

**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 17  
PTH

11/6/00

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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In re John A. Galbreath  
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Serial No. 75/625,646  
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John A. Galbreath, pro se.

Kathleen L. Kolacz, Trademark Examining Attorney, Law  
Office 114 (K. Margaret Le, Managing Attorney).

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Before Hairston, Bottorff and Rogers, Administrative  
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

An application has been filed by John A. Galbreath to register the mark SAFE-T-BUCKLE for "plastic buckle fasteners for use in child strollers, high chairs, child carriers, changing stations, shopping cart restraint systems and similar articles."<sup>1</sup>

The Trademark Examining Attorney has refused registration under Section 2(e)(1) of the Trademark Act on

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<sup>1</sup> Serial No. 75/625,646 filed January 25, 1999, which alleges a bona fide intention to use the mark in commerce.

the ground that applicant's mark, when applied to the identified goods, is merely descriptive thereof. When the refusal was made final, applicant appealed. Applicant and the Examining Attorney have filed briefs.<sup>2</sup>

According to the Examining Attorney, the term SAFE-T-BUCKLE would be perceived by purchasers as nothing more than a novel spelling of safety buckle and is merely descriptive of applicant's goods because "it immediately identifies that such goods are buckles for safety purposes." (Brief, p. 4). In support of the refusal, the Examining Attorney made of record dictionary definitions of the words "safety" and "buckle."<sup>3</sup> In addition, she submitted several excerpts from the NEXIS data base which refer to "safety buckle(s)." The following are representative samples of the excerpts:

In one case, a malfunctioning safety buckle in an infant carseat that causes the belt to unsnap at random might be covered . . .  
(The Legal Intelligencer, July 27, 1998);

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<sup>2</sup> We note that applicant, for the first time with its brief, submitted certain exhibits. The Board, in an order mailed June 13, 2000, advised applicant that such materials would not be considered because they should have been submitted with a request for reconsideration rather than as attachments to applicant's brief. Accordingly, we have not considered these materials in reaching our decision herein.

<sup>3</sup> The American Heritage Dictionary of the English Language (3d. ed. 1992) defines "**safety**" as "the condition of being safe; freedom from danger, risk or injury" and "**buckle**" as "a clasp for fastening two ends, as of straps or a belt, in which a device attached to one of the ends is fitted or coupled to the other."

Children as young as two years old can release the most common designs of safety buckles on strollers, so keep a close watch, says a Temple University professor. (Chicago Sun-Times, November 16, 1997);

I put on a life vest, zipped it up, and even snapped together the three safety buckles that assure a firm fit when you wear the buoyant garment. (The Washington Times, August 22, 1994); and

Rachel's parents believe that she was not properly strapped into the seat. They said a piece of the safety buckle found under the ride the morning after the accident strengthened that belief. (The Dallas Morning News, October 16, 1992).

Applicant, in urging reversal of the refusal to register, argues that his SAFE-T-BUCKLE mark is unique; that the NEXIS excerpts are not pertinent because the products described therein are nothing like his goods, but instead are conventional buckles attached to safety belts, where the "safety" element is derived from the belt and not the buckle. According to applicant, goods of the type involved herein are referred to simply as buckles, and not safety buckles. Finally, applicant argues that his mark should be registered because the Office has registered many other marks which contain the term "SAFE-T" for a variety

of products. Applicant submitted copies of ten of these third-party registrations.

At the outset, we should point out that the issue in this case is whether the term SAFE-T-BUCKLE is merely descriptive of the identified goods and not whether the term is the generic name for such goods. In this regard, it is well settled that a term is considered to be merely descriptive of goods or services, 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 or services. 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 or services in order for it to be considered 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 or services for which registration is sought. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

It is clear, and applicant has acknowledged, that goods such as his are commonly referred to as buckles.

Moreover, applicant does not dispute that the principal function of his buckles is "safety," that is, to keep a child free from danger, risk or injury.

The term SAFE-T-BUCKLE is the phonetic equivalent of the safety buckle, and when purchasers of children's items encounter SAFE-T-BUCKLE used in connection with plastic buckle fasteners for use in child strollers, high chairs, child carriers, changing stations, shopping cart restraint systems and similar articles, we have no doubt that the designation would immediately convey to them information about the primary feature or function of applicant's goods, namely, that the buckles are designed for safety. Accordingly, applicant's mark, when applied to his goods, is merely descriptive of them. See, e.g., *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982). [TOOBS, the phonetic equivalent of the word "tubes," is merely descriptive of bathroom and kitchen fixtures in the shape of tubes].

In reaching our decision, we have not overlooked applicant's criticism of the NEXIS excerpts made of record by the Examining Attorney. We find these NEXIS excerpts to be probative, however, because we are not convinced that the buckles referred to therein are in no way designed for safety. On the contrary, it seems to us that any buckles

for use on infant car seats, child strollers, life vests, and amusement rides would most certainly be designed for safety.

With respect to the third-party registrations, while uniform treatment under the Trademark Act is an administrative goal, our task in this appeal is to determine, based upon the record before us, whether applicant's mark is registrable. As often stated, each case must be decided on its own set of facts. We are not privy to the file records of these third-party registrations and thus have no way of knowing the reasons why such registrations were allowed.

**Decision:** The refusal to register is affirmed.

P. T. Hairston

C. M. Bottorff

G. F. Rogers  
Administrative Trademark Judges  
Trademark Trial and Appeal Board