

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB 12/7/98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Superior of Ohio, Inc.

Serial No. 75/049,029 and 75/049,035

Charles C. Garvey, Jr. of Pravel, Hewitt, Kimbal & Krieger
for Superior of Ohio, Inc.

Andrew P. Baxley, Trademark Examining Attorney, Law Office
104 (Sidney Moskowitz, Managing Attorney).

Before Hanak, Quinn and Hairston, Administrative Trademark
Judges.

Opinion by Hairston, Administrative Trademark Judge:

Superior of Ohio, Inc. has filed applications to
register the marks CROWN SOVEREIGN¹ and SOVEREIGN² for
"automobile dealership services of specialty vehicles,
namely limousines and funeral coaches."

¹ Application Serial No. 75/049,029 filed January 26, 1996, and
alleging a date of first use and first use in commerce in 1961.

² Application Serial No. 75/049,035, filed January 26, 1996, and
alleging a date of first use and first use in commerce in 1961.

The Examining Attorney has finally refused registration in each application on the ground that the specimens submitted by applicant do not show use of the mark in connection with the identified services.

Applicant has appealed and, because both cases involve similar records and the same issue, we will consider them in a single opinion.

It is essentially the Examining Attorney's position that the marks CROWN SOVEREIGN and SOVEREIGN, as used on the specimens of record, identify models of funeral coaches and limousines, and not the services recited in the applications. Applicant submitted in both applications copies of a brochure which features its different models of funeral coaches and limousines. As noted by the Examining Attorney, applicant's only uses of CROWN SOVEREIGN in the brochure is in bold type near a photograph of a funeral coach, and in the description of the funeral coach, as shown below:

Similarly, applicant's only uses of SOVEREIGN in the same brochure is in bold type near photographs of other funeral coaches and limousines, and in the descriptions of those vehicles. The brochure also includes photographs of other models of funeral coaches and limousines along with descriptions of those vehicles, e.g., STATESMAN, DIPLOMAT, and CHANCELLOR.

Thus, the Examining Attorney maintains that:

. . . the applicant's mark is no more a service mark for the applicant's automobile dealership than the CIVIC model designation

is for HONDA dealerships, the COROLLA model designation is for TOYOTA dealerships, the 626 model designation for MAZDA dealerships, or the M3 model designation is for BMW dealerships. Although each of the aforementioned designations identifies a model of automobile, the connection between each mark and automobile dealership services is a multi-staged reasoning process in that the mark identifies the model which one purchases at the automobile dealerships.

(Brief, p. 3)

Applicant, on the other hand, argues that:

When customers see the "Crown Sovereign" [or "Sovereign"] service mark in advertising literature at an automobile dealership, they know that the automobile dealership that they are visiting (or the one which sent them the advertising literature) is a dealer of high quality limousines and funeral coaches. Thus, the mark serves "to identify" the dealership services of the dealer as high quality services and to "distinguish" that dealer's services "from the services of others" whose quality may not be as high."

(Brief, p. 2)

In this case, we agree with the Examining Attorney that the manner of use of CROWN SOVEREIGN and SOVEREIGN in the specimen brochure is so indirectly related to applicant's automobile dealership services that purchasers and prospective purchasers are not likely to perceive these terms as identifying and distinguishing such services. Rather, the clear import of CROWN SOVEREIGN and SOVEREIGN in the specimen brochure is to identify models of funeral

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coaches and limousines which may be purchased at applicant's automobile dealerships. While CROWN SOVEREIGN and SOVEREIGN funeral coaches and limousines may be of the highest quality, and this may in turn suggest to purchasers and prospective purchasers of these vehicles that the automobile dealers who carry them are high quality dealers, this does not warrant a finding that CROWN SOVEREIGN and SOVEREIGN function as service marks to identify automobile dealership services.

In short, purchasers and prospective purchasers of CROWN SOVEREIGN and SOVEREIGN funeral coaches are unlikely to perceive these designations, as used in applicant's specimen brochure, as service marks to identify automobile dealership services of specialty vehicles, namely limousines and funeral coaches.

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Decision: The refusal to register in each application is affirmed.

E. W. Hanak

T. J. Quinn

P. T. Hairston
Administrative Trademark Judges,
Trademark Trial and Appeal Board

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