

Mailed:

**THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT
OF THE TTAB**

May 26, 2004
Paper No. 7
GDH/gdh

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Pierce Products, LLC**

Serial No. 76447144

Dennis Pierce, President, for Pierce Products, LLC.

**Caroline Fong Weimer, Trademark Examining Attorney, Law Office
115 (Tom Vlcek, Managing Attorney).**

Before **Quinn, Hohein and Holtzman**, Administrative Trademark
Judges.

Opinion by **Hohein**, Administrative Trademark Judge:

Pierce Products, LLC has filed an application to register the term "PC CADDY" for "a plastic container designed solely for use with computers and computer printers attached to same as an accessory to hold notes and memoranda."¹

Registration has been finally refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that, when used in connection with applicant's product, the term "PC CADDY" is merely descriptive thereof.

¹ Ser. No. 76447144, filed on September 15, 2002, which is based on an allegation of a bona fide intention to use the term "PC CADDY" in commerce.

Applicant has appealed. Briefs have been filed, but an oral hearing was not requested. We affirm the refusal to register.

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 forthwith conveys information concerning any significant ingredient, quality, characteristic, feature, function, purpose, subject matter 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 to be 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, the context in which it is being used or is intended to be 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 such use. See *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). Thus, "[w]hether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re American Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

Applicant contends that, notwithstanding the dictionary definitions made of record by the Examining Attorney of the terms "PC" and "CADDY," consumers would regard the term "PC CADDY" as suggestive of its product because it "simply does not result in the instantaneous 'click' required." Specifically, referring to the statement in its response to the initial Office Action that, when its former attorney "ask[ed] the question (as applicant did in his hometown), 'With what would you identify a product called PC CADDY[,'] you will hear ten different answers, as did applicant," with "none even close to nor characteristic of" the applicant's product, applicant insists that its "'man on the street' evidence" clearly demonstrates that the term "PC CADDY" does not immediately convey any significant information about its product.

The Examining Attorney, on the other hand, maintains in her brief that "applicant has combined two descriptive terms to form its intended mark," but that "the combination does not result in any incongruity." Instead, according to the Examining Attorney, applicant simply "has combined the descriptive words for their descriptive meaning." As evidence of consumer understanding of the meaning of the term "PC CADDY" in conjunction with applicant's product, the Examining Attorney has made of record and relies upon, *inter alia*, definitions from (i) The American Heritage Dictionary of the English Language (3d ed. 1992), which respectively list "PC" as an abbreviation for "[p]ersonal computer" and "caddy" as a noun signifying "[a] small container, such as a box, used especially for holding tea"; and

(ii) the Merriam-Webster Dictionary (unabridged on-line ed.), which defines "caddy" as "1 : a small box, can, or chest used especially for holding tea in 2 : a container or device for storing or holding objects when they are not in use." In view thereof, the Examining Attorney contends that "no imagination is needed to figure out exactly the nature of the [applicant's] goods" since, when considered "in context, it is clear that Applicant's goods are caddies to be used with personal computers."

Upon consideration of the evidence and arguments presented, we agree with the Examining Attorney that, when considered in its entirety, the term "PC CADDY" is merely descriptive of "a plastic container designed solely for use with computers and computer printers attached to same as an accessory to hold notes and memoranda." Such term, as confirmed by the dictionary definitions, immediately conveys, without speculation or conjecture, that the purpose or use of applicant's PC accessory product is that of a container for attachment to a personal computer for holding or storing objects like notes and memoranda when not in use. Nothing in the term "PC CADDY" is incongruous, ambiguous or suggestive, nor is there anything which would require the exercise of imagination, cogitation or mental processing or necessitate the gathering of further information in order for the merely descriptive significance thereof to be readily apparent to consumers of applicant's product. The term, instead, conveys forthwith that applicant's product is a caddy or holding container for a PC or personal computer.

Ser. No. 76447144

Decision: The refusal under Section 2(e)(1) is affirmed.