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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Squaw Valley Development Company

Serial Nos. 76511144 and 76511145

Virginia R. Richard, Lana C. Marina, and Matthew A. Pater
of Winston & Strawn LLP for Squaw Valley Development
Company.

Kathleen de Jonge, Trademark Examining Attorney, Law Office
116 (M. L. Hershkowitz, Managing Attorney).

Before Quinn, Chapman and Zervas, Administrative Trademark
Judges.

Opinion by Zervas, Administrative Trademark Judge:

Squaw Valley Development Company has filed
applications to register the marks "SQUAW" and "SQUAW ONE,"
both for "men's, women's and children's clothing and
accessories, namely, jackets, sweatshirts, sweaters,
shirts, pants, bathrobes, t-shirts, gloves, head bands,
vests, hats" in International Class 25; "skis, ski poles,
ski bindings, ski tuning kits comprised of waxes and
adjustment tools, ski equipment, namely, power cords" in

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International Class 28; and "retail store services in the field of sporting goods and equipment, apparel for men, women and children, footwear, headgear and related goods and services" in International Class 35.¹ Applicant maintains that it is the "world famous resort, the home of the 1960 Winter Olympic Games" located in California; owner of the www.squaw.com Internet domain name; and owner of the following registrations (which are of record herein):

Registration No. 670261 for the mark SQUAW VALLEY for "women's, men's, girls', and boys' jackets, pants, and sweaters"; and

Registration No. 1628589 for SQUAW VALLEY USA for, inter alia, "hotel, restaurant and lounge services; providing recreational facilities for and instructions in skiing, golf, tennis, swimming, operating a ski lift, aerobics and other forms of exercise; real estate management; and bus and transportation services."

(Response filed May 20, 2004 to Office Action at 2; and Applicant's Brief at 6 - 7.)²

Registration of the marks which are the subject of both applications has been finally refused under Section

¹ Application Serial Nos. 76511144 and 76511145, were both filed May 2, 2003. In both applications, applicant claims first use and first use in commerce in 1949 for the goods in International Class 25 and the services in International Class 35, and first use and first use in commerce in 1968 for the goods in International Class 28.

² Applicant also maintains that it is the owner of two additional registrations for SQUAW VALLEY USA, but applicant has not submitted copies of the registrations. As the Board does not take judicial notice of registrations, we do not further consider these two additional registrations.

2(a) of the Trademark Act, 15 U.S.C. 1052(a), on the grounds that applicant's marks "consists of or comprises matter which may disparage American Indians or bring them into contempt or disrepute." (Examining attorney's Briefs at 2).³

Applicant has appealed. Both applicant and the examining attorney have filed briefs, but applicant did not request an oral hearing.

In view of the common questions of law and fact that are involved in these two applications, and in the interests of judicial economy, we have consolidated the applications for purposes of final decision. Thus, we have issued this single opinion.

Examining Attorney's Arguments

The examining attorney maintains that the "ordinary and common meaning of the term 'SQUAW' is that of an offensive or disparaging term for an American Indian woman or wife"; and "[t]he additional term 'ONE' in the mark does not change the meaning of 'SQUAW.'" As support, she cites to dictionary definitions of "squaw" provided in the first Office actions in both cases and excerpts from the

³ In application Serial No. 76511144 for the mark SQUAW, the examining attorney had also finally refused registration under Section 2(d) of the Trademark Act, 15 U.S.C. Section 1052(d). She withdrew the Section 2(d) refusal in her brief (pp. 3-4). Thus, that issue is not before us.

Nexis/Lexis computerized database made of record during the prosecution of these cases. The examining attorney adds that "numerous examples of a variety of geographic place names and features [identified in the excerpts] that include the term 'SQUAW' makes [sic] clear that the term 'SQUAW' does not point to just one geographic feature or commercial enterprise"; and concludes that "the applicant's mark[s] ... for the identified goods and services, do[es] not primarily denote the name of the applicant's Squaw Valley resort, but rather, retains its meaning as an offensive or disparaging term for an American Indian woman." Further, she maintains:

The manner in which the applicant uses its SQUAW mark on the identified goods and services does not alter the fact that American Indians are referred to, identified or implicated in some recognizable manner by the term "SQUAW." As in *Harjo*, where the term "Redskins" was found to refer to Native Americans and to retain its meaning when considered in connection with the registrant's services, ... the term "SQUAW" refers to an identifiable group - American Indians - and retains its meaning when considered in connection with the applicant's goods and services. (Emphasis in original.)

Applicant's Arguments

Applicant contends that "[t]hrough long, substantial and widespread use, advertising and promotion, as well as media coverage, Applicant's mark SQUAW ... acquired a strong secondary meaning identifying Applicant's world famous

resort, SQUAW VALLEY, the home of the 1960 Winter Olympic games, and the skiing-related goods and services identified in the Application";⁴ and, with respect to SQUAW ONE, that the mark has acquired strong secondary meaning identifying a chair lift at applicant's resort. Additionally, applicant maintains that the examining attorney has not considered that "Applicant's goods and services or the manner in which Applicant's mark is used in the marketplace in connection with those goods and services in determining the likely meaning of the term 'Squaw' in Applicant's mark"; and that if she would have done so, it would have been clear that "Applicant's mark does not refer to identifiable persons but is a shorthand reference to Applicant's ski resort, SQUAW VALLEY, just as 'Whistler' is a shorthand reference to the ski resort at Whistler Mountain"

In support of its arguments, applicant relies on numerous stories from the Lexis/Nexis database from the past two years (made of record through its requests for

⁴ The Board will refer to applicant's resort or ski resort throughout this decision. We are aware that applicant refers to its "world famous resort," and presumably applicant features skiing and other winter sports only in the winter, but it offers other activities in the other seasons. See Registration No. 1628589 which includes, inter alia, "providing recreational facilities for and instructions in ... golf, tennis, [and] swimming" in the identification of services.

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reconsideration) "in which SQUAW is used to refer to Applicant's resort and in which SQUAW ONE is used to refer to Applicant's retail store or the SQUAW ONE chair lift at Applicant's resort." The following are excerpts of representative samples of such stories:

Reno Gazette-Journal, November 2, 2004

"... Squaw job fair this Sunday
Find a job working at Squaw Valley USA during the
upcoming ski season at the fair ..."

Reno Gazette-Journal, October 21, 2004

Films at Squaw
Snowboarders excited by the recent snowfall can
satisfy their jones with three free films
Saturday at the Village at Squaw Valley."

The Seattle Times, November 23, 2003

Squaw Valley: The most noticeable change at
Squaw is the opening of Phase II of the new base
village ...

St Louis Post-Dispatch, November 9, 2003

Squaw Valley will be opening phase II of its
expanded base village ... For those chained to
their laptops, Squaw now provides wireless
Internet access from nearly anywhere on the
mountain.

The San Francisco Chronicle, October 26, 2003

-- Squaw Valley: Phase II of the Village at
Squaw Valley is finished. "You can finally come
here and not see a construction zone," said
Squaw's Katja Dahl.

The Miami Herald, October 12, 2003

Squaw Valley boasts 33 lifts, including North
America's only Funitel and a huge cable car, that
access six peaks, 4,000 acres and 2,850 vertical
feet of terrain. Take a twirl on Squaw's on-
mountain skating rink located at High Camp (8,200
feet).

Rocky Mountain News (Denver, CO), March 27, 2003
Pearson stays with friends in South Lake, a 3 ½-hour drive from San Francisco, nearly every weekend in the winter. He snowboards at Heavenly and other Tahoe resorts like Squaw and Kirkwood.

The New York Times, February 23, 2003
TAHOE PACKAGE - Seventy-one motels, hotels and vacation-home resorts in the North Lake Tahoe area have nightly rates from \$79 a person Sunday to Thursday, \$99 weekends for the rest of ski season. This includes lift tickets at ski resorts like Squaw and Alpine Meadows. There is a two-night minimum; holidays are excluded.

Charlotte Observer, February 16, 2003
The first thing to know about Squaw Valley USA, the California ski resort five miles west of Lake Tahoe, is that nearly 20 years ago a movie was filmed here that has become a cult classic. ... Thing is, a lot of the people who came to Squaw to make that movie never left.

Applicant also cites to the following in support of its contention that "the mark SQUAW in the context of ski resorts and related goods and services identifies Applicant's world famous resort" and SQUAW ONE identifies applicant's chair lift: (a) printouts from its www.squaw.com website demonstrating use of SQUAW and SQUAW ONE in connection with "Applicant's world famous resort"; (b) search results for the term "Squaw" on the Yahoo and Google search engines "in which the majority of the results returned refer to Applicant's SQUAW VALLEY resort"; and (c) a printout from "the online Encyclopedia Britannica website

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in which a search for the term 'Squaw' retrieved a listing for Applicant's SQUAW VALLEY resort," i.e.:

Squaw Valley

World-famous winter sports area in Placer County, eastern California, U.S., just northwest of Lake Tahoe. The focus of a state recreation area, it was the site of the 1960 Winter Olympics ...

Applicant also notes that the "specimens of use submitted with the application demonstrate that Applicant's mark is not used in connection with any other term or design element that would create an association with American Indian women"; and that "[i]n fact, the specimen submitted in support of the goods in Class 28 [for the SQUAW ONE application] consists of a picture of a ski bearing the applied-for mark and the wording "Squaw Valley USA."

Disparagement

Pursuant to Trademark Act §2(a), 15 U.S.C. § 1052(a), a mark may be barred from registration when it consists of matter which may disparage, inter alia, persons. In *Harjo v. Pro-Football Inc.*, 50 USPQ2d 1705 (TTAB 1999), *rev'd on other grounds*, 284 F. Supp.2d 96, 68 USPQ2d 1225 (D. D.C. 2003), *remanded*, 415 F.3d 44, 75 U.S.P.Q.2d 1525 (D.C. Cir. 2005) ("*Harjo I*"), and followed in *Order Sons of Italy in America v. The Memphis Mafia, Inc.*, 52 USPQ2d 1364 (TTAB 1999), the Board applied a two-step test for determining whether matter may be disparaging under Section 2(a).

Under this test, the following is considered in determining whether a term is disparaging:

(1) what is the likely meaning of the matter in question, taking into account not only dictionary definitions, but also the relationship of the matter to the other elements in the mark, the nature of the goods or services, and the manner in which the mark is used in the marketplace in connection with the goods or services; and

(2) if that meaning is found to refer to identifiable persons, institutions, beliefs or national symbols, whether that meaning may be disparaging to a substantial composite of the referenced group.

Accord *Pro-Football, Inc. v. Harjo*, 284 F. Supp.2d 96, 68 USPQ2d 1225 (D. D.C. 2003) ("*Harjo II*"), 68 USPQ2d at 1247 ("The court finds no error in this approach.") Thus, we apply the test set forth in connection with both of the marks which are the subject of this appeal.

Likely Meaning of the Matter in Question

Our initial source of information as to the meaning of the term "squaw" is the dictionary definitions made of record in this case during the prosecution of the applications. The examining attorney has cited the following dictionary definitions for "squaw:"

The American Heritage Dictionary of the English Language
(Online):

Offensive.

1. A Native American woman, especially a wife.
2. A woman or wife.

Merriam-Webster Dictionary (Online):

1. *often offensive*: an American Indian woman
2. *usually disparaging*: WOMAN, WIFE

Further, applicant, with its responses to the examining attorney's first Office actions, submitted the following definition of "squaw" taken from *Webster's Third New International Dictionary* (1993): "1a: an American Indian woman - compare SANNUP b: FEMALE, WOMAN, WIFE - usu. used disparagingly." (Capitalization in the original.)

The examining attorney has also made the following entry for "squaw" of record in an Office action, taken from the *Encyclopedia of North American Indians*, Houghton Mifflin (College Division) (Online):

The literal meaning of the word *squaw* is obscure, and its connotations have changed over time. Its origins are found among the northeastern tribes. In Massachusetts, *squid* referred to a younger woman. In Narragansett, *sunksquaw* meant "queen" or "lady." Despite these Algonquian-language origins, however, nonnatives applied the term to native women throughout North America. Over time it took on derogatory connotations as travelers referred to native women as *squaw drudges* and often used the term in opposition to Indian princess. Nonnatives often referred to women leaders as *squaw sachems* and nonnative men who married native women as *squaw men*. By the

twentieth century the word *squaw* had developed multiple derogatory associations that had no connection with the word's original meaning.

Additionally, the following three Lexis/Nexis excerpts located by the examining attorney provide a definition of "squaw":

The Oregonian, June 11, 2002

. . . Clackamas County [Oregon] will change the name of Squaw Mountain Road this year to comply with a new state law. Last year, the Legislature voted to expunge from maps the word that now is considered a vulgar term for Native American women. . . .

The Chicago Tribune, March 24, 2002

. . . South Dakota is the latest front in a national effort to eliminate the word "squaw," a term many Native Americans find offensive, from geographic names. Five other states, from Oregon to Maine, have banned the word in official place names since 1995. Similar efforts are under way in California, Idaho and Nebraska . . . Native Americans do not agree on a universal substitute for squaw, which they consider an obscene reference to women. . . As for "squaw," experts generally agree that the word is derived from a non-offensive Algonquin word for woman. When "squaw" passed into English, "it took on very negative connotations in the 19th Century, meaning Indian woman available for sexual purposes," said Thomas Gasque, president of the American Name Society, which studies the use and origins of names . . .

The Omaha World Herald, March 13, 2001

. . . Bellevue City [Nebraska] Council members agreed Monday to remove "squaw" from the name of a creek that runs through northwest Bellevue. "To reflect the proud Indian heritage, I would like to ask the council to change the offensive name of Squaw Creek to Big Elk Creek," Council President Larry Cascio said Monday . . . Cascio said several American Indians have since

explained the word's negative connotations . . . Although Webster defines "squaw" as "a North American Indian woman or wife," many feel the word also has negative and vulgar meanings . . .

We find that all of the dictionary definitions and the encyclopedia entry for "squaw" of record consistently refer to "squaw" as a disparaging term and as meaning, inter alia, "an American Indian woman" and that the above-quoted excerpts of stories from the Nexis/Lexis database are consistent with the dictionary definition of "squaw."⁵

We must determine, however, the meanings of SQUAW and SQUAW ONE in relation to the goods and services as identified by the mark in the context of the marketplace. *In re McGinley*, 660 F.2d 481, 211 USPQ 668 (CCPA 1981); and *Harjo I*, 50 USPQ2d at 1738. Thus, we consider the meaning of the marks in the context of the goods and services in applicant's two applications in turn below.

⁵ Applicant maintains that "a search for the term 'Squaw' retrieved a listing for Applicant's SQUAW VALLEY resort," relying on a printout from the online *Encyclopedia Britannica* website submitted in a response to an Office action. Applicant's reliance on the *Encyclopedia Britannica* entry is accorded limited weight in determining the meaning of "squaw" because the entry is for "Squaw Valley" and not for "squaw."

International Class 25 Goods, i.e., "Men's, women's and children's clothing and accessories, namely, jackets, sweatshirts, sweaters, shirts, pants, bathrobes, t-shirts, gloves, head bands, vests, hats"; and **International Class 35 Services**, i.e., "Retail store services in the field of sporting goods and equipment, apparel for men, women and children, footwear, headgear and related goods and services."

Applicant maintains that the mark SQUAW "is a shorthand reference to Applicant's ski resort"; and that "the mark SQUAW in the context of ski resorts and related goods and services identifies Applicant's world famous resort." The evidence offered by applicant (e.g., the excerpts from the Lexis/Nexis database and the *Encyclopedia Britannica* entry for "Squaw Valley"), indicates that applicant is known as a resort for skiing.⁶

However, the International Class 25 and International Class 35 identifications of goods and services do not include any restrictions which limit the goods and services recited therein to skiing or goods related to skiing. As written, the identifications are broad enough to include items unrelated to skiing, and even unrelated to winter

⁶ Because of the proximity of skiing to snowboarding, by inference we find that applicant is known as a resort for snowboarding too. See discussion, *infra*, regarding applicant's specimen of use for its International Class 28 goods in the application for SQUAW, which is a photograph of a snowboard.

sports.⁷ It also has not escaped our attention that SQUAW is defined as "woman," and that the identification of goods in International Class 25 specifically states that the identified clothing and accessories include those for women.

Further, we note that there are no geographic restrictions or restrictions as to trade channels or classes of consumers in the identifications. Thus, we assume that applicant's clothing and retail store services are offered for sale not just in the Squaw Valley, California vicinity, but also throughout the United States, even distant from the Squaw Valley resort, to both skiers and non-skiers. Additionally, we assume that the International Class 25 identification encompasses all goods of the nature and type described, and that the identified goods move in all channels of trade that would be normal for such goods and would include sales of such goods in departments stores, clothing stores and mass merchandisers. See *In re Elbaum*, 211 USPQ 639 (TTAB 1981). Similarly, because there are no restrictions in the identification of services, we assume that the sporting goods and apparel

⁷ "[B]athrobes" for men, women and children, which appears in the International Class 25 identification of goods, certainly are not related to skiing or to winter sports.

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that applicant offers for sale in its stores are not limited to such goods for skiing or even for winter sports or to winter apparel, but includes goods and apparel for sports which are not featured during winter and/or at applicant's Squaw Valley resort.

We next consider the manner in which applicant uses its marks. Applicant relies on the specimens of use in arguing that the manner of use supports its contention that the mark "as used by Applicant, does not refer to American Indian women," noting that "Applicant's mark is not used in connection with any other term or design element that would create an association with American Indian women."

As its International Class 25 specimens of use, applicant submitted a photograph of (i) a knitted headband with SQUAW written in large letters between two stylized snowflakes, and (ii) a plain long-sleeved collarless shirt with SQUAW ONE written in large letters on the front of the shirt. The terms are prominently displayed on the front of the goods themselves, in large lettering.

We find that the specimens for applicant's International Class 25 goods do not exhibit use such that those perceiving the marks would associate SQUAW and SQUAW ONE with applicant's ski resort. Neither headbands nor shirts of the type depicted in the specimens are unique to

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skiing or even to winter sports. Further, although the headband appears to be knitted and includes a snowflake design, suggesting winter, there is no evidence in the record that headbands are uniquely worn for skiing or even for winter sports. Further, neither the headband nor the shirt depicted in the specimens includes other elements such as additional wording, or skiing imagery or designs, which would cause one viewing the goods to associate the references to SQUAW and SQUAW ONE with applicant's ski resort.

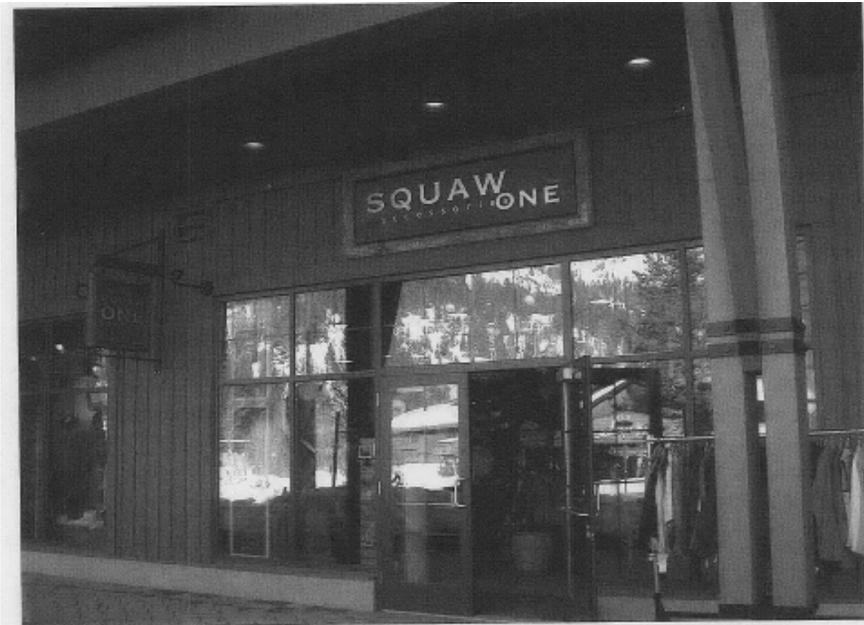
Turning next to applicant's International Class 35 specimens of use, such specimens show that applicant uses its marks on storefronts. The following is a reproduction of the International Class 35 specimen of use for the mark SQUAW:



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It is clear that SQUAW appears on an exterior store wall, and a ski rack (with a pair of skis in the rack) stands in the foreground of the photograph. SQUAW is superimposed on a circular background and on a stylized "S" or a "double S," with one "S" adjacent to the other.

The following is a reproduction of the International Class 35 specimen of use for the mark SQUAW ONE:



Here, SQUAW ONE is depicted in a sign over the front door of the store, with "accessories" also written on the sign. Various items of clothing are shown on racks both inside and outside the store, but none of the items in the specimen can be positively identified as clothing or goods unique to skiing or even to winter sports.

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As with applicant's International Class 25 specimens, we likewise find that the specimens for applicant's International Class 35 services do not exhibit use such that those perceiving the marks would associate SQUAW and SQUAW ONE with the Squaw Valley ski resort. Although SQUAW appears on a stylized "S" and may be construed as an "S" formed by a pair of skis passing through the snow, there is no skiing, or even winter or sporting imagery proximate to the "S" or to the word SQUAW in that specimen of use. Further, the skis and the ski rack in front of the SQUAW sign are not part of the building on which the SQUAW sign is attached. As for the specimen for SQUAW ONE, none of the clothing that can be discerned in the photograph can be identified as associated with the sport of skiing. Accordingly, there is nothing in the specimens of use that would suggest to consumers perceiving the marks that the reference to SQUAW and to SQUAW ONE is to applicant.

Applicant has argued that "Applicant's mark is not used in connection with any other term or design element that would create an association with American Indians or any other identifiable person(s)." While that is true with respect to the specimens in the record, it is also true that applicant's marks on the record before us are not used with any other term or design element that would create an

association with applicant, or even with skiing and ski resorts, for which applicant maintains it is well-known.

We deem it more likely that consumers perceiving the term SQUAW on or in connection with applicant's International Class 25 and 35 goods and services would give the dictionary definition to the term rather than associate the term with applicant's ski resort. This is the case particularly in the absence of any terms or design elements which would suggest applicant in the areas for which applicant maintains it is well-known, especially, because applicant uses its marks on goods and services directed to, inter alia, women, and the dictionaries of record define "squaw" as "an American Indian woman."⁸

In view of the foregoing, we find that on the record before us, including the few examples of the manner of use of the marks, that the meaning of SQUAW and SQUAW ONE to those perceiving applicant's marks in connection with its International Class 25 and 35 goods and services is not

⁸ We add that while the record shows an encyclopedia entry for SQUAW VALLEY, the record does not contain an encyclopedia entry or a definition for SQUAW ONE. Thus, we do not accept that a reference to "squaw" in SQUAW ONE, outside the context of skiing, would be construed in the marketplace as a reference to applicant's chair lift. Only those who had the occasion to become familiar with applicant's chair lift (and not just applicant) would ascribe the meaning applicant advocates in its brief to SQUAW ONE in the context of applicant's International Class 25 and 35 goods and services.

applicant or its ski resort, but rather is the dictionary definition of SQUAW, i.e., an American woman or wife.

Simply put, one would not associate the term "squaw" with applicant outside the context of its resort, featuring skiing or even other winter sports,⁹ but would instead ascribe the dictionary definition to the term.

International Class 28 Goods, i.e., "Skis, ski poles, ski bindings, ski tuning kits comprised of waxes and adjustment tools, ski equipment, namely, power cords."

In contrast to the foregoing, we find that the meaning of the term SQUAW in relation to the International Class 28 goods in the context of the marketplace is applicant's Squaw Valley ski resort in California.

The International Class 28 goods are certainly goods that are part of the sport of skiing and would be used by skiers at applicant's resort. Further, as noted above, applicant has submitted an entry for "Squaw Valley" from *Encyclopedia Britannica* stating that Squaw Valley in California was the site of the 1960 Winter Olympics and is "world famous." Additionally, applicant has submitted stories with its requests for reconsideration of the examining attorney's decisions from the Lexis/Nexis

⁹ A printout of applicant's website, made of record by applicant during the prosecution of this case, reveals that, in addition to skiing, snowboarding and possibly ice skating - see photo of ice skaters under "Activities/Events" on p. 1 of "Squaw Mail" web page - are offered at applicant's resort.

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database, which show "shorthand" references to applicant's Squaw Valley ski resort as "Squaw."

Further, applicant has submitted as a specimen of use a photograph of a pair of skis with SQUAW ONE written on the ski, in close approximation to the wording "Squaw Valley USA," also written on the ski. Because the skis actually do have SQUAW VALLEY written on them, it is apparent that those perceiving the mark on the goods will associate SQUAW ONE with applicant. Further, in the application for SQUAW, applicant has submitted a photograph of a snowboard with SQUAW appearing prominently on the snowboard. Because snowboarding occurs at ski resorts, we find that those persons in the marketplace perceiving applicant's snowboards depicted in the specimen of use will associate SQUAW with applicant's "world famous" resort and site of the 1960 Winter Olympics. Thus, on this ex parte record, we find that consumers, upon encountering applicant's SQUAW and SQUAW ONE marks on applicant's International Class 28 goods, will associate these marks with applicant and applicant's ski resort, and not with an offensive or disparaging term for an American Indian woman.

Whether the Matter in Question May Be Disparaging to a Substantial Composite of Native Americans.

As to the goods in International Class 28, we found (above) that the purchasing public will associate the terms with applicant and not as a disparaging term. However, because we found (earlier herein) that the word "squaw" retains its meaning as a reference to Native American women when used in connection with applicant's International Class 25 goods and International Class 35 services - and hence identifies identifiable persons - we now turn to the second part of the test set forth in *Harjo I*, i.e., whether the matter in question may disparage Native Americans by reference to the perceptions of Native Americans. *Harjo*, 50 USPQ2d at 1472 - 1473. As in *Harjo*, our standard is whether a substantial composite of Native Americans in the United States so perceive the subject matter in question. *Id.* at 1743. We do not take into consideration the perceptions of the general public. *Harjo II* ("... the TTAB erred ... [in] focusing on the general public and inferring that the Native Americans would simply agree with those views ...") Also, in view of our findings above, we only consider whether the marks may disparage Native Americans with respect to the International Class 25 and International Class 35 goods and services.

The examining attorney has submitted with her Office actions the following excerpts of stories from the Nexis/Lexis database from non-Native American sources which report that Native Americans find the term "squaw" disparaging:

The Rocky Mountain News, June 1, 2004

. . . Army Spc. Lori Piestewa, a Hopi from Arizona, was the first U.S. servicewoman killed in the Iraq war. . . An Arizona mountain, Squaw Peak - a name offensive to Indian people - was renamed in her honor

The Tampa Tribune, May 19, 2004

. . . The word "squaw" is as offensive to Indians as the "n-word" is to blacks. It is so offensive and repugnant that it's been banned from geographical names in Minnesota and Arizona, and a bill passed in Florida aims to ban it as well

The Chicago Tribune, April 18, 2003

. . . In renaming Squaw Peak, Napolitano also sought to remove a name Indians find offensive

The Los Angeles Times, April 13, 2003

. . . The mountain is known as Squaw Peak, a name that many American Indians find offensive and have been trying to change

The Los Angeles Times, August 26, 1998

. . . The word "squaw" is a highly offensive Algonquin word . . . To use the word squaw today is not only a grave insult to Native American women, it is an insult to the dignity of every woman. . . [Letter from HASHI-HANTA, American Indian Movement, Sells, Ariz.]

The Fresno Bee, June 30, 2003

. . . Squaw Leap, a name that has long grated on American Indians, has passed into Central California history - at least, as far as the U.S.

Bureau of Land Management is concerned. The agency this month renamed 6,700-acre Squaw Leap Management Area . . . It is now the San Joachin River Gorge. . . . American Indians . . . for decades have considered the name an insult. . . . Land Management officials said the word "squaw" has come under increasing fire across the country. The word . . . carries disparaging and vulgar meanings . . .

The examining attorney also submitted with her Office actions the following statements from American Indian groups and individual American Indians taken from the Lexis/Nexis database, in support of her contention that the term "squaw" "may be perceived as disparaging by American Indians:"

The San Diego Union-Tribune, May 2, 2003
BYLINE: Tim Giago; Giago, an Oglala Lakota [Indian, writes] . . . [I]t doesn't matter what the word "squaw" means. It is how the word transformed its meaning from the early settler days. Any white man married to or living with an Indian woman was known as a "Squawman." When white men went looking for sex they went "squaw hunting." If any white person living in Phoenix or any other part of the United States wants to know if the word "squaw" is offensive to Indian women there is one sure way to find out. The next time you see several Indian women gathered together just walk up to them and call them squaws. If you get away with out having one hair on your head mussed up, you may consider yourself fortunate. It does not matter whether all of the white people in Phoenix believe "Squaw Peak" is an OK name. If just one Indian woman finds it offensive then that alone is reason enough to change the name

The Houston Chronicle, November 5, 2001
. . . Most offensive to Indians is the use of the term "squaw" in mascot or place names, Hook said.

Most modern American Indian groups now consider "squaw" an obscene reference to a woman's body part, Hook said. "It has always been a term of derision for Indian women," he said. In the past few years there has been a national movement among Indian leaders to have "squaw" purged from place names. The National Congress of American Indians asked the U.S. Board on Geographical Names to have that term forbidden in use for place names across the country. . . .¹⁰

The Omaha World Herald, January 28, 2001

. . . That position [that the name "Squaw" is not offensive] ignores Indians' feelings about the word, said Leonard Bruguier, a Yankton Sioux [Indian] and the director of the Institute of American Indian Studies at the University of South Dakota in Vermillion. As he grew up in Yankton, S.D., "the people I knew were seasonal workers, hard workers," Bruguier said. "They'd get drunk and you'd hear this, and it has a very negative connotation." Linguists dispute the origin of "squaw," although it clearly is offensive today, said Bruguier . . . Some of those urging the abolition of "squaw" link it to

¹⁰ Applicant, in its reply brief, argues:

[P]olitical groups [e.g., The American Indian Movement and the National Congress of American Indians] have attempted to cast the term 'squaw' in the worst possible light by claiming that it refers to female genitalia. This inflammatory definition has been rejected by linguists in the very articles relied upon [by] the Examining Attorney. (See *The San Diego Union-Tribune* (May 2, 2003); *The New York Times* (March 4, 2001); *The Saint Paul Pioneer Press* (April 6, 1997)). For example, *The New York Times* reported in 2001 that the link of the term 'squaw' to female genitalia 'was promulgated, with no evidence, in a 1973 polemic, and circulated broadly after being mentioned in a 1992 episode of 'Oprah.'

Applicant's reply brief at 5 - 6.

Thus, there is conflicting evidence as to whether the term "squaw" also applies to female genitalia. Because in this record, the dictionary definitions of "squaw" do not include a reference to female genitalia, we have not attributed this meaning to the term.

a Mohawk word for a woman's private parts, retired UCLA linguistics professor William Bright wrote last fall in [the journal] *Names*. . . .

The Saint Paul Pioneer Press, April 6, 1997

The word "squaw," long the stuff of TV westerns and American vernacular, is offensive to some American Indians, and a national activist group is launching a campaign to remove it from more than 100 places throughout California - including the most famous of all: Squaw Valley. These activists, leaders of the American Indian Movement, say the word is the white man's pejorative slang for "vagina," and they consider it among "the worst of the worst." The group's crusade has met with success in Minnesota, where it persuaded the Legislature to pass a law decreeing that 19 place names containing the word squaw be changed. . . .

The Washington Post, September 20, 1993

. . . [Senator Ben Nighthorse] Campbell said the word Redskins is one of four terms most offensive to Native Americans, the others being buck, squaw and savage . . . Campbell, a member of the Northern Cheyenne tribe

Indian Country Today, January 28, 2004

. . . "The term [squaw] is degrading and racist," said Fort Mojave Chairperson Nora McDowell, among Arizona Indian leaders speaking on Indian Nations and Tribes Legislative Day. McDowell refused even to say the word in her address to the state legislature. "I'm not going to say it because it is offensive to us as Native American women," said McDowell, president of the Intertribal Council of Arizona . . . "Damaging and offensive," is how [Hopi Indian Chairman Wayne Taylor, Jr.] described the word "squaw" . . . Rep. Jack Jackson Jr., D-Window Rock, described the bill he has presented, H.B. 2500, which prohibits places in Arizona from being named "Squaw"

The Lewiston Morning Tribune, February 11, 2003

. . . Four [of the] 93 Idaho place names with the word "squaw" in their names were officially

changed last December by the U.S. Board of Geographic Names . . . Proponents of the name change have tried for the last two years to remove squaw, which many Indians consider offensive, from the names of geographic features around the state. "It is never appropriate to use the word "squaw," said Julian Matthews, 44, a Nez Perce tribal member . . . Squaw should be dropped from names for no other reason than that it is offensive to Indian women, he said

Additionally, the examining attorney has pointed out that "legislation banning the term 'SQUAW' from place names and landmarks has been enacted in at least five states - Minnesota, Montana, Maine, Wisconsin, Oregon and South Dakota - and concurrent resolutions calling for the renaming of geographic place names containing the term 'SQUAW' have been enacted by the Oklahoma and Idaho legislatures, and proposed in other localities." In support, the examining attorney refers to excerpts from the Nexis/Lexis database made of record during the prosecution of the involved applications, including the following:

South Dakota Codified Laws §1-19C-4 (2003)
Offensive place names in South Dakota by county are replaced as follows: . . . Squaw Lake [changed to] Serenity Lake . . . Squaw Flat [changed to] Hat Creek Flat. . . Squaw Creek [in Jones County changed to] Pitan Creek . . . Squaw Creek [in Lawrence County changed to] Cleopatra Creek . . . Squaw Hill [changed to] Six Mile Hill . . . Squaw Lake [in Marshall County changed to] Six Mile Lake . . . Squaw Creek [in Moody County changed to] Jack Moore Creek. . . .

Montana Code Annotated §2-15-149 (2003)

Naming of sites and geographic features
replacement of word "squaw" -- advisory group.
(1) The coordinator of Indian Affairs shall
appoint an advisory group [to develop] names to
replace present site or geographic names that
contain the word "squaw". (2) Each agency of
state government that own or manages public land
in the state shall identify any features or
places under its jurisdiction that contain the
word "squaw" and inform the advisory group . . .
[and shall ensure that] whenever the agency
updates a map or replaces a sign, interpretive
marker, or any other marker because of wear or
vandalism, the word "squaw" is removed and
replaced with the name chosen by the advisory
group. . . .

Oregon Revised Statutes §271.600 (2003)

271.600 Prohibition on use of term "squaw."
. . . (2) Except as required by federal law, a
public body may not use the term "squaw" in the
name of a public property.

Maine Revised Statutes 1 M.R.S. §1101 (2003)

§1101. Definitions
1. OFFENSIVE NAME. "Offensive name" means a name
of a place that includes:
A. The designation "nigger" or "squaw" as a
separate word or as part of a word; or
B. The designation "squa" as a separate word.

*Minnesota Session Laws Chapter 53-S.F. No. 574
(1995)*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
MINNESOTA:
Section 1. . . On or before July 31, 1996, the
commissioner of natural resources shall change
each name of a geographic feature in the state
that contains the word "squaw" to another name
that does not contain this word. . . . Signed by
the governor April 18, 1995 . . .

*Concurrent Resolution No. 94 (Oklahoma
Legislature, May 2000)*

. . . WHEREAS, the word "squaw" is offensive to
Native Americans, and a national movement exists

to remove this offensive word from all geographic names . . . NOW, THEREFORE, BE IT RESOLVED . . . THAT the word "squaw" be removed from all geographic names used in Oklahoma. . .

Applicant, however, discounts this evidence, arguing that "the Examining Attorney has failed to offer any evidence whatsoever concerning the view of the referenced group with respect to use of the mark SQUAW in connection with the skiing-related goods and services identified in the Application."

Applicant is correct -- there is no evidence in the record that a substantial composite of Native Americans find applicant's use of its marks on its identified goods and services disparaging.¹¹ The statements attributed to

¹¹ The Lexis/Nexis story (noted above) from the April 6, 1997 edition of *The Saint Paul Pioneer Press* stated:

The word "squaw," long the stuff of TV westerns and American vernacular, is offensive to some American Indians, and a national activist group is launching a campaign to remove it from more than 100 places throughout California - including the most famous of all: Squaw Valley. These activists, leaders of the American Indian Movement, say the word is the white man's pejorative slang for "vagina," and they consider it among "the worst of the worst." The group's crusade has met with success in Minnesota, where it persuaded the Legislature to pass a law decreeing that 19 place names containing the word squaw be changed. . . .

While this story indicates that a certain group objects to "Squaw Valley" as a place name and is "offensive to some American Indians," it is silent on use of the marks SQUAW and SQUAW ONE on the identified goods and services and indicates the objection is by Native American activists.

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Native Americans and Native American groups do not address applicant's mark as used on its goods and services. Further, the fact that several states have taken the drastic step of renaming geographic sites to names which do not include the term "squaw" does not compel the conclusion that applicant's marks as used on applicant's goods and services are disparaging to a substantial composite of Native Americans. Both *Harjo I* and *Harjo II* require evidence that a substantial composite of the referenced group considers the use of the mark in connection with the relevant goods or services to be disparaging. *Harjo I* at 1747; and *Harjo II* at 1252 ("However, the ultimate legal inquiry is whether the six trademarks at issue may disparage Native Americans when used in connection with Pro-Football's services The ultimate legal inquiry is not whether the term 'redskin(s)' is a pejorative term for Native Americans.")

The evidence submitted by the examining attorney does not establish whether a substantial composite of Native Americans find applicant's use of SQUAW in its *marks* on applicant's identified *goods and services* to be disparaging. The ultimate legal inquiry here is not whether Native Americans find "squaw" a pejorative term for Native American women.

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DECISION: The refusal to register under Section 2(a) is reversed for each class of goods and services in both applications.