

**THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB**

Mailed:  
February 25, 2008  
Bucher

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Denim Mania Apparel, Inc.

Serial No. 76638064

Vivien Chung of CVG Apparel, Inc. for Denim Mania Apparel,  
Inc.

Steven W. Jackson, Trademark Examining Attorney, Law Office  
107 (J. Leslie Bishop, Managing Attorney).

Before Bucher, Grendel and Bergsman, Administrative  
Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Denim Mania Apparel, Inc. seeks registration on the  
Principal Register of the mark **VINTAGE CHINA** (*in standard  
character format*) for goods identified in the application as  
follows:

"clothing, namely, jeans, jackets, pants,  
skirts, shorts, sweaters, shirts, belts,  
footwear, and headwear" in International  
Class 25.<sup>1</sup>

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<sup>1</sup> Application Serial No. 76638064 was filed by Denim Mania Apparel, Inc. on May 5, 2005 based upon applicant's allegation of first use anywhere and first use in commerce at least as early as December 2004. No claim is made to the word "China" apart from the mark as shown. It appears as if this application was assigned to CVG Apparel, Inc. in 2006 (Reel 3163 / Frame 0189) and back to Denim Mania Apparel, Inc. again in 2007 (Reel 3502 / Frame 0451).

This case is now before the Board on appeal from the final refusal of the Trademark Examining Attorney to register this designation based upon the ground that it is primarily geographically descriptive of applicant's goods under Trademark Act Section 2(e)(2), 15 U.S.C. § 1052(e)(2).

Applicant and the Trademark Examining Attorney have fully briefed the appeal. After careful consideration of the evidence and arguments of record, we reverse the refusal to register.

A mark or portion of a mark is primarily geographically descriptive in connection with an applicant's goods if the Trademark Examining Attorney establishes: (i) that the primary significance of the mark or portion thereof is that of the name of a place generally known to the public, and (ii) that the public would make a goods/place association, that is, believe that the goods on which the mark or portion thereof is sought to be registered originate in that place. See *In re Brouwerij Nacional Balashi NV*, 80 USPQ2d 1820, 1821 (TTAB 2006); *In re JT Tobacconists*, 59 USPQ2d 1080, 1081-82 (TTAB 2001); *University Book Store v. University of Wisconsin Board of Regents*, 33 USPQ2d 1385, 1402 (TTAB 1994); and *In re California Pizza Kitchen Inc.*, 10 USPQ2d 1704, 1705 (TTAB 1988), citing *In re Societe Generale des*

*Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987).

The record demonstrates that "China" is a known geographic location that is certainly neither remote nor obscure. Additionally, applicant admits that the goods do, indeed, originate in China. Accordingly, applicant has disclaimed the word "China" apart from the mark as shown.

In effect, applicant and the Trademark Examining Attorney are primarily at odds over whether this entire composite mark is barred by Section 2 of the Act, or contrariwise, whether the combination of these two words creates a composite that is distinctive enough as a source identifier for the listed goods to be registered with a disclaimer of the geographical designation.

The examining attorney has submitted a substantial amount of evidence excerpted from articles retrieved from Internet websites and from third-party registrations showing that the word "Vintage" is merely descriptive of clothing items. We have reviewed all of this evidence, and find that the term "Vintage" is, without a doubt, descriptive of "vintage clothing." Yet, applicant is adamant in arguing that the Trademark Examining Attorney must be reversed inasmuch as applicant has demonstrated that its goods are not actually "vintage clothing." On yet the other hand, we

find that nothing in applicant's identification of goods precludes the use of this mark on "vintage" clothing. Hence, this term alone would appear to be descriptive of vintage clothing (or alternatively, barred as deceptively misdescriptive on non-vintage clothing). We conclude, then, that standing alone, each of these terms are barred from registration by the Statute.

However, we turn to applicant's other arguments for reversing the Trademark Examining Attorney, namely that the word "vintage" has multiple meanings, such that in the context of this combination, its mark creates the connotation of "Ancient China," or even for some, this mark may well present a "double entendre" because the combined mark as a whole has the connotation of "antique chinaware."

In reviewing this mark in its entirety, the question before us is whether purchasers will subconsciously or automatically insert the bracketed thought of VINTAGE [clothing from] CHINA? If this were the case, the term clearly conveys immediately the connotation of "classic" clothing from the nation of "China."

However, in this mark, the term "Vintage" modifies the word "China," not "clothing." We note from the dictionary entry placed into the record by the Trademark Examining Attorney that the word "vintage" also has the connotation of

"old or outmoded." Accordingly, is it not unreasonable to conclude that the use of the leading term "Vintage" within this combined term might well evoke the distant, historical past or culture of "Ancient China." Based on the information in this record, this imagery is certainly consistent with applicant's marketing strategy.

Alternatively, we agree with applicant that, as a corollary, it is also reasonable to assume that this mark may well present to some potential consumers a "double entendre" inasmuch as the combined mark "Vintage China" can be viewed as a term of art, meaning "antique chinaware." See *In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (CCPA 1968) [SUGAR & SPICE registrable for bakery products]; *In re Kraft, Inc.*, 218 USPQ 571, 573 (TTAB 1983) [requirement for a disclaimer of the word "Sheer" apart from the mark SHEER ELEGANCE unnecessary for pantyhose]; *In re Simmons Co.*, 189 USPQ 352 (TTAB 1976) [THE HARD LINE for mattresses and bed springs]; *In re Delaware Punch Co.*, 186 USPQ 63 (TTAB 1975) [THE SOFT PUNCH for noncarbonated soft drink]; and *In re National Tea Co.*, 144 USPQ 286 (TTAB 1965) [NO BONES ABOUT IT for fresh pre-cooked ham].

Neither of these latter two possible connotations is merely descriptive in relation to the goods, and hence, we find that the composite mark is not barred by Section 2 of

the Statute. We conclude that this composite is neither primarily geographically descriptive of applicant's goods nor is it merely descriptive (or deceptively misdescriptive) of them. Rather, a multistage reasoning process or imagination would be necessary in order for customers or prospective purchasers of these goods to conclude anything meaningful about the features of the goods.

The term **VINTAGE CHINA**, when used in connection with clothing, namely, jeans, jackets, pants, skirts, shorts, sweaters, shirts, belts, footwear, and headwear, has not been shown immediately or directly to describe any significant feature or aspect of applicant's goods. Accordingly, we agree with applicant that the term "Vintage China" should not be barred from registration based upon any subsection of Section 2 of the Lanham Act.

*Decision:* The refusal to register is reversed.