

THIS OPINION IS NOT A  
PRECEDENT OF THE  
TTAB

Mailed:  
18 September 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Schuler Pressen GmbH & Co. KG

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Serial No. 76356484

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On Request for Reconsideration

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Lynne M.J. Boisineau of J. Mark Holland & Associates for  
Schuler Pressen GmbH & Co. KG.

John S. Yard, Trademark Examining Attorney, Law Office 115  
(Tomas V. Vlcek, Managing Attorney).

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Before Grendel, Drost, and Taylor, Administrative Trademark  
Judges.

Opinion by Drost, Administrative Trademark Judge:

Applicant, Schuler Pressen GmbH & Co. KG, now seeks  
reconsideration of the board's decision affirming the  
examining attorney's refusal to register applicant's mark  
on the ground that the term COMPACT CROSSBAR is merely  
descriptive when used on or in association with applicant's  
identified goods and services.

To the extent that the board has addressed most of applicant's points in the original decision, there is no need for a further discussion in this decision. Applicant does argue that its term COMPACT CROSSBAR "is susceptible to suggesting at least one other meaning: Shortening the manufacturing process in view of the fact that there are no 'idle stations.' These multiple alternative meanings indicate that the mark is not merely descriptive but instead is registrable." Request for Reconsideration at 2-3.

We must admit that we find it difficult to see that prospective purchasers are likely to discern this meaning when applicant's mark is used on or in association with applicant's goods and services. The evidence discussed in the original decision shows that crossbar presses can be large. [www.metalformingmagazine.com](http://www.metalformingmagazine.com) ("Every major automobile company worldwide has invested in large **crossbar press** equipment...)" However, there are also crossbar presses that are smaller, or more compact.

A typical stamping line of this type normally consists of a destacker, the crossbar transfer press with its four to six die stations and an end-of-line process. Advantages...

- Less floor space is required as a result of **compact** line design.

[www.metalformingmagazine.com](http://www.metalformingmagazine.com).

Applicant's mark would immediately describe this type of press and related services. As such, the term is merely descriptive.

Similarly, that applicant can take the dictionary definitions of the individual words in the term and come up with a meaning that makes no sense in connection with the services recited in the application does not mandate a different conclusion on the issue of mere descriptiveness. As stated above, the determination of descriptiveness is made in the context of the identified services, and the meaning of "ETHNIC ACCENTS" in connection with applicant's services is clearly that of home furnishings or decorations relating to various ethnicities.

*In re Ethnic Home Lifestyles Corp.*, 70 USPQ2d 1156, 1159 (TTAB 2003). See also *In re Time Solutions Inc.*, 33 USPQ2d 1156, 1158 (TTAB 1994).

When consumers encounter applicant's mark, YOUR HEALTH INSURANCE MANAGER, used in the context of applicant's advertising, which describes applicant's goods as "new PC software to manage your medical records and health insurance" and lists the various tasks performed by the software programs, as recited above, we have no doubt that the mark will immediately convey to them information concerning a significant feature or function of applicant's programs, namely, that they manage, i.e., handle with skill, personal health insurance matters.

In the alternative, applicant requests that the board "remand the application back to the Examining Attorney so that Applicant can amend to the Supplemental Register." Request for Reconsideration at 4. The Trademark Rules provide:

An application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under §6 of the Act of 1946 or upon order of the Director, but a petition to the Director to reopen an application will be considered only upon a showing of sufficient cause for consideration of any matter not already adjudicated.

37 CFR § 2.142(g).

Applicant's request for reconsideration, to the extent it seeks a remand, is also denied. The board is without authority to remand the case for further prosecution. See TBMP § 1218 (2d ed. rev. 2004) ("An application may not be 'reopened,' that is, an applicant may not amend its application, or submit additional evidence, at this stage, except in two very limited situations" identified above).

Entirely aside from the merits of appellant's request, the Board has no jurisdiction under the Trademark Rules of Practice to remand an application to the Examining Attorney after a final decision has been rendered where the purpose of such remand would be to reopen the application.

*In re Johanna Farms, Inc.*, 223 USPQ 459, 460 (TTAB 1984).

See also *In re Phillips-Van Heusen Corp.*, 63 USPQ2d 1047, 1047 n.2 (TTAB 2002).

Therefore, applicant's request for reconsideration is denied.