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Mailed: September 29, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Marilyn Feingold

Serial No. 76555786

Laurie A. Morin, Esq. for Marilyn Feingold.

David H. Stine, Trademark Examining Attorney, Law Office 114
(K. Margaret Le, Managing Attorney).

Before Quinn, Walters and Cataldo, Administrative Trademark
Judges.

Opinion by Walters, Administrative Trademark Judge:

Marilyn Feingold has filed an application to register on the Principal Register the standard character mark YIDDISH YOGA for "yoga instruction, namely, providing classroom instruction that incorporates Jewish culture into the art of yoga," in International Class 41.¹ The application includes a disclaimer of YOGA apart from the mark as a whole.

¹ Serial No. 76555786, filed October 31, 2003, based on use of the mark in commerce, alleging first use and use in commerce as of June 17, 2003.

The examining attorney has issued a final refusal to register, 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 in connection with its services.

Applicant has appealed. Both applicant and the examining attorney have filed briefs. We affirm the refusal to register.

In support of the descriptiveness refusal, the examining attorney contends that the specific nature and "a salient feature of applicant's service is the combination of Yiddish cultural concepts and yoga" (brief, p. 1); that the term "Yiddish" is both a noun and an adjective; and that there is no incongruity in the combination of these two descriptive terms because applicant's services do actually meld the disparate disciplines of traditionally Hindu yoga and Yiddish culture. In support of his position, the examining attorney submitted three dictionary definitions of the term "Yiddish." While these definitions differ slightly, they are substantially similar so we repeat below only one definition each for the term as a noun and as an adjective:

Yiddish - noun. A High German language written in Hebrew characters that is spoken by Jews and descendants of Jews of central and eastern European origin. Adj. ... [Merriam-Webster Online Dictionary, July 25, 2005.]

Yiddish - n. ... adj. Of, pertaining to, or characteristic of Yiddish. [Infoplease Dictionary, July 25, 2005.]

Applicant contends that its mark is, at most, suggestive because it does not describe the exact nature of applicant's services; that the term "Yiddish" identifies a language, not Jewish values and culture, and that "Yiddish" and "Judaism and spirituality" are not synonymous; that "while [YIDDISH YOGA] may on its face suggest a link between 'culture and values' and yoga, it does not begin to establish the full breadth of applicant's services, or the manner in which the services are uniquely applicant's" (brief, p. 6); and that the combination of the two terms is incongruous. Applicant, in its supplemental brief, submitted additional dictionary definitions of "Yiddish" that are consistent with the definition shown above, and a definition from the *Random House Webster's Unabridged Dictionary* (2nd ed.) of "yoga" as follows:

n.1. a school of Hindu philosophy advocating and prescribing a course of physical and mental disciplines for attaining liberation from the material world and union of the self with the Supreme Being or ultimate principle. 2. any of the methods or disciplines prescribed, esp. a series of postures and breathing exercises practiced to achieve control of the body and mind, tranquility, etc. 3. union of the self with the Supreme Being or ultimate principle.

We take judicial notice of this definition.

In its response to the July 28, 2005 office action, applicant stated, *inter alia*, the following:

[T]he specific nature and purpose of applicant's mark, YIDDISH YOGA, is yoga instruction that: (1) incorporates poses and chants in Hebrew and Yiddish, and (2) explains and gives hands on relaxation techniques infusing Judaism and spirituality. That is, Applicant's services are yoga taught with a slant toward Yiddish culture and values.

...
[I]ts services are directed to members of the general public that have an interest in yoga, including members of the Yiddish community.

The test for determining whether a mark is merely descriptive is whether it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979).

It is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977). We agree with applicant that, at first glance, there appears to be an incongruity present in the combination of the two words "Yiddish" and "yoga" because they each evoke a different religious

culture. However, applicant's identification of goods specifically states that the services incorporate Jewish culture into the art of yoga and, as applicant herself states, her services are "yoga taught with a slant toward Yiddish culture and values" (*id.*) and the yoga classes incorporate chants in Yiddish. Thus, we find applicant's arguments that a prospective purchaser will not understand the nature of the services from the mark alone to be unavailing. Further, applicant's statements alone undercut the argument that Yiddish is only a language and does not connote a culture.

Moreover, it is not necessary, in order to find that a mark is merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). Thus, the fact that the mark may not describe the "full breadth" of applicant's services does not render the mark registrable.

We conclude that when applied to applicant's services, the term YIDDISH YOGA immediately describes, without conjecture or speculation, a significant feature or function of applicant's services, namely that applicant's classroom instruction in yoga incorporates Jewish culture and Yiddish chants. Nothing requires the exercise of imagination, cogitation, mental processing or gathering of further

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information in order for purchasers of and prospective customers for applicant's services to readily perceive the merely descriptive significance of the term YIDDISH YOGA as it pertains to applicant's services.

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