

THIS DISPOSITION IS NOT  
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THE TTAB

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PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re FA Marketing and Sales, Inc.

Serial No. 78315860

Douglas J. McEvoy of Gifford, Krass, Groh, Sprinkle,  
Anderson & Citkowski, P.C. for FA Marketing and Sales, Inc.

Asmat Khan, Trademark Examining Attorney, Law Office 114  
(K. Margaret Le, Managing Attorney).

Before Hohein, Hairston and Holtzman, Administrative  
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

FA Marketing and Sales, Inc. has applied to register  
the mark KORD-END KLAMP for "adjustable extension cord  
retaining devices for prevention of disengagement of male  
to female adapter plugs."<sup>1</sup>

Registration has been refused pursuant to Section  
2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the

<sup>1</sup> Application Serial No. 78315860, filed October 20, 2003, based  
on applicant's allegation that it has a bona fide intent to use  
the mark in commerce.

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ground that applicant's mark is merely descriptive of the identified goods, and pursuant to Section 2(d) of the Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, if used on the identified goods, so resembles the mark CORD-CLAMP registered on the Supplemental Register for "electrical plug receptacle connector,"<sup>2</sup> as to be likely to cause confusion, mistake or to deceive.

When the refusals were made final, applicant appealed. Applicant and the examining attorney have filed briefs<sup>3</sup>, but no oral hearing was requested.

We turn first to the mere descriptiveness refusal under Section 2(e)(1). The examining attorney contends that applicant's mark KORD-END KLAMP "immediately conveys a characteristic or feature of the applicant's goods, namely, a clamp used to join or grip the male to female adapter plug at the end of an extension cord. The goods are, in fact, cord end clamps." (Final Office action, p. 3).

In support of this refusal, the examining attorney submitted the following definitions from The American Heritage Dictionary of the English Language, Third Edition (1992) (electronic version):

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<sup>2</sup> Registration No. 2,352,918, issued May 23, 2000.

<sup>3</sup> We grant the examining attorney's request to accept the late-filed brief.

**cord:** An insulated, flexible electric wire fitted with a plug or plugs.

**end:** Either extremity of something that has length.

**clamp:** Any of various devices used to join, grip, support, or compress mechanical or structural parts.

According to the examining attorney, "applicant's goods appear to be clamps, or connectors that function as a clamp, attached to the ends of cords, logically where the plugs are located, in order to prevent disengagement of male to female adapter plugs." (Brief, p. 8).

Applicant, in urging reversal of the refusal to register, argues that its use of the letter "K" for "C" in KORD and KLAMP is novel, and that when the terms KORD, END, and KLAMP are combined, the resulting mark KORD-END KLAMP is at most suggestive of the identified goods.

A term is merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. See *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978). A term need not immediately convey an idea of each and every specific feature of the applicant's goods or services in order to be considered merely descriptive; it is enough that the term

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describes one significant attribute, function or property of the goods or services.

Whether a term 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 or is intended to be used on or in connection with those goods or services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use or intended use. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

There is no question that the word "cord" is descriptive of applicant's goods as applicant has identified its goods as adjustable extension cord retaining devices. Also, the words "end" and "clamp" are equally descriptive because applicant's goods constitute a clamp at the end of an extension cord. Further, the terms KORD and KLAMP are likewise descriptive of applicant's goods. Cases have recognized that a slight misspelling does not change a merely descriptive term into a suggestive term. See In re Quik-Print Copy Shops, 616 F.2d 523, 205 USPQ 505, 507 n. 9 (CCPA 1980)(QUIK-PRINT held merely descriptive, "There is no legally significant difference between 'quik' and 'quick'"); and Hi-Shear v. National Automotive Parts

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Association, 152 USPQ 341, 343 (TTAB 1966) (HI-TORQUE "is the phonetic equivalent of the words 'HIGH TORQUE'").

Here, applicant has merely substituted the letter "K" for the letter "C" in CORD and CLAMP to respectively for KORD and KLAMP.

When a mark involves more than a single term, we must consider whether the mark as a whole is merely descriptive and not just the individual elements. Two or more terms which in themselves are merely descriptive may, when combined, form a composite term which is not merely descriptive because the composite is more than the sum of its parts; in such cases, combining the descriptive terms may result in an inventive or incongruous new composite. However, this is not such a case.

Applicant does not suggest with any particularity that the combination of the individual terms evokes a new and unique commercial impression, nor do we find that it does. We find that the mark in its entirety is merely the sum of its merely descriptive components and is equally merely descriptive of applicant's identified goods. When considered in connection with applicant's goods, the term KORD-END KLAMP immediately describes, without conjecture or speculation, a significant feature or function of applicant's goods, namely that they consist of a clamp on

the end of an extension cord to keep whatever adapter is plugged into the extension cord from being disengaged. Nothing requires the exercise of imagination, cogitation, mental processing or gathering of further information in order for purchasers or prospective purchasers of applicant's goods to readily perceive the merely descriptive significance of the term KORD-END KLAMP as it pertains to applicant's goods. When confronted with this term on applicant's goods, purchasers or prospective purchasers would recognize KORD and KLAMP as simple misspellings of the words "cord" and "clamp."

In view of the foregoing, we affirm the mere descriptiveness refusal under Section 2(e)(1).

However, we reverse the examining attorney's Section 2(d) refusal. The cited registration is a Supplemental Register registration. It is settled that a mark registered on the Supplemental Register is entitled to a quite narrow scope of protection and that it will preclude registration of a later-filed mark only when the two marks are substantially similar. See, e.g., *In re The Clorox Co.*, 578 F.2d 305, 198 USPQ 337 (CCPA 1978); *In re Smith and Mehaffey*, 31 USPQ2d 1531 (TTAB 1994); *In re Central Soya Co., Inc.*, 220 USPQ 914 (TTAB 1984); and *In re Hanke & Joachim*, 185 USPQ 188 (TTAB 1975).

We find that applicant's mark is not substantially similar to the prior registered mark. Because applicant's mark KORD-END KLAMP substitutes the letter "K" for "C" to form the terms KORD and KLAMP and adds the word END, this results in a mark that is somewhat different, particularly in appearance, from the cited mark CORD-CLAMP. These differences are sufficient to place applicant's mark outside the scope of protection to be accorded the prior Supplemental Registration mark. Additionally, we are not persuaded on this record that applicant's adjustable extension cord retaining devices for prevention of disengagement of male to female adapter plugs are sufficiently related to registrant's electrical plug receptacle connector. With respect to the relatedness of the goods, the examining attorney argues as follows:

In the instant case, the parties have highly compatible if not identical goods, namely, electrical plug receptacle connectors and a cord retaining device to prevent male to female adapter plug disengagement. The goods appear to be essentially the same, namely connectors for electrical plugs. The goods are of a type that would be readily used together or for the same purpose.

(Final Office Action, p. 2)

The examining attorney submitted excerpts from five articles retrieved from the LEXIS/NEXIS data base for the

query "electrical within 2 words of plug within 2 words of connectors." The excerpts are shown below<sup>4</sup>:

More recently, ESL Power Systems in Yorba Linda, which manufactures electrical plugs, connectors and outlets, moved to Palisades Business Park, bringing about 50 employees to Corona.

Molex Inc., the Lisle-based supplier of plugs and other electrical connectors agreed to acquire the assets and business of Connecteurs Cinch SA, a French company specializing in automotive connection technology.  
([Chicago Business.com](http://Chicago Business.com))

But the trend heated up recently, ESL Power Systems in Yorba Linda, a maker of electrical outlets, plugs and connectors used by heavy industry, announced April 15 it will move to Palisades Park in Corona.  
([The Business Press](http://The Business Press)).

Marinco Specialty Wiring Devices has 30 years of expertise designing and manufacturing electrical connectors, plugs, inlets, outlets, receptacles, and covers.

Check electrical leads, plugs and connectors and replace damaged parts.

We are not convinced that adjustable extension cord retaining devices for prevention of disengagement of male to female adapter plugs, on the one hand, and electrical plug receptacle connectors, on the other hand, are essentially the same products as the examining attorney argues. Moreover, there is no mention of applicant's

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<sup>4</sup> Only two of the excerpts identify the publication in which the article appeared; no publication dates were provided for the articles from which the excerpts were taken.

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specific type of goods in the excerpts submitted by the examining attorney and such excerpts do not establish that goods of the types involved in this appeal emanate from the same source under the same mark. This weighs against a finding of likelihood of confusion.

In sum, we find that confusion is not likely.

**Decision:** The refusal to register under Section 2(e)(1) is affirmed; the refusal to register under Section 2(d) is reversed.