

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB MAY 23, 00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Inter Valley Health Plan**

Serial No. 75/214,217

George W. Hoover of Blakeley, Sokoloff, Taylor & Zafman for
Inter Valley Health Plan.

Amos Thomas Matthews, Trademark Examining Attorney, Law
Office 108 (**David Shallant**, Managing Attorney).

Before **Simms**, Hanak and Bucher, Administrative Trademark
Judges.

Opinion by Simms, Administrative Trademark Judge:

Inter Valley Health Plan (applicant), a California corporation, has appealed from the final refusal of the Trademark Examining Attorney to register the mark SILVER SCREENINGS for educational and entertainment services, namely, conducting seminars in the field of health care insurance.¹ The Examining Attorney has made final a requirement to submit acceptable service mark specimens

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which show use of the mark SILVER SCREENINGS in connection with the seminar services set forth in applicant's application. The Examining Attorney contends that the specimens are unacceptable as evidence of service mark use because they are merely advertising material which do not make reference to applicant's educational services of conducting seminars in the field of health care insurance. The Examining Attorney notes that the specimens of record, of which a portion is reproduced below, invite recipients of the fliers to enjoy a classic film and invite them to a presentation to get them to join applicant's health plan, but that this "sales presentation" is not a "seminar."

¹ Application Serial No. 75/214,217, filed December 17, 1996, claiming use and use in commerce since October 1996.

The Examining Attorney argues that there must be a direct association between the asserted mark and the identified services and that, in this case, the specimens are not acceptable because they do not show use of the service mark in connection with the identified services.

As used[,] potential purchasers, Medicare beneficiaries, would view the specimens as an advertising campaign, an invitation to view a private motion picture screening. In addition to the motion picture screening, consumers would be informed of applicant's health care program for seniors in order to interest them in obtaining such services. The specimens of record evidence nothing more than a sale [sic] presentation of applicant's health care program. There is nothing in the specimens of record, which would create in the mind of the purchaser an association between applicant's mark and the identified [services]..

...Applicant points to the words "come see what you've been missing" and conclude[s] that the specimens clearly "invite the recipient to a meeting" at which information concerning health care insurance will be given...

Here the advertising flyer indicates that this is only a sale[s] presentation of applicant's health plan services... Consumers who encounter the advertising flyer are likely to believe that it serves as an invitation to attend a private motion picture screening and a presentation of applicant's health care program. The motion picture is used as an enticement for consumers to determine whether they qualify for such health plan service. This is not a meeting [at] which information is given and discussed, but a presentation by applicant to get prospective consumers to join its health plan. This is not a seminar.

Specimens like the present record which shows the alleged mark but which makes no reference to the services offered or performed thereunder is not evidence of service mark use...

Examining Attorney's appeal brief, 3-4.

Applicant, on the other hand, relying upon a definition of "seminar" as "a meeting for giving and discussing information," argues that the specimens admittedly show that an informational presentation is given in conjunction with a motion picture screening. Applicant contends that the words "come see what you've been missing" clearly invite recipients to a meeting or presentation at which information concerning health care insurance ("informational seminar") will be given and discussed. It is applicant's position that a sales presentation to a large audience is a "seminar." Applicant argues that the fact that a motion picture will be shown does not alter the fact that the services identified in the application are referred to in the specimens.

We agree. While the Examining Attorney has taken the position that the "sales presentation" which applicant offers is not a "seminar," we believe that the Examining Attorney is drawing too fine a distinction between a "sales presentation" and a "seminar," which is a meeting for giving and

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discussing information. A sales presentation, it seems to us, may include a meeting for giving and discussing information. The mark SILVER SCREENINGS is, therefore, used on specimens to identify a showing of a movie as well as, the Examining Attorney concedes, a presentation of information about applicant's health care plan. This is sufficient, in our view, to constitute specimens supporting applicant's educational services.² Accordingly, we believe that the Examining Attorney's requirement for additional specimens is unjustified.

Decision: The refusal of registration is reversed.

R. L. Simms

E. W. Hanak

D. E. Bucher
Administrative
Trademark Judges,
Trademark Trial and
Appeal

² The Examining Attorney has not argued, and we therefore need not address, the question of whether the promotion of one's own services in this way is indeed a "service" in connection with which one may register a mark.