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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Engineering Resource Group, Inc.

Serial No. 75/931,377

William Squire of Carella, Bryne, Bain, Gilfillan for
Engineering Resource Group, Inc.

Priscilla Milton, Trademark Examining Attorney, Law Office
110 (Chris A.F. Pedersen, Managing Attorney).

Before Seeherman, Walters and Drost, Administrative
Trademark Judges.

Opinion by Drost, Administrative Trademark Judge:

Engineering Resource Group, Inc. (applicant) filed a
trademark application to register the mark ENGINEERING
RESOURCE GROUP (in typed form) on the Principal Register
for services ultimately identified as "recruiters for

temporary/contract and direct engineering and technical positions" in International Class 35.¹

The examining attorney refused to register the mark on the ground that the mark, when used in association with the services, is merely descriptive. 15 U.S.C. § 1052(e)(1). After the examining attorney made the refusal final, this appeal followed. Both applicant and the examining attorney have filed briefs.

We affirm.

The examining attorney's position is that the term "engineering resource group" immediately informs prospective purchasers that "applicant provides a resource for employers with direct engineering and technical positions. Moreover, the applicant is a group that has expertise to match qualified professionals with engineering and technical positions." Br. at 5. The examining attorney provided the following evidence in support of her position. Applicant's specimen identifies applicant as "#1 in New Jersey Contract Engineering Staffing." The specimen goes on to list various specialties for mechanical

¹ Serial No. 75/931,377, filed February 29, 2000. The application is based on applicant's allegation of a date of first use and a date of first use in commerce of June 1, 1991. In her appeal brief (p. 2, n.1), the examining attorney accepted the above identification of services and indicated that the classification of services will be changed by the Office in the event that applicant's mark is published for opposition.

engineers, hardware engineers, electrical engineers, and software engineers. The examining attorney included a printout from applicant's website that indicates that applicant provides "the industry with engineers and engineering support staff." The examining attorney also pointed out that applicant's identification of services describes applicant's services as providing "recruiters for ... engineering and technical positions." As a result of this evidence, the examining attorney submitted that the term "engineering" was descriptive of applicant's services."

Regarding the term "resources," the examining attorney submitted a dictionary definition of the term as "something that can be used for support or help."² The examining attorney attached copies of numerous trademark registrations to show that the term "resources" or "resources group," as applied to recruitment services, has been disclaimed or registered pursuant to Section 2(f) or on the Supplemental Register, indicating that the term is not inherently distinctive.

² *American Heritage Dictionary of the English Language, Third Edition* (1992).

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In Registration No. 2,294,765 (STONE LEGAL RESOURCES GROUP for personnel recruitment and placement services), "Legal Resources Group" is disclaimed.

In Registration No. 1,787,666 (PROFESSIONAL RESOURCE GROUP for employment services), "Resource Group" is disclaimed.

In Registration No. 2,140,428 (PRAIRIE RESOURCE GROUP for personnel placement and recruitment services), "resource group" is disclaimed.

In Registration No. 2,239,909 (CONSULTING RESOURCE GROUP for personnel placement and recruitment), the mark is on the Supplemental Register.

The examining attorney also submitted evidence from the Internet to show that the term "resource group" is used to refer to personnel recruitment companies. See, e.g. www.nbn-jobs.com ("Card Resource Group, Inc." - providing recruiting services for credit card companies seeking mid-to-senior management levels); www.emeraldresourcegroup.com ("Emerald Resource Group" - provider of Information technology talent); nursequest.com ("Professional Resource Group, Inc." - nurse recruiter); www.csrgine.com ("Claim Services Resource Group" - providing health care entities with temporary senior-level claims processing employees); www.omegaresourcegroup.com ("Omega Resource Group" -

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recruiter); www.dougtrg.server101.com ("Talent Resource Group" - professional recruiting firm); www.sageresourcegroup.com ("Sage Resource Group" - professional placement services); and www.dr-group.com ("Development Resource Group" - provides experienced product development engineers to clients for long-term contract needs).

Other evidence of the use of the terms "resource" or "resources" includes:

www.pacificrecruiters.com - Pacific Resource Solutions, Inc. - "Matching human resource needs of companies with career development opportunities for candidates."

www.seguild.com - National Engineering Resources, Inc. - "Our recruiters are specially trained and ready to work with you."

www.tacengineering.com - TAC Engineering Resources.
www.primaryresources.com - Primary Engineering Resources.

The examining attorney also submitted the following registrations for recruitment and/or placement services that contain disclaimers of the term "resource[s]." A sample of these registrations follows.

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Registration No. 1,547,648 (PSR PROFESSIONAL STAFFING RESOURCES, "Professional Staffing Resources" disclaimed); No. 1,983,896 (REHAB RESOURCES, "Resources" disclaimed); No. 2,199,300 (DSC RESOURCES, "Resources" disclaimed); No. 2,224,715 (RANGER TECHNICAL RESOURCES, "Technical Resources" disclaimed); No. 2,444,922 (CHARTER RESOURCES INTERNATIONAL, "Resources International" disclaimed); No. 2,520,859 (ALTERNATIVE MANAGEMENT RESOURCES, "Management Resources" disclaimed); and No. 2,518,446 (FOX STAFFING RESOURCES, "Staffing Resources" disclaimed).

Finally, the examining attorney submitted registrations to show that the term "group" is frequently disclaimed when it is used with various business services. See, e.g., Registration Nos. 2,242,812; 2,428,901; 2,320,847; and 2,323,942. As a result of this evidence, the examining attorney concludes that "applicant is a group that provides resources and has the expertise for finding people who work in the field of engineering and matching them with contract and direct engineering and technical positions." Br. at 12. Furthermore, "applicant has combined three descriptive terms that immediately tell something about the services. The ordinary meaning of the words 'engineering,' 'resource,' and 'group' result in a

clear meaning of the combination of them. Nothing unusual or unexpected results from the mark." Br. at 4.

Applicant makes several arguments in response to the examining attorney's refusal. First, applicant maintains that "engineering" "is not descriptive of the type of services provided, because the mark is used for employment of personnel in technical, but non-engineering fields as well as engineering." Reply Br. at 7. As to the term "resource group," applicant argues that:

The Examining Attorney's Brief states that the term "RESOURCE GROUP" is descriptive of recruitment because recruitment of employment services is a resource. This is a strained meaning of the term resource and at best is only suggestive and not descriptive. The average person would not consider resource as referring to recruitment. Because of the widespread use of the term RESOURCE GROUP it can not be characterized as descriptive of any particular service. The term applies to almost any conceivable field of endeavor and by definition is not descriptive of any one such field. It can only be suggestive.

Reply Br. at 7.

Also, applicant argues that the "term resource is generic and refers to any possible subject matter that can be used as a resource, i.e., a source. But a resource generally means a source of something and not anything in particular." Supp. Br. at 2-3. Applicant concludes by stating that "the average person would have no idea what is

meant by Engineering Resource Group and this is the express definition of suggestiveness. Reply Br. at 7.

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.

First, we start by looking at the individual terms in applicant's mark to see if they are descriptive of applicant's services. The word "engineering" is clearly descriptive of a service that recruits engineers for technical positions. Applicant's identification of services explains that its staff is recruiting individuals

for "engineering and technical positions." Its specimens boast that it is "#1 in New Jersey contract engineering staffing." Its specimens list a variety of job openings under the categories of mechanical engineers, electrical engineers, hardware engineers, and software engineers. Similarly, applicant's website emphasizes the engineering focus of its services and adds that it is also interested in manufacturing and industrial engineers, chemical engineers, civil/structural engineers, and engineering/electronics technicians.

The only job position that is not explicitly identified with the word "engineering" is the position "CAD designers/drafters. Applicant argues that "engineering is only one aspect of technical descriptions of the employment involved. Others are not engineers." Reply Br. at 5. However, a term only has to be descriptive of one feature of the services in order to be found to be descriptive. Gyulay, 3 USPQ2d at 1009. Here, it is clear that not only is the term "engineering" descriptive of at least one aspect of the services, but also the engineering component of applicant's services is a prominent feature of the services applicant advertises under its mark.

The word "resources" is likewise descriptive of a service that recruits "engineering resources." The

dictionary definition submitted by the examining attorney defines "resources" as "something that can be used for support or help" or "an available supply that can be drawn on when needed." Both the Internet evidence and the printouts from trademark registrations demonstrate that this term is used to describe a supply of talent, including engineering talent, that can be used for help or when needed. For example, "Kelly Engineering Resources provides all types of engineers." www.kellyengineering.com. Registration No. 2,464,209 for KELLY ENGINEERING RESOURCES contains a disclaimer of the term "engineering resources." Numerous registrations for the word "resource[s]" for recruitment or employment services disclaim the word "resources." See, e.g., Registration No. 2,516,522 (RESOURCES CONNECTION, "resources" disclaimed); No. 2,518,446 (FOX STAFFING RESOURCES) ("staffing resources" disclaimed); No. 2,388,314 (AQ RESOURCES, "resources" disclaimed); No. 2,355,873 (FRONTLINE BUSINESS RESOURCES, "business resources" disclaimed); and No. 2,060,539 (STRATEGIC LEGAL RESOURCES, "legal resources" disclaimed). This evidence shows that the term "resources," when used in association with employment and recruiting services, has a descriptive meaning. "Such third party registrations show the sense in which the word is used in ordinary parlance

and may show that a particular term has descriptive significance as applied to certain goods or services.” Institut National Des Appellations D'Origine v. Vintners International Company, 958 F.2d 1574, 22 USPQ2d 1190, 1196 (Fed. Cir. 1992) (Third-party registrations found to be “persuasive evidence”). See also Sweats Fashions, Inc. v. Pannill Knitting Co., 833 F.2d 1560, 4 USPQ2d 1793, 1797 n.1 (Fed. Cir. 1987) (“Third-party registrations are admissible and competent to negate a claim of exclusive rights in ‘sweats’ and the disclaimers are evidence, albeit not conclusive, of descriptiveness of the term”). Here, the dictionary definition and the Internet and registration evidence lead us to conclude that the term “resource” is descriptive of applicant’s services.

Regarding the term “group,” we come to a similar conclusion. First, several registrations indicate that the term “Resource Group” itself is a descriptive term when applied to recruitment and placement services. See Registration Nos. 2,294,765; 1,787,666; 2,140,428; and 2,239,909 where the term “resource group” has been disclaimed or the mark is on the Supplemental Register for similar services. As discussed in more detail earlier, the evidence from the Internet also shows that the term “resource group” is a commonly used term to describe a

business, much like "company." See, e.g. "Card Resource Group, Inc."; "Emerald Resource Group"; "Professional Resource Group, Inc."; "Claim Services Resource Group"; "Omega Resource Group"; "Talent Resource Group"; "Sage Resource Group"; and "Development Resource Group." Terms such as "company" and "group" are, at the least, descriptive, and their addition to other descriptive matter does not by itself turn those terms into inherently distinctive marks. The Supreme Court in the context of the term "company" held that:

The addition of the word "Company" only indicates that parties have formed an association or partnership to deal in such goods, either to produce or to sell them. Thus parties united to produce or sell wine, or to raise cotton or grain, might style themselves "Wine Company," "Cotton Company," or "Grain Company," but by such description they would in no respect impair the equal right of others engaged in similar business to use similar designations, for the obvious reason that all persons have a right to deal in such articles, and to publish the fact to the world.

Goodyear's Rubber Manufacturing Co. v. Goodyear Rubber Co., 128 U.S. 598, 602-03 (1888). See also In re E. I. Kane, Inc., 221 USPQ 1203, 1206 (TTAB 1984) ("The addition of the term 'INC.' does not add any trademark significance to the matter sought to be registered"); In re Patent & Trademark Services Inc., 49 USPQ2d 1537, 1539 (TTAB 1998) (same).

In addition, applicant has submitted a dictionary definition of "group" as "any collection or assemblage of persons or things." Response date August 27, 2001, attachment. An assemblage of recruiters would certainly meet this definition. Furthermore, the evidence above, as well as other registrations in which the term "group" has been disclaimed, indicates that the term is not inherently distinctive when applied to applicant's services. See, e.g., Registration No. 2,242,812 (THE SEARCH LOGIX GROUP and design for recruitment services, "group" disclaimed); No. 2,428,901 (THE CHEYENNE GROUP for recruitment services, "group" disclaimed); No. 2,320,847 (THE FATCAT GROUP and design for recruitment services, "group" disclaimed); and No. 2,323,942 (THE HOWARD GROUP for recruitment services, "group" disclaimed).

However, even if the terms individually are descriptive, when we consider the issue of whether the mark is merely descriptive, we are concerned with whether the mark as a whole is descriptive. We conclude that the evidence in this case supports the examining attorney's conclusion that the mark is merely descriptive. Besides the evidence that the individual terms are merely descriptive, there is evidence that the combined terms "engineering resource[s]" and "resource[s] group" are

commonly used to refer to similar services. In addition, it is clear that when all the terms are combined and viewed in the context of the services, prospective purchasers will view the combined term as simply the sum of its parts. In other words, they would immediately understand that the term "Engineering Resource Group" when applied to applicant's services describes a group that recruits engineers so that companies would use them as a source to meet their engineering resource needs. Therefore, the mark in its entirety is merely descriptive.

At this point, we address one other issue. In its Supplemental Appeal Brief, applicant submitted a Dialog search report for the purpose of showing "that the term 'resource group' does not have any definitive meaning." P. 9. The examining attorney has objected to this evidence on the grounds that the report is untimely and does not consist of actual copies of the registrations. To the extent that these printouts were not previously of record, we agree on both grounds. See 37 CFR § 2.142(d); In re Dos Padres Inc., 49 USPQ2d 1860, 1862 n.2 (TTAB 1998) ("[C]ommercial search reports ... are not credible evidence of the existence of the applications and/or registrations listed in such reports").

Furthermore, we agree with the examining attorney's conditional analysis of these printouts. Many of these records are for pending applications and the applications and registrations frequently contain disclaimers of the term "resource group" or the mark is on the Supplemental Register. See Examining Attorney's Br. at 10-12. Again, we agree with the examining attorney that "the overwhelming majority of applicant's evidence supports the conclusion that the designations RESOURCES and RESOURCE GROUP are descriptive." Br. at 10. Even if these printouts were properly of record, they would not change the outcome of this case.

Therefore, we find that applicant's mark is merely descriptive when applied to its services. Inasmuch as applicant's mark identifies a feature or characteristic of applicant's services, it is merely descriptive.

Decision: The examining attorney's refusal to register the term ENGINEERING RESOURCE GROUP on the ground that the mark is merely descriptive of the involved services is affirmed.