

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB JULY 21, 00

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Sachiko Tasaka

Serial No. 75/089,990

Sachiko Tasaka, pro se.

Andrew P. Baxley, Trademark Examining Attorney, Law Office 114
(Mary Frances Bruce, Managing Attorney).

Before Cissel, Seeherman and Wendel, Administrative Trademark
Judges.

Opinion by Cissel, Administrative Trademark Judge:

On April 17, 1996, applicant, an individual, filed the
above-referenced application to register "ESSENCE OF HUMANITY
CREDO" on the Principal Register for "a system for growing,
living and managing," in Class 42. The basis for filing the
application was applicant's assertion that she possessed a bona
fide intention to use the mark in connection with these services
in commerce.

Notwithstanding the fact that this is an intent-to-use
application, she enclosed with the application as submitted an

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advertising sales letter she labeled as a "specimen." The letter appears to be promotional literature for the Growth Network, "a club for peace, progress and prosperity...", whose members "promote our Essence Of Humanity Credo—which identifies 10 values for growing, living and managing-by singing our song, 'An Outstanding Me.'"

The Examining Attorney refused registration to applicant on the ground that the activities recited in the application do not constitute services as contemplated by the Trademark Act. The Examining Attorney also required applicant to disclaim the word "CREDO" apart from the mark as shown.

Applicant agreed to an amendment of the application to recite the services as "educational services, namely, conducting classes, seminars, conferences and workshops, in the field of personal growth and life and business management through a system for growing, living and managing," in Class 41. Applicant also disclaimed the word "CREDO" apart from the mark as shown.

The application was passed to publication, and a notice of allowance was subsequently issued. Applicant then filed a statement of use of the mark, reciting the services as set forth in the application and claiming use in interstate commerce beginning on October 3, 1996.

The specimens submitted in support of the statement of use are more advertisements for membership in applicant's Growth Network. The phrase which applicant has applied to register is used in the following manner in these specimens: "The Growth Dollar promotes 10 human values (to be honest, decent, tolerant, progressive, friendly, intelligent, talented, creative, accomplished, and attractive), which we call the Essence Of Humanity Credo.™ Though long recognized, these values are too often missing in our daily lives."

The Examining Attorney advised applicant that the specimens did not show use of the term sought to be registered as a mark for the specified services. Substitute specimens meeting this requirement were required.

Responsive to this requirement, applicant submitted as an additional specimen an audio cassette tape and written lyrics of the song she referred to in the promotional materials of record. She argued that the song should be considered as a "teaching mechanism," and argued that "the Essence of Humanity Credo can be taught to people," that classes in this subject "may, in fact, already be underway," but that she had no way of knowing about them, because the teachers of such classes did not have to notify her that they were teaching her value system.

The Examining Attorney then made final the requirement for specimens showing use of the phrase as a mark in connection with

the services specified in the application. Applicant filed a timely notice of appeal and then an appeal brief. The Examining Attorney filed his brief, and applicant responded to it, but applicant subsequently withdrew her request for an oral hearing before the Board.

Accordingly, we have resolved this appeal based on consideration of the written arguments and record in the application before us.

Because none of the materials made of record by applicant shows use of the term sought to be registered as a service mark, identifying the source of the educational services set forth in the application and distinguishing those services from similar services rendered by others, the requirement for acceptable specimens must be affirmed.

Sections 1(a)(1)(C) and 1(d)(1) of the Lanham Act require an applicant to furnish specimens of the mark as it is used.

Simply put, the materials submitted with this application do not show the term sought to be registered used as a service mark to identify the services set forth in the application. Instead, the specimens show the term "ESSENCE OF HUMANITY CREDO" used only to identify a system of values that applicant promotes. The specimens do not show the term used in the sale or advertising of any actual "classes, seminars, conferences or workshops in the field of personal growth and life and business

management through a system for growing, living and managing." As the Examining Attorney has pointed out, the specimens refer only to hypothetical or prospective educational services. They provide no indication as to when or where any educational services will be conducted. In fact, in her brief, applicant contends that rather than conducting the classes and workshops herself, the teaching of her system is done by means of her writings and recordings. The fact that readers of the materials bearing the term sought to be registered may become educated in the field of personal growth and life and business management through applicant's system of values does not convert applicant's use of the term into use as a service mark for the educational services specified in the statement of use. See, e.g., *In re Walker Research, Inc.*, 228 USPQ 691 (TTAB 1986). Moreover, applicant admits that she has no way of knowing who may be offering classes on the subject of her value system, and that, in any event, she does not intend to control such services.

In summary, the specimens show "ESSENCE OF HUMANITY CREDO" used to identify the value system which applicant promotes, rather than the educational services set forth in the

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application. Accordingly, the requirement for acceptable specimens under Trademark Rules 2.56, 2.58 and 2.88 (b)(2) is affirmed.

R. F. Cissel

E. J. Seeherman

H. R. Wendel
Administrative Trademark Judges
Trademark Trial and Appeal Board

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