

5/24/01

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

Paper No. 15
TJQ

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Matsushita Electric Corporation of America**

Serial No. 75/421,758

Morton Amster of Amster, Rothstein & Ebenstein for
applicant.

Mark Sparacino, Trademark Examining Attorney, Law Office
103 (Michael Hamilton, Managing Attorney).

Before Quinn, Walters and Wendel, Administrative Trademark
Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application was filed by Matsushita Electric
Corporation of America to register the mark PHOTOSHOT for,
as amended, "video tapes that contain still images taken by
a camcorder that is used as a digital still camera."¹

The Trademark Examining Attorney refused registration
under Section 2(e)(1) of the Trademark Act on the ground

¹ Application Serial No. 75/421,758, filed January 22, 1998,
based on an allegation of a bona fide intention to use the mark
in commerce.

that applicant's mark, when applied to applicant's goods,² is merely descriptive thereof.

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

We affirm.

The Examining Attorney maintains that the term "photo" is a shortened form of the word "photographic" and that the term "photographic shot" is "a common phrase to describe a still shot." Thus, because "applicant offers photographic shots taken by a camcorder that acts as a small hand held digital still camera," the term sought to be registered, according to the Examining Attorney, "describes the purpose or use of videotapes that contain photographic shots." In support of the refusal, the Examining Attorney submitted dictionary definitions of the terms "photo" and "shot," and

² During the prosecution of the application, applicant described its product as follows: "Specifically, the PHOTOSHOT mark identifies a product feature of a digital camcorder which allows use of the camcorder as a digital still camera that is capable of storing numerous images. The stored images may then be transferred to a computer for use in e-mail or printed documents, played back on television, or printed through the use of a digital photograph printer." When the Examining Attorney refused to allow an amendment to the identification of goods to read "feature of digital camcorder allowing use of camcorder as digital still camera" as impermissibly exceeding the scope of the original identification "still images recorded on videotapes," applicant amended the identification to read as indicated above.

excerpts retrieved from the NEXIS database showing uses of the term "photographic shot."

Applicant argues that the term PHOTOSHOT is only suggestive of some type of product in the broad field of photography, and that consumers will not have a concrete idea about the specific nature of applicant's product. Applicant further urges that any doubt on the matter of mere descriptiveness be resolved in applicant's favor.

It is well settled that a term is considered to be merely descriptive of goods, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality, characteristic or feature thereof or 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). It is not necessary that a term describe all of the properties or functions of the goods in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or feature about them. Moreover, whether a term is merely descriptive is determined not in the abstract but in relation to the goods for which registration is sought. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

The dictionary definition shows the term "photo" to mean "a photograph." *Webster's II New Riverside University Dictionary* (1994). Further, the term "shot" is defined as "a photographic view or exposure; a developed photographic image." *The American Heritage Dictionary of the English Language* (3d ed. 1996). The NEXIS evidence shows generic uses of the term "photographic shot" in connection with photographic still images. The following uses are representative:

...the favorite photographic shot is of
the river...

Chicago Tribune, June 5, 1988

...there were photographic shots for
Nike, Chevrolet, McDonalds,...

ADWEEK, August 12, 1985

...an aerial photographic shot...

Creative Review, November 1, 1996

We find that the term PHOTOSHOT is merely descriptive when applied to goods identified as "video tapes that contain still images taken by a camcorder that is used as a digital still camera." The matter sought to be registered is a shortened form of "photographic shot" which immediately describes, without conjecture or speculation, a significant feature of the goods, namely that the video tape is capable of containing still photographic images or "photo shots." Thus, no imagination would be necessary for

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consumers to perceive precisely the merely descriptive significance of the term PHOTOSHOT as it relates to an important feature of the videotape.

Decision: The refusal to register is affirmed.

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