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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re The Melting Pot Corp.

Serial No. 75/787,879

James C. Wray for The Melting Pot Corp.

Edward Nelson, Trademark Examining Attorney, Law Office 114
(K. Margaret Lee, Managing Attorney).

Before Simms, Hanak and Hairston, Administrative Trademark
Judges.

Opinion by Hairston, Administrative Trademark Judge:

The Melting Pot Corp. has filed an application to
register PBC POSTAL BUSINESS CENTER and design as shown
below,



**PBC POSTAL
BUSINESS CENTER**

for "providing for the rental of mail boxes, mailing articles and packaging articles for transportation."¹

Applicant has appealed the Trademark Examining Attorney's requirement that applicant disclaim POSTAL BUSINESS CENTER apart from the mark as shown, and his final refusal to register the mark absent compliance with the disclaimer requirement. Trademark Act Section 6, 15 U.S.C. §1056. Applicant and the Examining Attorney have filed briefs. No oral hearing was requested.

It is the Examining Attorney's position that the phrase "POSTAL BUSINESS CENTER" is merely descriptive of applicant's recited services under Section 2(e)(1), 15 U.S.C. §1052(e)(1). According to the Examining Attorney, POSTAL BUSINESS CENTER "describes the fact that applicant is providing a business establishment or center which is the location from which or by which postal business can be transacted." (Brief, p. 2). In support of the refusal to register, the Examining Attorney submitted the following definitions taken from The American Heritage Dictionary of the English Language (3d ed. 1992):

postal: *Of or relating to a post office or mail service.*

¹ Serial No. 75/787,879, filed August 31, 1999, based on use of the mark in commerce, alleging first use and first use in commerce at least as early as July 1997.

business: no. 3. A commercial enterprise or establishment; no. 5 Commercial dealings; patronage.

center: no. no. 5.a. A place where a particular activity or service is concentrated.

Further, the Examining Attorney made of record the following four excerpts from the NEXIS database which refer to "postal business (center)":

"One might think that electronic mail would impact the **postal business**. But mail's been around for years, and the volume of mail has continued to grow . . ."
(The Deseret News, April 14, 2000);

All are available free at your local post office or **Postal Business Center**.
(DM News, April 10, 2000);

Mail Boxes is the largest franchiser of **postal-business** stores, with about 4,100 locations in 29 countries.
(The San Diego Union-Tribune, March 31, 2000);
and

Some students have considered going into the **postal business** in the future, and they feel the postal work is preparing them for the job.
(The Des Moines Register, March 8, 2000).

Applicant, in urging reversal of the refusal to register, argues that the Examining Attorney has dissected the phrase POSTAL BUSINESS CENTER into its component parts, and that POSTAL BUSINESS CENTER, when considered as a whole, is an incongruous combination; and that the Examining Attorney's evidence is insufficient to establish

that the phrase is merely descriptive of applicant's services.

A term is deemed merely descriptive of goods or services, within the meaning of Trademark Act Section 2(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. See, e.g., *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987), and *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. Whether a phrase is merely descriptive is determined not in the abstract but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with those goods or services and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use. *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979).

We have carefully considered the evidence of record and the arguments made by applicant and the Examining

Attorney, and we find that POSTAL BUSINESS CENTER is merely descriptive as applied to applicant's services, and that it therefore must be disclaimed. We find that each of the words, POSTAL, BUSINESS, and CENTER is merely descriptive of the services, and that the composite term POSTAL BUSINESS CENTER is likewise merely descriptive. The word POSTAL describes a feature or characteristic of applicant's services in that they involve the rental of mail boxes and mailing articles. In addition, BUSINESS is descriptive of applicant's services, which are commercial in nature. Likewise, we find that CENTER is merely descriptive because it describes the place where applicant's services are rendered. Also, three of the NEXIS excerpts show use of "postal business" to describe mail services.²

We are not persuaded by applicant's contention that the Examining Attorney's mere descriptiveness finding is based on an impermissible dissection of POSTAL BUSINESS CENTER into its component parts. While we consider the individual terms, it is the mark in its entirety that must be considered in determining whether the mark is merely descriptive. *P.D. Beckwith, Inc. v. Commissioner*, 252 USPQ

² The remaining excerpt shows the phrase "Postal Business Center." While in some instances the use of capital letters may indicate that a phrase is being used as a trademark, it is not exactly clear from this excerpt how "Postal Business Center" is being used.

538, 545-46 (1920). However, "[i]t is perfectly acceptable to separate a compound mark and discuss the implications of each part thereof . . . provided that the ultimate determination is made on the basis of the mark in its entirety." In re Hester Industries, Inc., 230 USPQ 797, 798 n. 5 (TTAB 1986). In this case, we find that the merely descriptive terms that comprise applicant's mark, i.e., POSTAL, BUSINESS and CENTER are likewise merely descriptive when considered together. The phrase POSTAL BUSINESS CENTER immediately conveys to purchasers and prospective purchasers of applicant's services that applicant is operating a center where businesses or other commercial establishments may post and receive their mail. Further, contrary to applicant, we find nothing incongruous about the combined phrase POSTAL BUSINESS CENTER as applied to the recited services.

As for the asserted "uniqueness" of the phrase POSTAL BUSINESS CENTER, it is well settled that the fact that an applicant may be the first and only user of a term does not justify registration of the term where the only significance projected by the term is merely descriptive, as we find to be the case here. See In re National Shooting Sports Foundation, Inc., 219 USPQ 1018 (TTAB 1983).

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Decision: The requirement for a disclaimer of POSTAL BUSINESS CENTER, and the refusal to register based on applicant's failure to submit such disclaimer, are affirmed. However, in the event that applicant submits the required disclaimer within thirty days of the mailing date of this decision, the refusal to register will be set aside, the disclaimer will be entered, and the application will proceed to publication.