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Mailed: February 20, 2003
Paper No. 13
PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re A. H. Training, Inc.

Serial No. 76/041,758

Lawrence D. W. Graves of Fierst & Pucci LLP for A. H. Training, Inc.

Boris Umansky, Trademark Examining Attorney, Law Office 103 (Michael Hamilton, Managing Attorney).

Before Hairston, Chapman and Drost, Administrative Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

A. H. Training, Inc. has filed an application to register GUIDED SELF HEALING on the Principal Register as a mark for "educational services, namely conducting conferences, seminars and workshops in the field of personal growth."¹

¹ Serial No. 76/041,758, filed on May 8, 2000, alleging first use and first use in commerce as of September 1997.

The Trademark Examining Attorney has refused registration on the ground that GUIDED SELF HEALING, when used in connection with the identified services, is merely descriptive thereof. 15 U.S.C. §1052(e)(1). After the Examining Attorney made the refusal to register final, applicant filed a notice of appeal. In addition, applicant filed an amendment requesting that the application be amended to seek registration on the Supplemental Register, in the event the refusal is affirmed. The Examining Attorney approved the amendment, indicating that the mark would be acceptable for registration on the Supplemental Register. Both applicant and the Examining Attorney have filed briefs.² No oral hearing was requested.

The Examining Attorney's position is that the mark GUIDED SELF HEALING is merely descriptive of applicant's services because it:

conveys information about a characteristic, feature or function of the applicant's services, namely that the applicant, through its conferences, seminars and workshops, "serves as a guide for" or "supervises the training or education of individuals interested in pursuing the SELF HEALING process." (Brief, p. 6).

² This case was assigned to a different Examining Attorney to write the appeal brief.

The Examining Attorney relies on the following dictionary definitions: (1) "*guided*" as "to serve as a guide for; conduct" and "to supervise the training or education of"; (2) "*self*" as "the individual"; and (3) "*healing*" as "to restore to health or soundness; cure." In addition, the Examining Attorney submitted excerpts from the Nexis database showing uses of the term "self-healing"; and copies of third-party registrations for marks that include the disclaimed term "self-healing." Thus, the Examining Attorney concluded that GUIDED SELF HEALING is merely descriptive of applicant's services.

In urging reversal of the refusal, applicant argues that the Examining Attorney has dissected applicant's mark, rather than considering the mark as a whole; that GUIDED SELF HEALING is a system applicant developed to enable individuals to overcome personal and emotional problems; that the mark creates an incongruity in that GUIDED and SELF have opposite meanings; i.e., GUIDED means to have assistance from someone else, whereas SELF means to do something by one's self; that the Office has allowed marks that are similar to applicant's mark to register on the Principal Register; and that any doubt on the issue of mere descriptiveness should be resolved in applicant's favor.

It is well settled that a phrase is considered merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality, characteristic of feature thereof or if it directly conveys information regarding the nature, function, purpose or use of the goods or services. See *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). It is not necessary that a phrase describe all of the properties or functions of the goods or services in order for it to be considered merely descriptive thereof; rather, it is sufficient if the phrase describes a significant attribute or idea about them. Moreover, whether a phrase 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 phrase would have to the average purchaser of the goods or services because of the manner of its use. See *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979).

The Examining Attorney's evidence demonstrates that the phrase GUIDED SELF HEALING is merely descriptive of applicant's services. The word "guided" is clearly descriptive of applicant's services because, as the

recitation of services indicates, applicant is engaged in conducting conferences, seminars and workshops in the field of personal growth. In other words, applicant's services are designed to offer guidance to persons interested in some aspect of personal growth. We note, in this regard, the following excerpt taken from a specimen flyer announcing an informational session for applicant's services:

This lecture-demonstration is appropriate for anyone in the helping professions or healing arts who may be interested in learning to use this method, as well as individuals who may be interested in the working [sic] with this technique personally.

In addition, the term SELF HEALING is descriptive of applicant's services because a purpose of applicant's services is to restore the individual to health or soundness, and/or to teach others how to achieve personal growth through applicant's method. Again, we note the specimen flyer which states that GUIDED SELF HEALING "has been remarkably effective in the treatment of chronic disorders, including anxiety, depression, addictions, and phobias, as well as physical conditions such as allergies, pain syndromes, fibromyaglia, and chronic fatigue."

Further, we note the Nexis excerpts submitted by the Examining Attorney which show uses of the term "**self-healing**." The following are representative examples:

A **self-healing** and personal empowerment workshop will be offered 6:30 to 8:30 p.m. Fridays starting tonight at James A. Rutherford Community Center in Patch Reef Park, 2000 NW 51st St.

. . . .

Participants will learn about the body's innate power to heal. **Self-healing** techniques such as diaphragmatic breathing, self-hypnosis, self-acupressure, artwork and other interventions will be introduced. (Fort Lauderdale Sun-Sentinel, May 11, 2001);

REIKI WORKSHOP: The Stanley Street Treatment and Resources, Inc. 386 Stanley Street, a substance abuse and mental health treatment facility will sponsor a Reiki I workshop for human service professionals from 8:30 am to 4:30 pm Saturday April 21.

. . . .

The workshop will teach participants the art of energy medicine for **self-healing** and how to use the method on others. (The Providence Journal-Bulletin, April 2, 2001);

HEALTHFUL LIVING SEMINARS, with Linda Solomon discussing pressure points and **self-healing**, sponsored by . . . (The Washington Post, January 28, 2001); and

Dr. Gray will visit Cincinnati Aug. 12 to present a one-day workshop on **self-healing** at the Alliance Institute for Integrative Medicine.

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The seminar is primarily focusing on **self-healing** techniques because as we get older, if we don't maintain a balance in our lives, we tend to get sicker and sicker.
(The Cincinnati Enquirer, August 2, 2000).

The Examining Attorney also submitted copies of two third-party registrations for marks including the disclaimed term "SELF-HEALING." One of the registrations covers conferences, seminars and workshops in the field of holistic medicine and the other registration covers courses and seminars relating to natural healing. Such registrations suggest that "SELF-HEALING" has been deemed and/or acknowledged to be not inherently distinctive by the Office and/or by the prior registrants.

The Examining Attorney's evidence is clearly sufficient to establish that "self healing" is a merely descriptive term in the context of conducting conferences, seminars and workshops in the field of personal growth.

Further, we find that the merely descriptive terms which comprise applicant's mark, i.e., GUIDED and SELF HEALING are likewise merely descriptive when considered together. Applicant argues that its combining of GUIDED and SELF creates an incongruity in the mark GUIDED SELF

HEALING. We disagree. As used in applicant's mark, GUIDED modifies the term SELF HEALING, not simply the word SELF. There is nothing incongruous about the combination of GUIDED and SELF HEALING where that composite is used in connection with conducting conferences, seminars and workshops in the field on personal growth. Purchasers and prospective purchasers of applicant's services would readily recognize that the services are designed to guide or educate individuals with an interest in the specific personal growth field of self healing.

With respect to applicant's contention that the Office has allowed similar marks to register on the Principal Register, it has often been stated that the Board must decide each case on its own set of facts. See *In re Nett Designs, Inc.*, 263 F.3d 1379, 57 USPQ2d 1564 (Fed. Cir. 2001). We are not privy to the file records of the third-party registrations relied upon by applicant and have no way of knowing the reasons for their allowance. We note, however, that only one of the seven third-party registrations covers services of the type involved in this

appeal, and it issued on the Principal Register under the provisions of Section 2(f).³

Finally, we are not persuaded by applicant's argument that it developed the GUIDED SELF HEALING "system", and, thus the phrase GUIDED SELF HEALING is not descriptive of its services. It is not dispositive that applicant may be the first or only user of the term. In re National Shooting Sports Foundation, Inc., 219 USPQ 1018 (TTAB 1983).

Decision: The refusal to register on the Principal Register is affirmed. The application will be forwarded for issuance on the Supplemental Register.

³ Registration No. 2,349,259 for the mark HEALING THE EMOTIONAL/SPIRITUAL BODY for "educational services, namely, seminars related to personal growth and well-being."