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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Keith Berry

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Serial No. 75/932,300

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Anthony O. Cormier for Keith Berry.

Lourdes D. Ayala, Trademark Examining Attorney, Law Office  
106 (Mary Sparrow, Managing Attorney).

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Before Seeherman, Hanak and Hohein, Administrative  
Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

Keith Berry (applicant) seeks to register PetRx.com in the form shown below for "retail services featuring pet pharmacy products via the global computer network" (Class 35) and "providing an on-line computer database in the field of pets" (Class 42). The application was filed on March 1, 2000 with a claimed first use date as to both types of services of February 7, 2000.

Citing Section 2(e)(1) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's mark is merely descriptive of applicant's services. When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

As has been stated repeatedly, "a term is merely descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods [or services]." In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); Abercrombie & Fitch Co. v. Hunting World, Inc., 537 F.2d 4, 189 USPQ 759, 765 (2<sup>nd</sup> Cir. 1976). Moreover, the descriptiveness of a term is decided not in the abstract, but rather is decided in relationship to the goods or services for which registration is sought. Abcor Development, 200 USPQ at 218.

The crux of applicant's argument that its mark PetRx.com is not merely descriptive is best summarized at page 6 of applicant's brief as follows:

A prescription is not, however, the same as the drugs or medications themselves. Applicant's website offers medications but it does not offer prescriptions. Applicant might be characterized as an online pharmacy but it is not an online prescription and it

is not an online source for prescriptions.

Applicant readily concedes that Rx "is the conventional symbol for a written prescription." (Applicant's brief page 5). Applicant then argues that Rx "is not the equivalent of or alternative term for medications or pharmaceutical products that are the subject of prescriptions." (Applicant's brief page 5).

However, the symbol Rx has more than one meaning. In this regard, reference is made to applicant's response dated December 18, 2002 to which it attached a dictionary definition of Rx from an unnamed dictionary. This dictionary makes clear that Rx stands not only as the "symbol for prescription," but also as "a remedy, cure, or the like." In other words, applicant's own chosen dictionary definition for Rx indicates that this symbol means not only a written prescription, but also the medications themselves.

Thus, with regard to applicant's Class 35 services (retail services featuring pet pharmacy products via the global computer network), applicant's mark PetRx.com clearly informs consumers that applicant's services feature the providing of prescription (Rx) medications for pets via a global computer network. Likewise, with regard to applicant's Class 42 services (providing an on-line

computer database in the field of pets), applicant's mark PetRx.com readily informs consumers that this database deals with prescription medications for pets. Accordingly, applicant's mark forthwith conveys an immediate idea of the qualities or characteristics of both applicant's Class 35 services and of applicant's Class 42 services.

One final comment is in order. Applicant has never argued that the ".com" portion of its mark causes the mark to be not merely descriptive. Indeed, we find that the ".com" portion of applicant's mark readily brings to mind a global computer network (applicant's Class 35 services) or an on-line computer database (applicant's Class 42 services). In addition, this Board has on various occasions held that the designation ".com" has no trademark or service mark significance. See In re CyberFinancial.Net, Inc. \_\_ USPQ2d\_\_ (TTAB 2002) and In re Martin Container Inc., 65 USPQ2d 1058, 1060 (TTAB 2002).

Decision: The refusal to register is affirmed as to both classes of services.