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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Aeromet Technologies, Inc.

Serial No. 76/237,453

Kurt L. Grossman of Wood, Herron & Evans, L.L.P. for
Aeromet Technologies, Inc.

Glenn Clark, Trademark Examining Attorney, Law Office 115
(Tomas Vlcek, Managing Attorney).

Before Simms, Bottorff and Drost, Administrative Trademark
Judges.

Opinion by Drost, Administrative Trademark Judge:

On April 6, 2001, Aeromet Technologies, Inc.
(applicant) applied to register the mark GLASSÖN (typed
drawing) for goods ultimately identified as "chemical
compounds, namely, silanes for use in a wide variety of
fields" in International Class 1 and "non-stick coatings
for application to metal surfaces in a wide variety of

industries; and non-stick coatings for use in the manufacture of cookware" in International Class 2.¹

The examining attorney refused to register the mark on the ground that the mark is primarily merely a surname under Section 2(e)(4) of the Trademark Act. 15 U.S.C. § 1052(e)(4).

After the examining attorney made the refusal final, applicant filed a notice of appeal.

In order to determine whether a term is primarily merely a surname, we must determine the impact the term has or would have on the purchasing public. "[I]t is that impact or impression which should be evaluated in determining whether or not the primary significance of a word when applied to a product is a surname significance. If it is, *and it is only that*, then it is primarily merely a surname." In re Harris-Intertype Corp., 518 F.2d 629, 186 USPQ 238, 239 (CCPA 1975), quoting, Ex parte Rivera Watch Corp., 106 USPQ 145 (Comm'r Pat. 1955) (emphasis in original).

"Among the factors to be considered in determining whether a term is primarily merely a surname are the following: (i) whether the surname is rare; (ii) whether

¹ Serial No. 76/237,453. The application contains an allegation of a bona fide intention to use the mark in commerce.

anyone connected with applicant has the involved term as a surname; (iii) whether the term has any other recognized meaning; and (iv) whether the term has the "look and feel" of a surname." In re United Distillers plc, 56 USPQ2d 1220, 1221 (TTAB 2000). If the mark is stylized, the fifth factor concerns the stylization because if the stylization is "distinctive enough, this would cause the mark not to be perceived as primarily merely a surname." See In re Benthin Management GmbH, 37 USPQ2d 1332, 1334 (TTAB 1995).

Concerning the first factor, the examining attorney submitted two major pieces of evidence to support the argument that "applicant's proposed mark is not a rare surname." Examining Attorney's Brief at 3. The first was a printout from the ReferenceUSA database that showed that there were 548 residential listings in the United States for Glasson. The second exhibit was a sample of 25 printouts from NEXIS that indicated that a search for Glasson returned 1328 stories.² The examining attorney

² The examining attorney's original search for Glasson returned 8771 stories. However, more than 7,000 stories were attributed to a golfer named Bill Glasson. When Bill Glasson was eliminated in the second search, the number of stories dropped to 1328. Among the 25 articles in this printout, thirteen articles (several apparently duplicates) referenced Bill Glasson. They were all from *The Sports Network* in a section entitled "PGA Tour - Men's Professional Golf" and either "(statistics)" or "scorecard" from February and March 2002. Eight printouts contain the headline "All-Time PGA Tour Wins" and set out the following: "Bill Glasson - 7." The five other articles have

argues that this evidence supports the conclusion that GLASSON is not a rare surname.

Applicant responded to this evidence by pointing out that the ReferenceUSA database contains information on more than 102 million U.S. residents. See Request for Reconsideration, Ex. E. Applicant also asserts that in the sample of 100 ReferenceUSA listings, approximately 23% appear to be duplicates. Based on its calculation, there would only be approximately 400 listings. In its Reply Brief (page 7), applicant also asserts that less than ".0004% of the 102,000,000 residents" listed in the database have the name Glasson. We agree that these numbers support applicant's argument that Glasson is a rare surname. United Distillers, 56 USPQ2d at 1221 (Hackler held to be a rare surname despite 1295 listings in 80 million entry Phonedisc database); Benthin, 37 USPQ2d at 1333 (Benthin held to be a rare surname despite 100 listings of approximately 75,000,000 entries in Phonedisc database); In re Sava Research Corp., 32 USPQ2d 1380, 1380-

headlines referring to golf tournaments and contain statements such as: "1989 - Bill Glasson (275) - Fred Couples;" "Gardner Dickinson (1968), Lee Trevino (1973), Bean (1977), Bill Glasson;" and "Bill Glasson +3 (73-74)." These references to Bill Glasson do not provide a basis to find that his name has changed the public perception of the term. Therefore, we find that the more relevant number of stories to be approximately 1300.

81 (TTAB 1994) ("SAVA is indeed a rare surname" despite 100 different SAVAs among 90,000,000 listings).

The other exhibit, the approximately 1300 Nexis stories, appears more substantial, but several facts persuade us that it does not demonstrate that Glasson is not a rare surname. First, the number 1300 would appear to include numerous duplicate stories. In the sample of 25 stories, at least 5 (20%) of the stories appear to be duplicates. See Stories 8, 9, and 11 (Betsy); 10, 12 and 19 (Wayne); and 18 and 22 (Rex). In addition, a further review of the stories show that they are mostly from a wide variety of newspapers and publications that cover the full range of human accomplishments and tragedies (births, deaths, arrests, bankruptcies, local business and sporting news). We find that the number of stories is consistent with the fact that the phone listing database indicates that there are hundreds of people in the United States with the surname Glasson who would be having children, attending funerals, engaging in local business and sporting activities, having financial difficulties, and running

afoul of the law.³ We conclude by finding that Glasson is a rare surname.

The second factor we consider is whether anyone associated with applicant has the involved term as a surname. There is no evidence that anyone associated with applicant has GLASSÓN as a surname so this factor also favors applicant.

The third factor addresses whether there is any other recognized meaning of the term. We quickly dismiss applicant's argument that because Glasson is the name of town in Ireland with a golf course and of a seaport in England, it has other recognized significance. These geographic place names in Ireland and England would not have much impact on prospective purchasers in the United States. See Harris-Intertype, 186 USPQ at 239 (evidence that "Harris" was the name of cities in Arizona, Kansas, Minnesota, Missouri, and Oklahoma and counties in Georgia and Texas did not prevent term from being primarily merely a surname); Sava Research, 32 USPQ2d at 1381 ("[W]e have given little weight to the fact that SAVA is the name of a town in Israel and a river in Bosnia").

³ While we take judicial notice of the dictionary definition attached to applicant's brief, we have not considered applicant's Exhibit B, to which the examining attorney objects, and the online search result attached to its Reply Brief because they should have been submitted prior to the appeal.

Applicant also argues that the "tilde accent produces the feel of a foreign term and indicates to customers that the pronunciation of the mark is 'glass on' or 'glaze on' (suggesting that Applicant's products have a *glass*-like or *glaze*-like finish that goes on other surfaces)".

Applicant's Brief at 5 (emphasis in original). We find that this argument is plausible. For applicant's coatings and chemical compounds, namely, silanes⁴ that may be applied to various products, the suggestion that they are *glass*-like or transparent when applied on products supports a finding that the term has another meaning besides its possible surname significance. See, e.g., Sava Research, 32 USPQ2d at 1381 ("[A]pplicant has also explained that SAVA is an acronym for 'Securing America's Valuable Assets' ... applicant's explanation as to the meaning of SAVA is quite plausible"); United Distillers, 56 USPQ2d at 1222 (In addition to being a surname, HACKLER is a term that means

⁴ Hawley's Condensed Chemical Dictionary, 14th edition (2001), as part of the definition of "silanes," notes that they are used as a "[d]oping agent for solid-state devices; production of amorphous silicon." Amorphous silicon is further described as being made from silane "plus doping agents in a glow discharge tube at low pressure. A film only a few microns in thickness is deposited on a glass or metal substrate. The amorphous product contains about 20% hydrogen. It has been found superior to crystalline silicon in the manufacture of solar cells." We take judicial notice of this definition. University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., 213 USPQ 594, 596 (TTAB 1982), aff'd, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

one who hackles and part of the title of a poem).

Therefore, we find that the third factor favors applicant.

The fourth factor is whether the term has the "look and feel" of a surname. Applicant has applied to register the mark GLASSÖN and not simply GLASSON. There is no evidence that the applied-for term GLASSÖN is a surname. While we cannot give the presence of the tilde in the mark the significance that applicant ascribes to it, we also cannot dismiss it as the examining attorney in essence does. Examining Attorney's Brief at 7 ("The surname significance of a term is not diminished by the fact that the mark is presented with or without a tilde"). Applicant has pointed out that there is a difference in meaning between the words "cañon" (Spanish for "cannon") and "canon" (English term meaning "a regulation or dogma decreed by a church council"). Request for Reconsideration at 4 and Ex. C. Even a slight misspelling (for example, PRESSCOTT instead of PRESCOTT) may diminish the surname significance of a term. In re Mangel Stores Corp., 165 USPSQ 22, 22 (TTAB 1970) ("It is interesting to note, moreover, that the examiner at the oral hearing held in this case admitted that after making an extensive search she was unable to find a single usage of 'PRESSCOTT' as a surname"). We do agree that the presence of the tilde does

create the appearance of a foreign word, and it does detract from the surname "look and feel" of the term. We conclude that in balance this factor favors applicant.

Regarding the fifth factor, if the tilde is considered a stylistic consideration, we have addressed it in our discussion of the fourth factor. Inasmuch as the mark is presented as a typed drawing in an intent-to-use application, there is no other stylization that supports or detracts from the term being considered a surname.

When we consider that "Glasson" is a rare surname, that it may have a suggestive meaning when applied to the goods, that there is no evidence that anyone associated with the applicant has the involved term as a surname, and that it does not have a compelling "look and feel" of a surname, we hold that the term GLASSÕN is not primarily merely a surname.

Finally, "[t]o the extent that there is any doubt on the question of whether the mark would be perceived as primarily merely a surname, we resolve such doubt in favor of the applicant." United Distillers, 56 USPQ2d at 1222; Benthin, 37 USPQ2d at 1334.

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Decision: The Examining Attorney's refusal to register the mark GLASSÖN on the ground that it is primarily merely a surname is reversed.