

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB 4/18/00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Greenwood Mop & Broom, Inc.

Serial No. 75/267,686

Richard M. Moose of Dority & Manning, P.A. for Greenwood
Mop & Broom, Inc.

Andrew Roppel, Trademark Examining Attorney, Law Office 108
(David Shallant, Managing Attorney).

Before Seeherman, Hairston and Walters, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

Greenwood Mop & Broom, Inc. has appealed from the
final refusal of the Trademark Examining Attorney to
register PRO DELUXE for "deck mops, brooms and mop heads."¹
Registration has been refused pursuant to Section 2(e)(1)
of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground

¹ Application Serial No. 75/257,686, filed April 1, 1997,
alleging dates of first use and first use in commerce in October
1995.

that the applied-for mark is merely descriptive of the identified goods.

We affirm the refusal to register.

It is the Examining Attorney's position that the term PRO DELUXE is merely descriptive of the identified goods because it touts the quality of the goods and in particular conveys to prospective purchasers that the goods are "better model[s]."

In support of the refusal, the Examining Attorney has submitted definitions of "pro" meaning "a professional" and "deluxe" meaning "elegant and luxurious."² In addition, the Examining Attorney made of record excerpts from the NEXIS data base and printouts of information from the Internet which contain references to "Pro Deluxe" or "Deluxe Pro." The following are representative samples:

Rounding out the versatile software suite are solid business programs such as BizPlan Builder from JIAN Software; Small Business Legal **Pro Deluxe** from Nolo Press . . .
(Nation's Business, December 1997);

Some models boast special features to help keep your legs dry. The AdisAFE **Pro Deluxe** for example, uses raised bubbles on the insulating cushion to let air circulate between skin and guard.
(The Courier-Journal, September 16, 1996); and

² New Riverside University Dictionary. The dictionary also indicates that "pro" is short for "professional."

Deluxe Pro - Training Kit

GUN DOG® Magazine is proud to introduce a deluxe professional-quality dog training kit. The kit is loaded with heavy duty . . . (Internet printout, July 27, 1998).

Applicant, however, contends that the matter sought to be registered is not merely descriptive because it does not directly convey information about the goods. Rather, applicant argues, the mark is just suggestive. Further, applicant maintains that based on the definitions of the terms PRO and DELUXE submitted by the Examining Attorney, the combined term PRO DELUXE projects an incongruity, that is, goods which are both heavy duty (PRO) and elegant (DELUXE). Lastly, applicant likens this case to *In re Bush Brothers & Co.*, 884 F.2d 569, 572, 12 USPQ2d 1058 (Fed. Cir. 1989) wherein our reviewing court held DELUXE registrable for canned pork and beans.

A term is considered merely descriptive of goods, within the meaning of Section 2(e)(1) of the Act, if it directly conveys information regarding the nature, function, purpose or use of the goods. *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). Moreover, the question of whether a mark is merely descriptive must be determined not in the abstract, that is, not by asking whether one who sees the mark alone can guess what the applicant's goods are, but rather in

relation to the goods for which registration is sought, that is, by asking whether, when the mark is applied to the goods, it immediately conveys information about their nature. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

In this case, we agree with the Examining Attorney that the term PRO DELUXE is merely descriptive of applicant's deck mops, brooms and mop heads. That is, the term PRO DELUXE immediately conveys to purchasers and prospective purchasers that the goods are of a professional type with added features. Consumers would understand that these are top of the line deck mops, brooms and mop heads.³ We disagree with applicant that the combined term PRO DELUXE results in an incongruity. A product may be both professional and deluxe in nature. We note, in this regard, that the Nexis excerpts and the Internet printouts submitted by the Examining Attorney show use of the combined term PRO DELUXE in connection with other products to designate professional quality and added features.

³ We judicially notice that the Random House Dictionary of the English Language (2d. 1987) defines "deluxe" at page 528 as "of special elegance, sumptuousness, or fineness; **high or highest in quality**, luxury, etc. [emphasis added]. Also, Webster's Third New International Dictionary defines "deluxe" at page 578 as "notably luxurious or elegant, sumptuous or **elaborate (as in materials, style or workmanship)** [emphasis added].

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Finally, applicant's reliance on *In re Bush Brothers & Co.* is misplaced. The applicant in that case was seeking to register DELUXE on the Supplemental Register, having conceded the term's descriptiveness as applied to canned pork and beans. The issue was not mere descriptiveness, but rather whether DELUXE was capable of functioning as a mark for canned pork and beans.

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

E. J. Seeherman

P. T. Hairston

C. E. Walters
Administrative Trademark Judge
Trademark Trial and Appeal Board