of applicant's services and because one is not able to determine the purpose or function of those services from the mark alone, applicant argues that its mark is not merely descriptive. Applicant maintains that its use and

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papers for the other cases have not been carefully edited for this case.

registration will not hinder competition, that there is no evidence of third-party use of a similar mark and argues that any doubt be resolved in its favor.

Upon careful consideration of this record and the arguments of the attorneys, we agree with the Examining Attorney that applicant's asserted mark THE WEATHER NETWORK is merely descriptive of applicant's weather information services. Of course, and contrary to applicant's argument, the Board may look at the individual components of a mark and discuss their descriptive connotations in the context of determining the mere descriptiveness of an entire phrase. See *In re Hester Industries, Inc.*, 230 USPQ 797 (TTAB 1996). We believe that the public, upon seeing applicant's asserted mark, and considering it in its entirety in connection with applicant's services, is immediately apprised of the nature of applicant's services. The services are provided via an interactive Web site,<sup>5</sup> and

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<sup>5</sup> We take judicial notice of the following dictionary definition, which illustrates that "Web," in the context in which it is used by applicant in its identification of services, is a shorthand reference for the "World Wide Web."

**Web** See *World Wide Web*.  
The Computer Glossary The Complete Illustrated Dictionary 462 (8<sup>th</sup> ed. 1998)

**World Wide Web** The largest collection of online information in the World. The Web is an Internet facility that has become synonymous with the Interent [sic]. Its foundation is the HTML document, which contains links (URLs) to other documents

**Ser. No. 75/196,907**

the Web site features a "network" or linked collection of sources of weather information. No imagination or thought is necessary to determine the nature of applicant's services.

Decision: The refusal of registration is affirmed.

R. L. Simms

C. E. Walters

G. F. Rogers  
Administrative  
Trademark Judges,  
Trademark Trial and  
Appeal

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on the same Web server or on servers anywhere in the world. The Web uses the HTTP protocol to download Web pages to a browser...

...[T]he Web is turning into "the" worldwide information system for education, research, entertainment and commerce.

The Computer Glossary *The Complete Illustrated Dictionary* 470 (8<sup>th</sup> ed. 1998)