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Paper No.10
RS/TW

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Playnet, Inc.**

Serial No. 75/848,700

Melvin A. Hunn of **Hill & Hunn LLP** for **Playnet, Inc.**

Joseph L. Manalili, Trademark Examining Attorney, Law Office 110(**Chris A.F. Pedersen**, Managing Attorney).

Before **Simms**, **Wendel** and **Bucher**, Administrative Trademark Judges.

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

Playnet, Inc. (applicant), a Texas corporation, has appealed from the final refusal of the Trademark Examining Attorney to register the asserted mark WWII ONLINE for entertainment services, namely, providing an online multiplayer computer game utilizing simulated ships, planes, tanks and individual soldiers.¹ Upon request, applicant disclaimed exclusive right to the word "ONLINE."

¹ Application Serial No. 75/848,700, filed November 15, 1999, based upon applicant's allegation of a bona fide intention to use the mark in commerce.

Applicant and the Examining Attorney have submitted briefs but no oral hearing was requested.

We affirm.

The Examining Attorney has refused registration under Section 2(e)(1) of the Act, 15 USC §1052(e)(1), arguing that applicant's mark merely describes a significant feature of applicant's services--that is, that applicant's mark identifies the subject matter of its computer games as well as indicates that applicant is providing this service online. The Examining Attorney notes that the first element of applicant's mark is an abbreviation of "World War Two" or "Second World War." As applied to applicant's services, the Examining Attorney concludes that applicant's asserted mark immediately and without imagination describes applicant's computer game services with a World War II theme accessible via the Internet.

Applicant, on the other hand, argues that its mark is not merely descriptive or even suggestive of its services, but rather is an inventive use of words and evokes a unique commercial impression. It is applicant's position that potential users will not believe that applicant's services are in the nature of a computer game merely by looking at its mark. Applicant suggests that its mark could also identify a number of goods or services, such as a Web site

posting photographs from World War II, or perhaps an online memorial site dedicated to World War II veterans.

Applicant maintains that registration to it will not inhibit competitors in the computer game industry.

Applicant has pointed to several third-party registrations where the phrase "World War II" was registered.

With respect to those registrations, the Examining Attorney has submitted copies demonstrating that those registrations, for magazines and online information services, issued pursuant to the provisions of Section 2(f) of the Act, 15 USC §1052(f), and that in other registrations these words were disclaimed.

A mark is merely descriptive if it immediately describes the ingredients, qualities, or characteristics of the goods or services or if it conveys information regarding a function, purpose or use of applicant's goods or services. *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 217 (CCPA 1978). In determining mere descriptiveness, one looks at the mark in relation to the goods or services listed in the application, and not in the abstract. *In re Omaha National Corp.*, 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987).

Upon careful consideration of this record and the arguments of the attorneys, we agree with the Examining

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Attorney that applicant's asserted mark WWII ONLINE merely describes an online service about World War II. As applied to an online computer game service using simulated ships, planes, tanks and soldiers, the asserted mark is merely descriptive of a significant feature or characteristic of applicant's services, immediately indicating that applicant's online game services relate to World War II.

Applicant's other arguments are without merit.

Decision: The refusal of registration is affirmed.