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Paper No. 13
PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Nevin Wayne Fouts

Serial No. 75/868,741

Marianne Fuierer of Intellectual Property/Technology Law
for applicant.

Howard Smiga, Trademark Examining Attorney, Law Office 102
(Thomas V. Shaw, Managing Attorney).

Before Hairston, Wendel and Rogers, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

Nevin Wayne Fouts has filed an application to register
GLOBAL CONFERENCE SYSTEM as a mark for goods and services
identified as:

Computer network and communication facilities
equipment for interactive communications relating
to business administration degrees, certifications
and accreditation programs, involving linking
persons in different locations physically

remote from one another, namely data communications equipment, namely, data storage, processing and communication units; portable wired and wireless modem-equipped digital processing and display units; and audio and video input and display units in class 9, and

Interactive telecommunications services for interactive communications relating to business administration degrees, certifications and accreditation programs, namely, providing and operating networks and facilities for linking persons in different locations physically remote from one another in class 38.¹

The Trademark Examining Attorney has refused to register the phrase GLOBAL CONFERENCE SYSTEM on the ground that, when applied to the identified goods and services, it is merely descriptive thereof. 15 U.S.C. §1052(e)(1).² After the Examining Attorney made the refusal final, applicant filed a notice of appeal. Both applicant and the Examining Attorney filed briefs, but applicant did not request an oral hearing.

We affirm the Examining Attorney's refusal to register.

The Examining Attorney's position is that the phrase GLOBAL CONFERENCE SYSTEM is merely descriptive of applicant's goods and services because it immediately

¹ Serial No. 75/868,741, filed December 11, 1999, based on an allegation of a bona fide intention to use the mark in commerce in connection with the identified goods and services.

² We note that three different Examining Attorneys have handled this case.

conveys to users of the goods and services that they are "worldwide" in scope and "relate to a structured communication system, which enables users to hold interactive meetings." (Brief, pp. 7-8). The Examining Attorney relies on dictionary definitions of the individual words "global," "conference" and "system." The dictionary definitions show that "global" means "worldwide;"³ "conference" means "an event, sometimes lasting a few days, at which there are a group of talks on a particular subject, or a meeting in which esp. business matters are discussed formally;" and "system" means "a set of connected items or devices which operate together."⁴ In addition, the Examining Attorney submitted excerpts of articles from the NEXIS database wherein the terms "global conferencing" and "conference(ing) system" are used; and copies of third-party registrations wherein terms that consist of "global" and other descriptive wording have been disclaimed.

In response to this refusal, applicant argues that its mark "is suggestive in character because the meaning of 'GLOBAL CONFERENCE SYSTEM' would be understood by users

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

⁴ The latter two definitions are taken from the online version of the *Cambridge Dictionary of the English Language* (2001).

only after a multi-stage reasoning process." (Brief, p. 5). Applicant asserts that "it is self-evident [from the description of applicant's goods and services] that the '**entire earth**' is not involved, but rather [that such goods and services] are restricted to MBA students and faculty in interconnected rooms containing telecommunications equipment." [emphasis in original] (Brief, p. 4.)

Applicant maintains that the mark GLOBAL CONFERENCE SYSTEM "conveys a more expansive air or reach when in fact the interconnection may be limited to two rooms on separate continents." (Brief, p. 4). Further, applicant argues that the NEXIS excerpts submitted by the Examining Attorney do not support a finding of mere descriptiveness because "global conference system has been used in several different contexts without a clear definition for the meaning of same." (Brief, p. 6). Finally, according to applicant, no other entities are using GLOBAL CONFERENCE SYSTEM to identify like goods and services.

A term is merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately conveys knowledge of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987) and In re Abcor Development

Corp., 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). A term need not immediately convey an idea of each and every specific feature of the applicant's goods or services in order to be considered merely descriptive; it is enough that the term describes one significant attribute, function or property of the goods or services. In re H.U.D.D.L.E., 216 USPQ 358 (TTAB 1982), and In re MBAssociates, 180 USPQ 338 (TTAB 1973). Whether a term is merely descriptive is determined not in the abstract, but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with those goods or services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

The NEXIS evidence submitted by the Examining Attorney shows that the term "global conferencing" is used in connection with audio and videoconferencing services that link persons in different locations who are physically remote from one another.

Xerox, which uses video-, audio, and document-conferencing services from World-Com in its offices around the world, went from approximately 10-15

videoconferences per month to about 20-30 in recent weeks, says Gary Foley, manager of *global conferencing* services. Network World, October 1, 2001;

WorldCom offered impacted businesses toll-free service and nationwide and *global conferencing* tools. e-Week, September 10, 2001;

The one bright spot analyst Alex Trofimoff of investment house Sanford Bernstein sees on the horizon is tele- and videoconferencing. "When people are traveling less, these services are going to be used more," he says. The *global conferencing* market, which is negligible today, will grow to \$11 billion by 2003 . . . Business Week Online, October 2, 2001; and

Construction of the 50,000-square-foot Wireless Cyber Center began in March Of 2000 and ended in December. Dr. Rodney Pasch, vice president - human resources, information technology and facilities expects the Center to "be able to downlink *global conferencing* into high resolution screens for both business and industry and our students. Marketplace, September 11, 2001.

There is also NEXIS evidence, which shows that the term "conference[ing] system" is used in connection with computer and related equipment for interactive communication for linking persons in different locations who are physically remote from one another.

Its desktop *conferencing system*, starts at \$900 each, while its group *conference systems*, which are designed for conference rooms, start at \$5,500 each.

Austin American-Statesman, December 6, 1999;

Working with the local phone company, Foshee got an interactive multimedia *conference system* installed in Matthew's home and first grade class.

Charleston Daily Mail, September 2, 1998; and

. . . conference was arranged by teacher Janet Tyler, and was made possible by equipment on loan from INET. The integrated video *conference system* was equipped with a microphone and a camera controlled by a remote.

The Hartford Courant, March 28, 1998.

Further, the dictionary entries of record evidence the descriptiveness of the individual words in applicant's proposed mark. Applicant's goods and services are "global" in the sense that they link persons who are located in different parts of the world; and they are used to transmit programs on specific subjects, i.e., "conferences," by means of a set of connected computer and communications equipment, i.e., a "system."

A review of all of the Examining Attorney's evidence clearly shows that the individual words in applicant's mark, as well as the terms "global conferencing" and "conference[ing] system" are descriptive of applicant's goods and services. When the terms are combined to form GLOBAL CONFERENCE SYSTEM, they remain descriptive.

While applicant argues that it would require a multi-stage reasoning process to reach a conclusion as to the nature of its goods and services, the test of whether a mark is descriptive is not conducted in the abstract. We must consider descriptiveness in relation to the particular goods or services for which registration is sought. In *re Abcor*, supra, 588 F.2d at 814, 200 USPQ at 218. Therefore, the question is whether the term GLOBAL CONFERENCE SYSTEM is descriptive for computer network and communication facilities equipment and interactive communication services, both for interactive communications relating to business administration degrees, certifications and accreditation programs, involving linking persons in different locations physically remote from one another. In this case, it is clear from the description of applicant's goods and services that a salient feature thereof is to link persons in different parts of the world. The literature submitted by applicant describes the program that applicant's goods and services support. It is named the "Duke MBA - Cross Continent Program," and the literature states that in the inaugural program, two sections of students were enrolled concurrently; one section was based at the Durham, North Carolina campus and another section at the Frankfurt, Germany Fuqua School of

Business. Further, the literature states that: "The DUKE MBA WORKS . . . Around the clock. Around the world. Around your business." Contrary to applicant's argument, the word GLOBAL as used in connection with applicant's goods and services would not be understood to mean that such goods and services involved the "entire earth," but rather that the goods and services may be used to connect persons at different locations around the world. In this regard, we note that the third-party registrations submitted by the Examining attorney show that the Office has considered the word GLOBAL to be descriptive of goods and services that are worldwide in potential application, which is precisely the case before us.

In view of the foregoing, we find that GLOBAL CONFERENCE SYSTEM immediately informs the user/purchaser of applicant's goods and services that a salient feature thereof is that they allow persons at different locations in the world to access conferences or programs via a set of connected computer and communications equipment.

As for applicant's statement that no competitor is using this term to describe like goods and/or services, it is well settled that the fact that an applicant may be the first or only user of a term does not justify registration of the term where the only significance projected by the

Ser No. 75/868,741

term is merely descriptive, as we find to be the case here.
In re National Shooting Sports Foundation, Inc., 219 USPQ
1018 (TTAB 1983).

Decision: The refusal to register under Section
2(e)(1) of the Trademark Act is affirmed with respect to
the involved goods and services.