

8/9/01

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

Paper No. 16  
HRW

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Brian S. Gladden

\_\_\_\_\_  
Serial No. 75/711,655

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Request for Reconsideration

**Lori M. Stockton** of Blakely, Sokoloff, Taylor & Zafman for  
Brian S. Gladden.

**Brendan Regan**, Trademark Examining Attorney, Law Office 113  
(Meryl Hershkowitz, Managing Attorney).

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Before Hanak, Wendel and Rogers, Administrative Trademark  
Judges.

Opinion by Wendel, Administrative Trademark Judge:

The Board, in its decision of May 11, 2001, affirmed  
the refusal under Section 2(e)(1) to register EOUTDOORS, on  
the ground that the term, if used in connection with the  
various on-line ordering, communication and information  
services identified in the application, would be merely  
descriptive thereof.

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Applicant, on June 11, 2001, has filed a request for reconsideration of the decision.

Applicant's request is focused on the Board's comment in footnote 3 of its decision that

[w]e find no need to make any distinction between the two forms of the word "outdoors" and "outdoor." The terms are used interchangeably and project the same connotation.

Applicant contends that this statement is incorrect "as to form and substance" and that as a consequence the actual mark for which registration was sought was never considered.

We do not agree. Although it is true that "outdoor" is the adjective form of the word and "outdoors" is either the adverb or noun form, the connotation is the same. As shown by the dictionary definitions attached by applicant to its request, both terms connote being in the open air, or, in other words, being outside. The commercial impression is the same and we strongly believe that the ordinary purchasers would make no distinction in meaning between the two forms of the word.

Moreover, we stand by our statement that the two terms are used interchangeably. This is not an unsupported assumption on the part of the Examining Attorney and the Board, but rather is substantiated by evidence made of

record by the Examining Attorney. In particular, we note the references made by the Examining Attorney in her appeal brief to excerpts from the Nexis database showing usages of both expressions "outdoors stores" and "outdoor stores" in the trade. (See page 5 of brief and the Office actions referenced therein). Similarly, she also refers to examples of the use of both the term "outdoors information" and "outdoor information" in Nexis evidence of record. The Board, in its decision, also noted the evidence of record of the interchangeable use by others of the terms "outdoors" and "outdoor" in connection with stores and/or information. (Page 3). Even in the dictionary definitions submitted by applicant, we find evidence of the use of the adverb or noun form "outdoors" rather than the more proper adjective form "outdoor" in the words "outdoorsman" and "outdoorswoman."

Thus, no clear-cut distinction may be made between the words "outdoors" and "outdoor" sufficient to support applicant's argument that it continually uses the word "outdoor" to describe the various products and types of information and activities involved in its services, but uses the word OUTDOORS in its mark, which may, therefore, be viewed as other than merely descriptive. The mark

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sought to be registered has been fully considered by both the Examining Attorney and the Board.

Accordingly, the request for reconsideration is denied and the decision of the Board affirming the refusal under Sections 2(e)(1) stands.