

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Global Locate, Inc.

Serial No. 76/118,576

Joel S. Gooch of Moser, Patterson & Sheridan for applicant.

Barbara A. Gaynor, Trademark Examining Attorney, Law Office 115.

Before Hanak, Chapman and Holtzman, Administrative Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

Global Locate, Inc. (applicant) seeks to register GLOBAL LOCATE in typed drawing form for services which were ultimately identified as follows: "Identifying the geographic position of persons or objects using satellite positioning systems." The intent-to-use application was filed on August 29, 2000.

Citing Section 2(e)(1) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's mark is merely descriptive of applicant's services. When the refusal to register was made final, applicant appealed to this Board. Applicant and the

Examining Attorney filed briefs. Applicant did not request a hearing.

As has been stated repeatedly, "a term is merely descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods [or services]." In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); Abercrombie & Fitch Co. v. Hunting World, Inc., 537 F.2d 4, 189 USPQ 759, 765 (2nd Cir. 1976). Moreover, it should be noted that the descriptiveness of a term is not decided in the abstract, but rather is decided in relationship to the goods or services for which registration is sought. Abcor Development, 200 USPQ at 218. Finally, it should be noted that a word or phrase can be "descriptive though it merely describes one of the qualities or properties of the goods [or services]." In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987).

At the outset, one point should be clarified. As just noted, the descriptiveness of a term is not decided in the abstract, but rather is decided in relationship to the goods or services for which registration is sought. At pages 9 and 10 of its brief, applicant recognizes this correct test for determining descriptiveness when it states that "the term applied for must be 'analyzed, not in the

abstract, but rather, in relation to the goods and/or services encompassed by the [application].'" However, at page 14 of its brief applicant articulates an incorrect test when it states that "a potential consumer faced with the term GLOBAL LOCATE would not immediately think of the services of the applicant, but, might instead think of a product that is used for locating a file in a computer system hard drive, or server, or lateral area network (LAN) as done in the Computer Sciences field."

To be perfectly clear, in our analysis we will correctly assume that a consumer knowing of applicant's services (identifying the geographic position of persons or objects using satellite positioning systems) would, upon seeing the term GLOBAL LOCATE, forthwith understand at least one quality or characteristic of applicant's services.

In support of her refusal to register, the Examining Attorney has made of record dictionary definitions of the words "global" and "locate," as well as numerous newspaper and magazine stories wherein the terms "global locator," "global locating" or "global location" appear as terms of art in the Global Positioning System (GPS) field.

Considering first the dictionary definitions, we note at the outset that at page 12 of its brief applicant

acknowledges that "one of the commonly used tests [for determining descriptiveness] is a reference to the dictionary." The Examining Attorney has made of record two dictionary definitions for the words "global" and "locate" taken from The American Heritage Dictionary of the English Language (3rd ed. 1992). The word "global" is defined as follows: "Of, relating to, or involving the entire earth; worldwide." The word "locate" is defined as follows: "To determine or specify the position or limits of." Relying simply upon these dictionary definitions, we find that applicant's "mark" GLOBAL LOCATE, as applied to "identifying the geographic position of persons or objects using satellite positioning systems," immediately informs consumers that applicant's services will locate (identify) the geographic position of persons or objects anywhere in the world (i.e. on a global basis). No thought or imagination is required on the part of a consumer of applicant's services to come to this conclusion.

Applicant argues at pages 14 and 15 of its brief that the words "global" and "locate" both "have a multiplicity of meanings." Applicant then suggests that simply faced with the term GLOBAL LOCATE, people might think of a product that is used for locating a file in a computer system, or a service that will locate a residence for a

person or locate a new headquarters for a business. Again, applicant's mistake is that it is analyzing the term GLOBAL LOCATE in the abstract and not in connection with the services for which registration is sought.

If we had any doubt as to the mere descriptiveness of the term GLOBAL LOCATE as applied to applicant's services, and we do not, said doubt is totally eliminated when one reviews the plethora of newspaper and magazine stories made of record by the Examining Attorney which use the terms "global locator," "global locating" and "global location" in connection with services extremely similar to if not identical to applicant's services. Obviously, the words "locator," "locating" and "location" are but variations of the second word in applicant's "mark," namely, LOCATE.

Decision: The refusal to register is affirmed.