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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Pennwood Products, Inc.

Serial No. 77035983

Bryce J. Maynard of Buchanan Ingersoll & Rooney P.C. for
Pennwood Products, Inc.

Julie A. Watson, Trademark Examining Attorney, Law Office
109 (Dan Vavonese, Managing Attorney).

Before Hairston, Bucher and Zervas, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

Pennwood Products, Inc. has filed an application to
register the mark PENN STAIRS (in standard character form
with STAIRS disclaimed) for "stairs, stair treads, and
stair risers, not of metal" in International Class 19.¹

Registration has been finally refused under Section

¹ Serial No. 77035983, filed August November 3, 2006, alleging a
bona fide intention to use the mark in commerce.

2(e)(2) of the Trademark Act, 15 U.S.C. §1052(e)(2), on the ground that applicant's mark is primarily geographically descriptive of the identified goods.

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

The issue on appeal is whether applicant's mark PENN STAIRS is primarily geographically descriptive. The test for determining whether a mark is primarily geographically descriptive is whether (1) the primary significance of the mark is the name of a place known generally to the public, and (2) the public would make a goods/place association, that is, believe that the goods identified in the application originate or will originate in or from that place. If these elements are met, and if the applicant's goods in fact originate or will originate in or from the place named in the mark, then the mark is primarily geographically descriptive of the goods. See *In re Societe-Generale des Eaux Minerales de Vitel S.A.*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987); *In re Joint-Stock Co. "Baik,"* 80 USPQ2d 1305 (TTAB 2006); and *In re JT Tobacconists*, 59 USPQ2d 1080 (TTAB 2001).

First, we consider whether the primary significance of the mark is the name of a place generally known to the

public. There is no dispute that the state of Pennsylvania is a generally known geographic location, and that "Penn" is a recognized abbreviation for Pennsylvania. We grant the examining attorney's request to judicially notice that The American Heritage Dictionary of the English Language (4th ed. 2000) lists "Penn." as one of three abbreviations for "Pennsylvania." In addition, the examining attorney submitted Internet printouts which contain references to, inter alia, the "Penn Quakers" basketball team of the University of Pennsylvania; "Penn State University;" and "Penn National Pennsylvania Thoroughbred Racetrack."

It is well settled that nicknames and abbreviations for a geographic location are considered the equivalent of the official or formal name for purposes of determining registrability of the geographic term. See *In re Carolina Apparel*, 48 USPQ2d 1542 (TTAB 1998) [the term CAROLINA, used to indicate either North Carolina or South Carolina, is geographically descriptive]; and *In re Charles S. Loeb Pipes, Inc.*, 190 USPQ 238, 246 (TTAB 1975) [OLD DOMINION is an accepted nickname for the State of Virginia; "nicknames and even abbreviations and maps of geographical areas and the names of the geographical area that they identify are, for purposes of registration, identical, and ... the same criteria for registration must necessarily apply thereto"].

On this record, we find that the primary significance of the term "Penn" is geographic,² and also that the primary significance of PENN STAIRS, in its entirety, is geographic. The addition of a generic word to a geographical term does not overcome the primary significance of the mark as a whole. See *In re JT Tobacconists*, supra at 1082. [MINNESOTA CIGAR COMPANY held primarily geographically descriptive of cigar products]. The word STAIRS is generic for goods identified as "stairs" and the combination of that word with PENN does nothing to alter the geographic significance of PENN alone. Applicant does not dispute that the primary significance of its mark is geographic. Rather, applicant contends that the public would not make a goods/place association.

We consider then whether the public would make a goods/place association between applicant's identified goods and its mark. Applicant contends that the examining attorney has failed to present any evidence establishing a connection between stair products and Pennsylvania. According to applicant, the mere fact that it is located in Pennsylvania is not enough to establish a goods/place association between its stairs, stair treads, and stair

² The absence of a period after "Penn" does not alter the geographic significance of the term.

risers and Pennsylvania. Nor is it enough that Pennsylvania is a large state which could conceivably be the source of stair products. Applicant relies on *In re Venice Maid Co., Inc.*, 222 USPQ 618 (TTAB 1984) and *In re California Innovations, Inc.*, 329 F.3d 1334, 66 USPQ2d 1853 (Fed. Cir. 2003). However, as the examining attorney points out, applicant's reliance on these two cases is misplaced because each dealt with the issue of whether a mark is primarily geographically deceptively misdescriptive. The legal analysis used in determining whether a mark is primarily geographically deceptively misdescriptive is not the same as that used in determining whether, as here, a mark is primarily geographically descriptive.

As the Board has stated, "where the goods or services actually originate from the geographic place designated in the mark, a public association of the goods or services with the place named may ordinarily be presumed." *In re Carolina Apparel*, supra, 48 USPQ2d at 1543. The place need not be known for that type of good generally. *In re California Pizza Kitchen*, supra, 10 USPQ2d at 1707. In view thereof, we find that the public would indeed make a goods/place association here because consumers would naturally assume that the stairs, stair treads, and stair

risers identified by the involved mark originate in Pennsylvania.

The last question we consider is whether the goods will in fact come from the place named in applicant's mark. Applicant is located in East Berlin, Pennsylvania and applicant does not dispute that the goods will come from Pennsylvania. Therefore, we find that the goods will in fact come from the place named in the mark.

Based on the record in this case, we conclude that applicant's mark is primarily geographically descriptive under the applicable test. The state of Pennsylvania is a generally known geographic location; "Penn" is a recognized abbreviation for "Pennsylvania;" the public would make an association between the goods identified in the application and the geographical location set forth in the mark; and applicant's goods will in fact come from Pennsylvania.

Decision: The refusal to register is affirmed.