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

Paper No. 8
EWH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Photoflex, Inc.

Serial No. 76/038,839

Michael J. Hughes for Photoflex, Inc.

Michael E. Hall, Trademark Examining Attorney, Law Office
105 (Thomas J. Howell, Managing Attorney).

Before Hanak, Hairston and Wendel, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

Photoflex, Inc. (applicant) seeks to register
ECAMERABAGS in typed drawing form for "on-line retail
outlet for photographic cases and parts therefor." The
application was filed on May 2, 2002 with a claimed first
use date of July 31, 1999.

The Examining Attorney has refused registration on the
basis that applicant's mark, as applied to applicant's
services, is merely descriptive pursuant to Section 2(e)(1)
of the Trademark Act. When the refusal to register was

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made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

A mark is merely descriptive pursuant to Section 2(e)(1) of the Trademark Act if it immediately conveys information about a significant quality or characteristic of applicant's goods or services. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re Bed & Breakfast Registry, 791 F.2d 157, 229 USPQ 818, 819 (Fed. Cir. 1986). In determining whether a mark is merely descriptive of the services for which registration is sought, two important propositions must be kept in mind. First, the mere descriptiveness of a mark is not determined in the abstract, but rather is determined in relation to the services for which registration is sought. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978). Second, in order to be held merely descriptive, a mark need not immediately convey information about all of the significant qualities or characteristics of the services for which registration is sought. A term is merely descriptive if it immediately conveys information

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about "one of the qualities" of the services for which registration is sought. Gyulay, 3 USPQ2d at 1010.

At page 3 of its brief, applicant makes the following statements:

While the words "camera" and "bags," as well as the term "e" representing "electronic," used individually have dictionary meanings which are well known and well understood by the purchasing public, when combined, they function as more than a mere description of the ingredients (or characteristics) of the services upon which the mark is used and are thus not "merely descriptive" of such services within the meaning of Section 2. (emphasis added).

In support of its contention that the combined term ECAMERABAGS is not descriptive for "on-line retail outlet for photographic cases and parts therefor," applicant cites In re Colonial Stores, Inc., 394 F.2d 549, 157 USPQ 352 (CCPA 1968) where the Court held that the mark SUGAR & SPICE was not merely descriptive of bakery goods because it also brought to mind a well known nursery rhyme. However, in this case, applicant at no time has indicated how its purported mark ECAMERBAGS has a second meaning like the mark SUGAR & SPICE. Obviously, the term "camerabag" is synonymous with the term "photographic cases," the goods which are the subject of applicant's on-line retail outlet services. In this regard, we note that in applicant's

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specimen of use applicant uses the term "camerabags" in a descriptive if not generic manner as exemplified by the following sentence: "ecamerabags™ are the highest quality camerabags in the world today."

In addition, as previously noted, applicant has conceded at page 3 of its brief that "the term 'e' representing 'electronic' ... [is] well known and well understood by the purchasing public." In light of the foregoing, we find that prospective consumers viewing applicant's purported mark ECAMERABAGS not in the abstract, but rather in connection with "on-line retail outlet for photographic cases and parts therefor" would readily understand that applicant's camerabags (photographic cases) could be purchased electronically via the Internet.

Three final comments are in order. First, at page 3 of its brief applicant argues that "the descriptive nature of the mark [ECAMERABAGS] is for goods, not services." Professor McCarthy refutes applicant's argument when he states that a term is "descriptive of retail sales services if it is the generic name of a product sold at that outlet." 2 J. McCarthy, McCarthy on Trademarks and Unfair Competition Section 11:16 at page 11-22 (4th ed. 2001).

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Quite recently, this Board had the occasion to deal with this very principle when it found the mark E FASHION to be merely descriptive not only for goods, but also for the services of "electronic retailing services via a global computer network featuring apparel, fashion, accessories, personal care items, jewelry and cosmetics." In re Styleclick.com Inc., 57 USPQ2d 1445 (TTAB 2000).

Second, applicant has made of record third-party registrations for the marks CAMERAWORLD.COM; CARDIOCAMERA; and PARACAMERA. Applicant then makes the argument at page 4 of its brief that "all [three] of these marks contain words that describe the goods and services used, and each Examining Attorney found the respective marks at least one step removed from being descriptive." Our response to applicant's argument is two-fold. First, this Board is not privy to the application history of these three prior registrations. Second, in any event, this Board is certainly not bound by the actions by Examining Attorneys. As an aside, we note that at least certain of these three registered marks, such as CAMERAWORLD.COM, have an element in them (namely, WORLD) which would arguably cause the mark in its entirety to be not merely descriptive.

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Third, the fact that, as noted by applicant at page 5 of its brief, the term ECAMERABAGS does not appear in any dictionary does not preclude a finding that this term is merely descriptive of applicant's services.

Decision: The refusal to register is affirmed.