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Paper No. 12  
DEB

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re TequilaDrinker.com, LLC

Serial No. 78/020,086

Janice W. Housey and Michael J. Mlotkowski of Roberts  
Mlotkowski & Hobbes, P.C., for TequilaDrinker.com, LLC.

Michael Ryan Tanner, Trademark Examining Attorney, Law  
Office 102 (Thomas Shaw, Managing Attorney).

Before Cissel, Walters and Bucher, Administrative Trademark  
Judges.

Opinion by Bucher, Administrative Trademark Judge:

TequilaDrinker.com, LLC sought to register the term  
TEQUILADRINKER on the Principal Register in conjunction  
with services recited, as amended, as "providing an online  
magazine featuring information about restaurants, food,  
politics, culture, technology, tequila, and news," in  
International Class 42.<sup>1</sup>

<sup>1</sup> Application Serial No. 78/020,086 was filed on August 8,  
2000 based upon applicant's allegation of a *bona fide* intent to  
use the mark in commerce. This application continues as an  
intent-to-use application.

Registration was finally refused pursuant to Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that applicant's mark is merely descriptive of its services.

Applicant filed this appeal, but did not request an oral hearing before the Board. Both applicant and the Trademark Examining Attorney have fully briefed the case.

We affirm the refusal to register.

The test for determining whether a mark is merely descriptive is whether the term immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or is intended to be used. In re Bright-Crest, Ltd., 204 USPQ 591 (TTAB 1979); In re Engineering Systems Corp., 2 USPQ2d 1075 (TTAB 1986). It is not necessary, in order to find a mark merely descriptive, that the mark describe each feature of the goods, only that it describe a single, significant quality, feature, etc. In re Venture Lending Associates, 226 USPQ 285 (TTAB 1985). Further, it is well established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the services in connection with which registration is sought, the context in which the mark is used, or is

intended to be used, and the impact that it is likely to make on the average purchaser of such goods or services.

In re Recovery, 196 USPQ 830 (TTAB 1977).

We must consider the issue of descriptiveness before us in relation to the services identified in the instant application, i.e., providing an online magazine featuring, *inter alia*, information about tequila. Applicant argues that this term is suggestive because it takes thought, imagination and a multi-step reasoning process to connect this mark with the recited services. However, the Trademark Examining Attorney argues by analogy to published decisions involving printed publications that applicant's alleged mark names precisely the prospective audience for this online publication. See Hunter Publishing Co. v. Caulfield Publishing Ltd., 1 USPQ2d 1996 (TTAB 1986) [SYSTEMS USER found merely descriptive of a trade journal directed toward users of large data processing systems]; and In re Camel Mfg. Co., Inc., 222 USPQ 1031 (TTAB 1984) [MOUNTAIN CAMPER held merely descriptive of retail mail order services in the field of outdoor equipment and apparel].

The Trademark Examining Attorney also placed into the record the home page of applicant's actual Internet site. The masthead contains a prominent presentation of

"TequilaDrinkers.com," followed by the words: "You like tequila? So do we." The balance of the home page contains tequila reviews, features and favorite restaurants for finding good tequila, as follows:

- TEQUILA REVIEWS: Conquistador Añejo, Chinaco Reposado, and El Toriso Reposado. Find out what we think.
  - Chinaco Reposado: Sharp, strong, with a lingering aftertaste
  - Conquistador Añejo: Mellow with a peppery aftertaste
  - Toriso Reposado: Sharp, slightly sweet, from La Gonzalena distillery
  
- FEATURES: Learn the differences between the different classifications of tequila. Plus, a brief history of the spirit.
  - Tequila defined: Can't tell your Reposado from your Añejo? We're here to help.
  - History Lesson: Think you know where tequila came from? Think again, José.
  
- FROM THE EDITORS: The Who, What, and Why of TequilaDrinker.com
  - The editors describe the current state of tequila ... and you thought microbrews were fun.
  
- DESTINATIONS: Know where to go for tequila? We have ideas for you, in NYC and DC.

Consistent with its recital as amended (e.g., listing "tequila," but only after reciting "restaurants," "food," "politics," "culture" and "technology"), applicant, throughout the prosecution of this application, tries to diminish the importance of tequila as a prime feature of its Web site. However, the totality of the structure and contents of its home page belies this argument.

Moreover, as the Trademark Examining Attorney contends, each word ("tequila" and "drinker") is merely descriptive when considered individually. When combined, they name precisely the target audience for this Web site, the "tequila drinker." With reference to the audience that it hopes to lure to this Web site, applicant suggests that "the term [tequiladrinker] conjures up a specific image of 20-something to 30-something year olds who are well-dressed, sophisticated, urban, professionals."

(Applicant's appeal brief, unnumbered page 6). While that may well represent the precise demographics that applicant hopes to attract to this site, such speculation does not change the fact that most visitors to this site share one thing in common - each is comfortable being a self-described "tequila drinker."

Decision: The refusal to register is affirmed.