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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Rosen Products LLC

Serial No. 75/787,194

David P. Cooper of Kolish, Hartwell, Dickinson, McCormack & Heuser for Rosen Products LLC.

Cynthia Sloan, Trademark Examining Attorney, Law Office 116 (Meryl Hershkowitz, Managing Attorney).

Before Simms, Seeherman and Drost, Administrative Trademark Judges.

Opinion by Drost, Administrative Trademark Judge:

Rosen Products LLC (applicant) filed a trademark application to register the mark AUTOMOTIVE VIDEO SYSTEMS (in typed form) on the Principal Register for goods ultimately identified as "computer and video monitors for vehicles, and accessories for such monitors, namely, hardware specifically adapted for mounted computer and

video monitors in vehicles" in International Class 9.¹
Applicant has disclaimed the term "Video Systems."

The examining attorney² refused to register the mark on the ground that the mark, when applied to the goods, is merely descriptive. 15 U.S.C. § 1052(e)(1). After the examining attorney made the refusal final, this appeal followed.

The examining attorney's position is that "[n]o amount of imagination, thought or perception is required to determine that AUTOMOTIVE VIDEO SYSTEMS consist of video components for use in automobiles." Br. at 5. The examining attorney points to the fact that applicant has disclaimed the term "Video Systems." The examining attorney also submitted dictionary definitions for the words "automotive," "video," and "system" as well as copies of three registrations, (Registration Nos. 1,739,983; 1,877,131; and 2,313,570) to show that the term "video system" for video game hardware and software and a timing instrument for a VCR has been disclaimed. Finally, the examining attorney refers to applicant's brochure in which applicant's goods are described as being "[d]esigned for

¹ Serial No. 75/787,194, filed August 27, 1999. The application is based on applicant's allegation of a bona fide intention to use the mark in commerce.

² The current examining attorney was not the original examining attorney in this case.

automotive use." Supported by this evidence, the examining attorney refused registration of applicant's mark on the ground that it was merely descriptive of the goods.

In response, applicant argues that it coined the phrase AUTOMOTIVE VIDEO SYSTEMS and it is unaware of any other uses of the term. Applicant relies on the case of In re Automatic Radio Mfg. Co., 404 F.2d 1391, 160 USPQ 233 (CCPA 1969) in support of its argument that the mark is suggestive and not descriptive. Also, applicant argues that purchasers must "exercise multistep reasoning" since "a consumer may think the mark refers to certain diagnostic equipment for automotive services." Br. at 4.

We affirm.

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 the goods or services. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217 (CCPA 1978). See also In re Nett Designs, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001). Courts have long held that to be "merely descriptive," a term need only describe a single significant quality or property of the goods. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009, 1009 (Fed. Cir.

1987); Meehanite Metal Corp. v. International Nickel Co., 262 F.2d 806, 120 USPQ 293, 294 (CCPA 1959). We look at the mark in relation to the goods or services, and not in the abstract, when we consider whether the mark is descriptive. Abcor, 200 USPQ at 218. Therefore, even if the term AUTOMOTIVE VIDEO SYSTEMS, in the abstract, may refer to several different products, we must determine if the mark is merely descriptive in the context of applicant's identified goods.

In addition to the registrations containing a disclaimer of the term "video system," the examining attorney has submitted dictionary definitions to show that the term "video system" is merely descriptive. The first word "video" is defined as "of or relating to television, especially televised images" and "of or relating to videotaped productions or videotape equipment and technology."³ Applicant's identification of goods and its brochure make it clear that the goods include video monitors and video cassette players. In addition, the examining attorney has also included a definition of a "system" as a "group of interacting, interrelated, or

³ *American Heritage Dictionary of the English Language, Third Edition* (1992).

interdependent elements forming a complex whole."⁴ Again, applicant's brochure refers to its goods as a system ("The "InVue II™ system featuring a built-in TV tuner with a single credit card-sized integrated remote that controls the screen, TV and VCP [video cassette player] function"). Applicant's brochure also refers to its goods as a "Video Entertainment System." Therefore, the term "video systems," which is at least merely descriptive of the goods, was appropriately disclaimed by applicant.

Next, we also find that the term "automotive" would merely describe a feature of the goods, i.e., that they are designed to be used in automobiles. As the examining attorney has observed, applicant's brochure explains that applicant's goods are "[d]esigned for automotive use" and that "[e]ven daily commutes get interesting when you add an InVueII™ Automotive Video System to your new car purchase." The brochure also has a sketch of how the system is installed in a vehicle. The brochure concludes by emphasizing that "[w]ith the InVueII™ Automotive Entertainment System, your vehicle is suddenly transformed into a private theater." Clearly, the term "automotive"

⁴ *American Heritage Dictionary of the English Language, Third Edition* (1992).

immediately describes the fact that the goods are "for automotive use."

Furthermore, when the terms "automotive" and "video systems" are combined and considered in their entirety, we conclude that the mark that applicant seeks to register is, at least, merely descriptive. The mark AUTOMOTIVE VIDEO SYSTEMS simply informs prospective purchasers that its "video systems" are designed for automotive use. There is nothing unique or incongruous about the term. When viewed in relation to applicant's goods, the mark leaves nothing to the imagination, nor is there any multi-step reasoning process to understand that applicant's video systems are for automotive use. Also, "the fact that the term may currently be in use by only the applicant for registration cannot support the registration sought if the mark as used projects only a merely descriptive significance." In re Central Counties Bank, 209 USPQ 884, 888 (TTAB 1981).

Finally, we have considered the Automatic Radio case on which applicant relies, but we find that it does not compel the result applicant seeks in this case. The issues in that case were whether the term "automatic radio" was the name of the goods and whether "automatic" was merely descriptive for radios having an automatic volume control feature. 160 USPQ at 236-37. The CCPA found that the term

"automatic" was not used to describe radios nor was "Automatic Radio" the name of the goods. In applicant's case, the issue is not genericness and the term "automotive" is used to refer to the goods themselves. The term immediately describes the fact that applicant's video systems are designed for automotive use unlike the term "automatic," which did not immediately describe the radio but instead described the volume control feature of the goods. The record in that case also contained evidence that the industry did not use the term "automatic" to describe radios.

Based on this record, we conclude that applicant's mark AUTOMOTIVE VIDEO SYSTEMS is merely descriptive when used with applicant's goods inasmuch as applicant's mark identifies a feature or characteristic of applicant's goods, i.e., they are video systems designed for automotive use.

Decision: The examining attorney's refusal to register the term AUTOMOTIVE VIDEO SYSTEMS on the ground that the mark is merely descriptive of the involved goods is affirmed.