

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB JUNE 27, 00
U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Maurice Sporting Goods, Inc.**

Serial No. 75/**346,766**

Harold V. Stotland of **Seyfarth, Shaw, Fairweather & Geraldson** for **Maurice Sporting Goods, Inc.**

James R. Menker, Trademark Examining Attorney, Law Office 110 (**Chris A. F. Pedersen**, Managing Attorney).

Before **Hairston, Walters** and **Holtzman**, Administrative Trademark Judges.

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

An application has been filed by Maurice Sporting Goods, Inc. to register the mark CEDAR KEY for "fishing lures."¹

The Trademark Examining Attorney has refused registration under Section 2(e)(3) of the Trademark Act on the ground that the mark, if applied to the goods, would be

primarily geographically deceptively misdescriptive of them.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney filed briefs. An oral hearing was not requested.

In support of the refusal, the Examining Attorney made of record entries from Webster's New Geographical Dictionary (1988) and The Columbia Gazetteer of the World (1998), which list "Cedar Key" as a city in Florida. Also, the gazetteer identified fishing as a principal activity in Cedar Key. In addition, the Examining Attorney submitted a number of excerpts from the NEXIS date base which refer to Cedar Key. The following are representative:

Cedar Key is a small fishing village that in the past few years has gentrified itself into a tourist destination.
(Atlanta Constitution, January 17, 1993);

Sport fishing is a major attraction at **Cedar Key**, a once sleepy backwater village on the northern part of Florida's Gulf Coast. Many fishermen keep boats here . . .
(Newsday, January 28, 1996);

Stripers are moving into the **Cedar Key** area where special fishing restrictions are in effect. From Campers Paradise, fishing for largemouth and smallmouth bass is very good.
(The Richmond Times Dispatch, May 10, 1996);

Cedar Key has retained its fishing-village

¹ Serial No. 75/346,766 filed August 21, 1997, based upon applicant's bona fide intention to use the mark in commerce.

ambiance. Art galleries, seafood restaurants and bar bands are the attraction here. (The Stuart News, August 25, 1996); and A pelican rests on a channel marker as the sun drops toward the horizon recently at **Cedar Key**, a small fishing and arts community on the upper Florida Gulf Coast known for its scenic beauty. (The Tampa Tribune, February 18, 1997).

Finally, the Examining Attorney submitted the results of a search of the Internet which revealed three retail stores in Cedar Key which specialize in fishing gear. Thus, the Examining Attorney concludes from this evidence that to the relevant purchasing public, i.e., fishermen, the primary significance of CEDAR KEY is geographic and that the public would associate applicant's goods with Cedar Key because it is a well known fishing village. Since applicant has acknowledged that its goods will not emanate from Cedar Key, the Examining Attorney maintains that the term is primarily geographically deceptively misdescriptive.

Applicant does not dispute that Cedar Key is a well known fishing village. Rather, applicant argues that the Examining Attorney has not made a prima facie showing of a goods/place association between fishing lures and Cedar Key. In particular, it is applicant's position that "the TEA [Examining Attorney] must show that Cedar Key, Florida is known for fishing lures not for being a fishing

village." (Brief, p. 3). Further, applicant maintains that the fact that there are stores in Cedar Key which sell fishing lures does not mean that the public is likely to believe CEDAR KEY identifies the place from which applicant's fishing lures originate.

In order for registration to be properly refused under Section 2(e)(3), it is necessary to show that (i) the mark sought to be registered is the name of a place known generally to the public; and that (ii) purchasers are likely to believe, mistakenly, that the goods or services sold under the mark have their origin or are somehow connected with the geographical place named in the mark. In re Nantucket, Inc., 677 F.2d 95, 213 USPQ 889 (CCPA 1982).

While In re Nantucket and other cases require a goods/place association to support a refusal to register under Section 2(e)(3), such cases do not require that the place be well known or noted for the goods. See e.g., In re Loew's Theatres, Inc., 769 F.2d 764, 867-68 (Fed. Cir. 1985). Thus, contrary to applicant's argument, the Examining Attorney is not required to show that Cedar Key is known for fishing lures.

In this case, we find that the Examining Attorney has made a prima facie case that the primary connotation of

CEDAR KEY is geographical and that it is likely that customers and prospective customers would conclude from use of that term that applicant's goods have their origin in Cedar Key, when as acknowledged by applicant, they will not. The dictionary and gazetteer entries, along with the NEXIS excerpts, demonstrate that it is reasonable that the public would principally regard CEDAR KEY, when used in connection with applicant's goods, as designating the city known by that name. This would especially be true when the term is applied to goods which are used in one of the city's principal activities. We agree with the Examining Attorney that it is highly likely that when applied to fishing lures, customers and prospective purchasers would reasonably expect that products bearing the designation CEDAR KEY originate in that city or are somehow associated with the city. Applicant has submitted no evidence to show that there would not be an association between Cedar Key and its goods.

Finally, with respect to applicant's argument that it is of no consequence that there are three stores in Cedar Key which sell fishing lures, we note that the 1990 population of Cedar Key was 668. The fact that there are three stores which specialize in fishing gear in a city of

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this size conforms with the gazetteer entry which indicates that fishing is a principal activity in Cedar Key.

Inasmuch as a goods/place association has been established by the evidence of record, we hold that as applied to applicant's fishing lures, CEDAR KEY is primarily geographically deceptively misdescriptive.

Decision: The refusal to register is affirmed.

P. T. Hairston

C. E. Walters

T. E. Holtzman
Administrative Trademark Judges
Trademark Trial and Appeal Board

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