

THIS DISPOSITION IS NOT CITABLE AS
PRECEDENT OF THE TTAB 4/17/98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Conopco, Inc.**

Serial Nos. 74/625,990 and 74/626,187

Peter M. Mendelson for applicant.

Everett E. Fruehling, Trademark Examining Attorney, Law
Office 101 (R. Ellsworth Williams, Managing Attorney).

Before Cissel, Quinn and Walters, Administrative Trademark
Judges.

Opinion by Quinn, Administrative Trademark Judge:

Applications have been filed by Conopco, Inc., doing
business as Van den Bergh Foods Company, to register the
marks ADOLPH'S SEASONING SPREADS and IMPERIAL SEASONING
SPREADS for "vegetable oil and dairy based spreads."¹
Pursuant to the Examining Attorney's request to disclaim
"SEASONING SPREADS", applicant disclaimed the word "SPREADS"
apart from each of the marks.

¹ Application Serial Nos. 74/625,990 and 74/626,187,
respectively, each alleging a bona fide intention to use the mark

The Trademark Examining Attorney has refused registration in each application based on applicant's failure to disclaim both words, that is, "SEASONING SPREADS" apart from each of the marks. The Examining Attorney contends that the term "seasoning spreads," when applied to applicant's products, is merely descriptive of them.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney have filed briefs. Because of the identity of the issues involved in these two appeals, the Board shall decide these cases in one opinion.

Applicant urges that the refusal to register be reversed, contending that the term "seasonings" is, at worst, just suggestive of its products. More specifically, applicant asserts that "seasonings" is a vague term which could refer to any one of a multitude of herbs, spices and/or other flavoring ingredients. Applicant concludes that the "combined terms [seasoning spreads] function as a suggestive, catchy, alliterative source-indicating mark." Applicant contends (also pointing to Food and Drug Administration labeling requirements) that registration of the applied-for mark "would not prevent third parties from referring to the presence of seasonings in their spread products (e.g., 'spread with seasonings')." Applicant has

in commerce. Applicant claims ownership of various previously issued registrations.

Ser No. 74/625,990 and 74/626,187

pointed to two third-party registrations as supportive of its arguments for registration.

The Examining Attorney argues that "the plain meaning of SEASONING is both an ingredient of the goods and describes a feature or purpose of the goods as in the act or process of seasoning food through the use of the applicant's SEASONING SPREADS." In support of the refusal, the Examining Attorney has relied upon dictionary listings for the terms "seasoning" and "spread."

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

The term "seasoning," as defined in *Webster's II New Riverside University Dictionary* (1988), means "something, as a spice or herb, used to enhance the flavor of food; the act or process by which something is seasoned." The term "spread" is defined in the same dictionary as "a food to be layered on bread or crackers."

The common meaning of the term "seasoning" convinces us that it is merely descriptive when applied to applicant's spreads. The plain and readily understood meaning of "seasoning spreads" is that the spreads are flavored with spices, herbs or the like which can then be used on bread and crackers to enhance their flavor. There is nothing in the term "seasoning" as used in "seasoning spreads" which is catchy, indefinite or susceptible to multiple connotations, nor is any imagination or gathering of further information necessary in order for consumers, when confronting the term in connection with applicant's product, to perceive that the spreads contain seasoning of some type. The fact that the particular type of seasoning is not identified is of no consequence here. In re Entenmann's Inc., 15 USPQ2d 1750 (TTAB 1990).

As noted above, applicant has submitted two third-party registrations. For the reasons set forth by the Examining Attorney, the registrations offer little help in making a determination of the merits of this appeal. Our task in

this appeal is to determine, based on the record before us, whether applicant's mark is merely descriptive. As often noted by the Board, each case must be determined on its own set of facts. We obviously are not privy to the records involved in the cited registrations and, moreover, the determination of registrability of a particular mark by the Office cannot control the result in another case involving a different mark for different goods. Likewise, although the case law cited by applicant has been considered, it offers little help in resolving the specific issue presently before us in this appeal.

Decision: The refusal to register in each application is affirmed in the absence of a disclaimer of the descriptive word "seasoning." Applicant is allowed thirty days from the date of this decision to submit a disclaimer of "seasoning spreads" apart from the mark in each application. If the disclaimers should be submitted, this decision will be set aside. Trademark Rule 2.142(g).

R. F. Cissel

T. J. Quinn

C. E. Walters

Administrative Trademark

Ser No. 74/625,990 and 74/626,187

Judges, Trademark Trial
and Appeal Board

Ser No. 74/625,990 and 74/626,187