

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB MAY 17, 00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re American IPM, Inc.

Serial No. 7 5/333,713

Stephen R. Fink of Glynn & Associates for American IPM,
Inc.

Alice Benmaman, Trademark Examining Attorney, Law Office
103 (Michael Szoke, Managing Attorney).

Before Simms, Cissel and Seeherman, Administrative
Trademark Judges.

Opinion by Cissel, Administrative Trademark Judge:

On July 31, 1997, applicant, a corporation organized
and existing under the laws of New Jersey, applied to
register the mark "AMERICAN IPM" on the Principal Register
for "consultation services, namely training, conducting
seminars, establishing specific guidelines and verifying
adherence to said guidelines in the field of integrated
pest management," in Class 42. The basis for the

application was applicant's assertion that it possessed a bona fide intention to use the mark in commerce in connection with these services.

The Examining Attorney refused registration under Section 2(e)(2) of the Lanham Act on the ground that the mark is primarily geographically descriptive of the services set forth in the application. She took the position that the primary significance of the term "AMERICAN" is geographic, and that applicant's services will come from America, so that there will be a public association between the services and the place named in the mark. She determined that the mark in its entirety "immediately names the geographical source of the services, and the nature of the services." Additionally, she held that the recitation of services was indefinite.

In response, applicant amended the recitation of services to read as follows: "Educational services, namely, conducting seminars in the field of integrated pest management, in International Class 41. Consulting Services, namely, reviewing standards and practices to ensure compliance with land-grant universities' IPM program practice guidelines, as well as state governed pesticide use regulations, in International Class 42." The additional fee required for adding services in another

class was also submitted, along with argument on the refusal to register under Section 2(e)(2).

The Examining Attorney was not persuaded to withdraw the refusal to register, and with her second Office Action, she made the refusal final. Included with that Office Action were dictionary definitions of the two components of applicant's mark. The word "American" is defined as "[o]f, relating to, or typical of the United States of America, its people, culture, government, or history." "IPM" is listed as an acronym for "Integrated Pest Management [agronomy]."

Applicant filed a notice of appeal. Both applicant and the Examining Attorney filed briefs, but applicant did not request an oral hearing before the Board.

The test for determining whether a term is unregistrable under Section 2(e)(2) of the Lanham Act is clear. In order for the term to run afoul of this section of the statute, the primary significance of it must be geographic, and there must be an association between the goods or services and the named place such that the public would be likely to believe that the goods or services originate in the place identified in the mark. If the services in fact emanate from the named place, an association between the services and the place may be

presumed. In re California Pizza Kitchen, Inc., 10 USPQ2d 1704, 1705 (TTAB 1988) and In Re Handler Fenton Westerns, Inc., 214 USPQ 848 (TTAB 1982).

In the instant case, then, if the primary significance of the term "AMERICAN IPM" is geographic, and if applicant's services come (or will come) from there, the requisite services/place association may be presumed. The dictionary definition made of record by the Examining Attorney establishes that the primary significance of "AMERICAN" is geographic, and applicant has introduced no evidence to the contrary. Although, as noted above, this application is based upon applicant's assertion of intended, rather than actual, use, in view of the fact that applicant is located in New Jersey, we can reasonably assume that its services will come from this country, and thus that the requisite services/place association may be presumed. In re BankAmerica Corp., 231 USPQ 873 (TTAB 1968).

The addition of descriptive matter to a term which is primarily geographically descriptive does not avoid a refusal under Section 2(e)(2) of the Act. In re Wada, 194 F.3d 1297, 52 USPQ2d 1539 (Fed. Cir. 1999). In the case at hand, the Examining Attorney has established that "IPM" is a recognized acronym for "integrated pest management,"

Ser No. 75/333713

which is the generic term for the subject matter of applicant's educational and consulting services.

Accordingly, the addition of the descriptive acronym "IPM" to the primarily geographically descriptive word "AMERICAN" does not change the primary significance of the mark such that the refusal to register is inappropriate.

DECISION: The refusal to register based on Section 2(e)(2) of the Lanham Act is affirmed.

R. L. Simms

R. F. Cissel

E. J. Seeherman
Administrative Trademark Judges
Trademark Trial & Appeal Board

Ser No. 75/333713