

THIS OPINION IS NOT
PRECEDENT OF THE TTAB

Mailed: July 31, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Van Mabrito

Serial Nos. 76555982 and 76555985¹

John G. Chupa of Law Offices of John Chupa & Associates for
Van Mabrito.

Patty Evanko, Trademark Examining Attorney, Law Office 117
(Loretta C. Beck, Managing Attorney).

Before Zervas, Kuhlke and Taylor, Administrative Trademark
Judges.

Opinion by Kuhlke, Administrative Trademark Judge:

Van Mabrito has filed a two applications to register,
on the Principal Register, the mark JD QUOTE (in standard
character form, "QUOTE" disclaimed) one for goods
ultimately identified as "printed publications, namely,
brochures, pamphlets and folded media featuring price
quotes for services and goods, other than legal services

¹ Inasmuch as these appeals involve common issues, we address
them in a single decision.

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and legal goods" in International Class 16² and the other for "creating and providing price quotations for goods and services, other than legal goods and services" in International Class 35.³ The applications were filed on November 3, 2003, based upon an allegation of a bona fide intention to use the mark in commerce. The applications were published for opposition on February 1, 2005 and notices of allowance subsequently issued on April 26, 2005. Applicant filed its statements of use, accompanied by specimens of use, on June 23, 2005.⁴

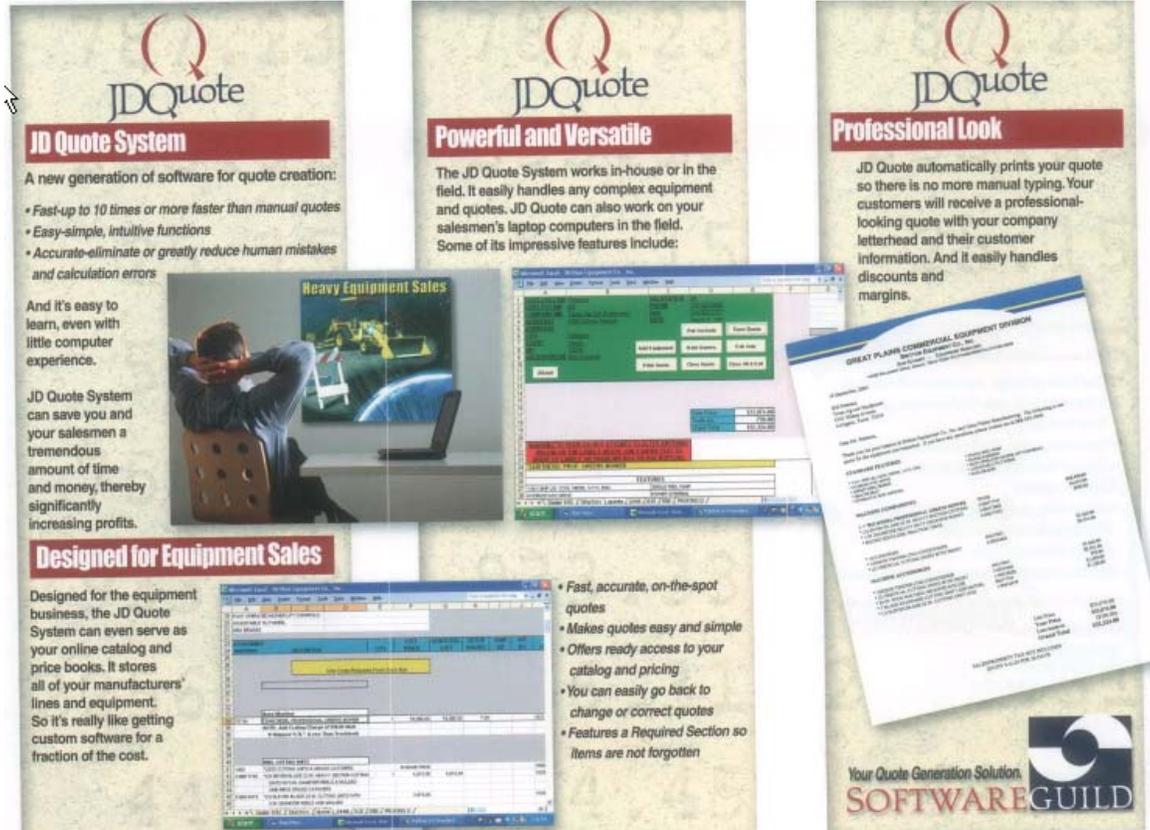
At issue in this appeal is the examining attorney's final refusal to register because the specimens do not show use of the mark for any of the goods or services identified in the statements of use. Trademark Rules 2.56 and 2.88(b)(2), 37 C.F.R. §§ 2.56 and 2.88(b)(2); 15 U.S.C. §1051(d).

The appeals are fully briefed. We affirm the refusals to register.

Applicant submitted the same or similar specimens of use for each application, one of which is reproduced below:

² Application Serial No. 76555982.

³ Application Serial No. 76555985.



As stated by the examining attorney, the brochures submitted by applicant show use of the mark in connection with computer software or advertising for computer software. These brochures do not feature price quotes, other than as an example of the type of report its software may generate, nor do they advertise the service of creating and providing quotes.

Similarly, applicant submitted what appear to be screen shots of an example report generated by its

⁴ We note that the examining attorney withdrew her requirements regarding the date of first use in commerce in both cases.

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software. While the software may generate such reports, the mark is being associated with the computer software applicant sells and not a service that applicant provides to potential consumers. As applicant states in regard to its services in application Serial No. 76555985, "[t]he submitted specimen shows the mark used in the sale of a system which is irrefutably described to provide quotes for goods and services." Br. p. 6. We agree that the specimen shows the mark used in the sale of a system that provides quotes, namely computer software. Applicant states that "[i]f one of Applicant's customers utilizes this system, then Applicant provides these users with software installation services, ongoing technical support related to the creation of quotes for goods and services, and software training options related to the creation of quotes for goods and services, which together constitute the services of 'creating and providing price quotations for goods and services, other than legal goods and services.'" Id. Again, this is the sale of a good and technical and training support provided relative to that good. It is clear from this record that the specimens of use do not support the identified goods or services in the applications.

Decision: The refusals to register are affirmed.