

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Classic Media, Inc.

Serial No. 76501640

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(Thomas G. Howell, Managing Attorney).

Before Seeherman, Quinn and Walters, Administrative
Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application was filed by Classic Media, Inc. to register the mark SATURDAY MORNING T.V. for "motion picture films featuring classic television programs; cinematographic films for television featuring classic television programs; pre-recorded video cassettes; video tapes, video discs and DVDs, disc phonograph records, compact discs, audio tapes and audio cassettes featuring classic television programs."¹

¹ Application Serial No. 76501640, filed March 28, 2003, based on an allegation of a bona fide intention to use the mark in commerce.

The trademark examining attorney refused registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that applicant's mark is merely descriptive of the goods.

When the refusal was made final, applicant appealed. Applicant and the examining attorney filed briefs.

Applicant claims that "it owns a wide variety of classic television programming that includes animation, as well as live action series [which] includes such famous television names as 'Mr. Magoo,' 'Casper & Friends,' 'The Lone Ranger,' 'Lassie,' 'Sgt. Preston of the Yukon,' and 'Shari Lewis & Friends (Lambchop).'" (Brief, p. 1).

Applicant argues that its mark

is intended to be used on a compilation of classic television shows which may include animation as well as any of the above referenced shows. Such product will have nostalgic appeal to the older viewer who may remember watching these programs as children. The mark SATURDAY MORNING T.V. is an attempt to remind the potential buyer of a carefree time of television viewing, not an attempt to describe television programs shown only on Saturday mornings...In short, SATURDAY MORNING T.V. is meant to invoke, in the mind of the consumer, the thought of "classic" television.

(Brief, pp. 1-2). Applicant, while conceding that "the independent terms of the mark may be viewed as descriptive," contends that the mark as a whole has

"significant suggestive meaning," namely "of a certain genre of programming." (Brief, p. 2). Thus, applicant contends the mark is not merely descriptive of the goods.

The examining attorney maintains that the mark merely describes goods featuring television programs that were once shown on Saturday mornings. According to the examining attorney,

given the time and nature of the day, "Saturday mornings" refer to the period when certain types of programs, like cartoons, are aired. In fact, some of the "famous" shows listed by the Applicant as part of its SATURDAY MORNING T.V. include cartoons, like "Mr. Magoo" and "Casper & Friends," as the type of programming that typically aired on Saturday morning television. The Applicant has admitted that the proposed mark identifies a genre of television programming and has acknowledged that its product includes programming "that typically aired on Saturday morning."

(Brief, p. 3). In support of the refusal, the examining attorney submitted dictionary definitions of "Saturday" and "morning." The American Heritage Dictionary of the English Language (3d ed. 1992).

A term is 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

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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). A term need not immediately convey an idea of each and every specific feature of the applicant's goods or services in order to be considered merely descriptive; it is enough that the term describes one significant attribute, function or property of the goods or services. See *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); and *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

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 its use or intended use. That a term may have other meanings in different contexts is not controlling. *In re Polo International Inc.*, 51 USPQ2d 1061 (TTAB 1999); and *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). It is settled that:

....the question of whether a mark is merely descriptive must be determined not in the abstract, that is, not by asking whether one can guess, from the mark itself, considered in a vacuum, what the goods or services are, but

rather in relation to the goods or services for which registration is sought, that is, by asking whether, when the mark is seen on the goods or services, it immediately conveys information about their nature.

In re Patent & Trademark Services Inc., 49 USPQ2d 1537, 1539 (TTAB 1998).

We find that the phrase SATURDAY MORNING T.V., when used in connection with applicant's goods, is merely descriptive thereof. Applicant states that it intends to use the mark for a compilation of classic programs that appeared on Saturday morning television, specifically mentioning "Mr. Magoo," "Casper & Friends," "The Lone Ranger," "Lassie," "Sgt. Preston of the Yukon," and "Shari Lewis & Friends." Applicant readily acknowledges that the mark "refers to the type of programming that typically aired on Saturday morning broadcasts twenty or thirty years ago." (Response dated March 30, 2004, p. 2). Although the phrase may evoke nostalgic feelings among baby boomers who watched these television shows as children, more importantly the phrase immediately describes, without conjecture or speculation, a significant characteristic of the goods, namely, that applicant's motion picture films, cinematographic films for television, and pre-recorded video cassettes, video tapes, video discs, DVDs, disc phonograph records, compact discs, audio tapes and audio

cassettes feature shows of the type or genre that once appeared on Saturday morning television.

The Board recently decided an appeal involving applicant's co-pending application Serial No. 78278235 to register the identical mark SATURDAY MORNING T.V. for services, namely "entertainment in the nature of on-going television programs in the field of comedy."² The Board, in a reported decision dated March 8, 2006, affirmed the refusal to register on the ground of mere descriptiveness under Section 2(e)(1). In re Classic Media, Inc., 78 USPQ2d 1699 (TTAB 2006). A different examining attorney handled the co-pending application. Although the examining attorney's evidence in the co-pending application was superior to the evidence herein, we see no reason to reach a different result on the issue of mere descriptiveness when applicant's mark is applied to goods, rather than services, featuring shows of the type or genre that once appeared on Saturday morning television.

Decision: The refusal to register is affirmed.

² Applicant's appeals were not consolidated apparently due to the fact that the appeals were in different stages.