

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB MARCH 10, 00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Peavey Electronics Corporation

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Serial No. 75/335,174

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W. Whitaker Rayner of Watkins Ludlam & Stennis, P. A. for  
Peavey Electronics Corporation.

Glenn G. Clark, Trademark Examining Attorney, Law Office  
115 (Tomas V. Vlcek, Managing Attorney).

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Before Seeherman, Hairston and McLeod, Administrative  
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

An application has been filed by Peavey Electronics  
Corporation to register the mark STAGE PACK for "musical  
instrument amplifiers and musical instrument cables" in  
class 9; and "electric guitars, guitar straps, guitar

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picks, musical instrument carrying bags and guitar strings in class 15."<sup>1</sup>

Registration has been finally refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that, when used on applicant's goods, the mark STAGE PACK is merely descriptive of them.

Applicant has appealed. Briefs have been filed, but no oral hearing was requested.

The Trademark Examining Attorney maintains that the mark STAGE PACK is merely descriptive of applicant's musical instrument amplifiers, electric guitars and accessories therefor because it immediately conveys to prospective purchasers that such goods are for use on stage and may be carried in a pack.

In support of the refusal, the Examining Attorney made of record, inter alia, definitions of the words "stage" (a raised and level platform) and "pack" (a complete set of related items) taken from The American Heritage Dictionary of the English Language (3<sup>rd</sup> ed.). In addition, he submitted several excerpts of articles taken from the NEXIS

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<sup>1</sup> Application Serial No. 75/335,174 filed August 4, 1997, alleging a date of first use and first use in commerce of July 11, 1997.

data base which refer to "stage guitar(s)." For example:

The music fund defrays maintenance costs for five **stage guitars**, two blues amps, strings, repairs, and customized picks bearing the Andrew Baxter Jr. name. (Dallas Observer, July 2, 1998);

Wright, we are told, recently purchased a hand-built electric-acoustic **stage guitar** from a well-known Christchurch musician. (The Press, April 3, 1998); and

"When I moved to Nashville, I couldn't afford a **stage guitar**," England recalls. (St. Louis Post-Dispatch, November 27, 1966).

Also, the Examining Attorney points to statements at applicant's web site which indicate that applicant sells a musical instrument amplifier, an electric guitar and accessories therefor in a single package.

Applicant, in urging reversal of the refusal to register, contends that, at most, STAGE PACK is suggestive of its goods. Applicant submitted the affidavit of its Chairman, Harvey D. Peavey, who states that he has over thirty years experience in the music industry; that the term STAGE PACK has no significance in the industry; and that the term is not used by others in the industry. Also, applicant submitted its own search of the NEXIS data base which reveals no use of the combined term STAGE PACK.

A mark is merely descriptive if it forthwith conveys

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an immediate idea of the ingredients, qualities or characteristics of the goods or services. In re Abcor Development Corp., 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, in order to be descriptive, the mark must immediately convey information as to the ingredients, qualities or characteristics as to the goods or services with a "degree of particularity." Plus Products v. Medical Modalities Associates, Inc., 211 USPQ 1199, 1204-05 (TTAB 1981); Holiday Inns, Inc. v. Monolith Enterprises, 212 USPQ 949, 952 (TTAB 1981); In re TMS Corp. of the Americas, 200 USPQ 57, 59 (TTAB 1978); and In re Diet Tabs, Inc., 231 USPQ 587, 588 (TTAB 1986).

If however, when the goods or services are encountered under a mark, a multistage reasoning process, or resort to imagination, is required in order to determine the attributes or characteristics of the product or services, the mark is suggestive rather than merely descriptive. See In re Abcor Development Corp., supra at 218; and In re Atavio, 25 USPQ2d 1361, 1362 (TTAB 1992). To the extent that there is any doubt in drawing the line of demarcation between a suggestive mark and a merely descriptive one, such doubt is to be resolved in applicant's favor. In re Atavio, supra at 1363.

In our view, prospective customers of applicant's musical instrument amplifiers, electric guitars and accessories would not obtain an immediate idea of the nature of applicant's goods upon seeing the mark STAGE PACK used in connection therewith. Rather, STAGE PACK used for such goods is incongruous and requires a modicum of imagination or thought before one is able to determine the nature of the goods.

We believe a multistage reasoning process (i.e., applicant sells in a single package a musical instrument amplifier, electric guitar and accessories; these items are for use on stage during a musical performance; thus this package, or pack, of items is a "stage pack") is necessary in order to ascertain the precise nature of applicant's goods.

Accordingly, because STAGE PACK does not immediately describe with particularity the nature of applicant's goods, it is not merely descriptive of them.

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**Decision:** The refusal to register is reversed.

E. J. Seeherman

P. T. Hairston

L. K. McLeod  
Administrative Trademark Judges  
Trademark Trial and Appeal Board