

THIS DECISION IS NOT
CITABLE AS PRECEDENT
OF THE TTAB

Paper No. 14

Mailed: October 4, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Manhattan Scientifics, Inc.

Serial No. 76/039,649

James C. Wray for applicant.

Johanna B. Robinson, Trademark Examining Attorney, Law
Office 104 (Sidney I. Moskowitz, Managing Attorney).

Before Cissel, Seeherman and Quinn, Administrative
Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application has been filed to register the mark
HYDROCYCLE for goods identified as "operator controlled
motor propelled road vehicles, namely, hydrogen fueled
bicycles."¹

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

¹ Application Serial No. 76/039,649, filed May 3, 2000, alleging
a bona fide intention to use the mark in commerce.

the ground that applicant's mark, if applied to applicant's goods, would be merely descriptive of them.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney filed briefs. An oral hearing was not requested.

In urging that the refusal to register be reversed, applicant argues that its mark does not convey any information about the goods with any degree of particularity. Applicant contends that the combination of terms is ambiguous and unclear and that, therefore, the mark is just suggestive. Applicant points out that none of the evidence of record shows any uses of the specific combination of terms sought to be registered herein. Thus, according to applicant, others in the field do not have a need to use the combination to describe their goods. Applicant submitted dictionary listings of "hydro."

The Examining Attorney asserts that "hydro" is an abbreviation of the term "hydrogen," that "cycle" is an abbreviation of "bicycle," and, accordingly, that the combination of "hydro" and "cycle" results in a mark that as a whole merely describes a hydrogen-fueled bicycle. In support of the refusal, the Examining Attorney submitted dictionary listings of "hydro" and "cycle," excerpts

retrieved from the NEXIS database, and information about applicant's product found on applicant's website.

It is well settled that a term is considered to be merely descriptive of goods, 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, use or intended use of the goods. 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 in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or feature about them. Moreover, whether a term is merely descriptive is determined not in the abstract but in relation to the goods for which registration is sought. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

The term "hydro" is defined, in pertinent part, as "hydrogen." The term "cycle" is defined, in pertinent part, as "a bicycle, motorcycle, or similar vehicle." The American Heritage Dictionary of the English Language (3rd ed. 1992).

Applicant's product literature and the NEXIS evidence of record establish that applicant and others in the field

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have developed hydrogen-fueled bicycles. The mark HYDROCYCLE, as applied to such goods, immediately describes, without conjecture or speculation, a significant feature or characteristic of applicant's goods, namely that they are bicycles powered by hydrogen fuel. Nothing requires the exercise of imagination, mental processing or gathering of further information in order for prospective purchasers to readily perceive the merely descriptive significance of the term HYDROCYCLE as it pertains to applicant's goods.

Applicant's argument that the mark is capable of different meanings is not persuasive. We recognize that the term "hydro" also means "water," and that the only listing of the term "hydrocycle" in the dictionary shows it defined as "a cycle for riding on water." In analyzing mere descriptiveness, however, we must consider the mark as applied to the specific goods identified in the application, namely, hydrogen-fueled bicycles.

Decision: The refusal to register is affirmed.