

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

Hearing:
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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re The Entrepreneur Channel, Inc.

Serial No. 78273535

Erik M. Pelton, Attorney-at-Law for The Entrepreneur
Channel, Inc.

Odessa Bibbins, Trademark Examining Attorney, Law Office
105 (Thomas G. Howell, Managing Attorney).

Before Hohein, Hairston and Kuhlke, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

The Entrepreneur Channel, Inc. has filed an
application to register on the Principal Register the mark

THE ENTREPRENEUR CHANNEL for the following services:

Broadcasting of television shows featuring
business, news, and information via television,
cable television, satellite, and audio and visual
media in Class 38; and

Entertainment services, namely television shows featuring continuing business, news and information in Class 41.¹

The trademark 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 of the identified services.

Applicant has appealed. Both applicant and the examining attorney have filed briefs and an oral hearing was held. We affirm the refusal to register as to the services in both classes.

The examining attorney contends that the individual terms ENTREPRENEUR and CHANNEL are merely descriptive of the identified services, and that the composite mark THE ENTREPRENEUR CHANNEL is also merely descriptive because it immediately conveys information about the subject matter of the identified services.

The examining attorney submitted definitions from the online dictionary Microsoft Bookshelf Basics of "entrepreneur" as "[a] person who organizes, operates, and assumes the risk of a business venture" and "channel" as "[a] specified frequency band for the transmission and

¹ Serial No. 78273535, filed July 12, 2003, based on an allegation of a bona fide intention to use the mark in commerce. The word CHANNEL is disclaimed apart from the mark as shown.

reception of electromagnetic signals, as for television signals."

The examining attorney also submitted excerpts of articles retrieved from the NEXIS database concerning television shows that deal with and are directed to entrepreneurs. The following are several examples:

Falls and Smith also co-host a bi-weekly half hour television show that features entrepreneurs as guests. (Carolina Peacemaker; February 12-18, 2004);

To learn more about how to start a business, Hoopengardner created a television show about entrepreneurs. "I guess I was looking for insights for what makes entrepreneurs successful and what makes their businesses successful," he said. (The Washington Post; September 23, 2004);

The weekly television show, "Recipe for Success," highlights entrepreneurs who gave up their careers to pursue a small business. (The San Luis Obispo Tribune; December 18, 2004); and

Three years after starting at the Tualatin Valley Community Access studio in Beaverton, a weekly television show that gives entrepreneurs advice on everything from starting a business to navigating rough economic waters has built a solid foundation of viewers.... (The Oregonian; November 15, 2001).

Applicant, in urging reversal of the refusal to register, maintains that its mark is at most suggestive. Specifically, applicant argues in its brief at 7-8 (citations omitted):

Here, the phrase THE ENTREPRENEUR CHANNEL as [a] whole has no common meaning. The term CHANNEL

has several meanings, some of which bear no relationship to Applicant's services, including "the bed of a stream or river," "a trench, furrow, or groove," and "a conduit." A viewer of the proposed mark is not likely to immediately know whether the product or service is for entertainment, education, about entrepreneurs, for entrepreneurs, etc. As a result of its multiple meanings, it is not immediately apparent to consumers what the goods or services of the Applicant are by merely looking at the mark THE ENTREPRENEUR CHANNEL.

A mark comprising a combination of merely descriptive components is registrable if the combination of terms creates a unitary mark with a unique, nondescriptive meaning, or if the composite has a bizarre or incongruous meaning as applied to the goods. As a result, the mark THE ENTREPRENEUR CHANNEL is not descriptive.

Further, applicant has submitted copies of third-party registrations of marks that applicant maintains are similar to its mark and which support its position.

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 services in connection with which it is used, or intended to be used. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); and In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215 (CCPA 1978). It is not necessary for a term to describe all of the properties or characteristics of the services in order for it be considered merely descriptive of them; rather, it

is sufficient if the term describes any significant attribute or idea about them. Further, 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 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 services. In re Bright-Crest, Ltd. 204 USPQ 591 (TTAB 1979); and In re Recovery, 196 USPQ 830 (TTAB 1977).

Applicant's services include broadcasting of shows featuring business via television and television shows featuring continuing business. The definitions submitted by the examining attorney show that an "entrepreneur" is a type of business person, and "channel" is a frequency band for the transmission and reception of television signals. The word "THE" in applicant's mark has no source-indicating significance. See In re G. D. Searle & Co., 360 F.2d 650, 149 USPQ 619 (CCPA 1966). When the terms are combined, they would immediately inform prospective customers that applicant's broadcasting and entertainment services feature television shows that are directed to and about entrepreneurs. That the word "channel," in particular, may have other meanings in other contexts is irrelevant to our

analysis under Section 2(e)(1). In re Bright-Crest, Ltd.,
supra.

The examining attorney has also included NEXIS excerpts which demonstrate that other parties are in the business of producing/broadcasting television shows directed to and about entrepreneurs. Moreover, we note that a promotional brochure submitted by applicant includes the following statements:

CONTENT

We will produce and purchase programming of interest to entrepreneurs. The bulk of the programming will be of four types.

The first type will be inspirational shows on successful entrepreneurial businesses. These shows will highlight the founders of these businesses and their war stories, triumphs, and obstacles, and resources.

The second type of programming will highlight specific business ideal with enormous potential for profit. We will produce shows such as *101 Best Business Ideas*, and *New Millennium Business Products*. We will show viewers step by step how they can start their businesses for themselves.

Based on the above evidence, we conclude that the terms "entrepreneur" and "channel" would clearly have descriptive meanings when used in connection with applicant's broadcasting of shows featuring business via television and television shows featuring continuing business. Moreover, the composite mark THE ENTREPRENEUR CHANNEL is as

descriptive in its entirety as the words are individually. We are not persuaded by applicant's contention that the combination of the individual words evokes a mark with a unique, nondescriptive meaning. Applicant does not explain what that meaning is, and we do not find one. Rather, applicant's mark THE ENTREPRENEUR CHANNEL, when used in connection with the identified services, would immediately describe, without conjecture or speculation, a significant feature of applicant's services, as discussed above. Nothing requires the exercise of imagination or mental processing or gathering of further information in order for prospective customers of applicant's services to readily perceive the merely descriptive significance of the phrase THE ENTREPRENEUR CHANNEL as it pertains to applicant's television broadcasting and entertainment services. See *In re The Weather Channel, Inc.*, 229 USPQ 854 (TTAB 1985) ["THE WEATHER CHANNEL" is merely descriptive of television programming services, namely preparation of weather formats for use by television stations, and for weather information services]; and *In re Conus Communications Co.*, 23 USPQ2d 1717 (TTAB 1992) ["ALL NEWS CHANNEL" is generic for a type of television channel, and for broadcasting and production services of which entire subject matter is news].

Finally, the third-party registrations submitted by applicant do not compel a different result. Although uniform treatment under the Trademark Act is an administrative goal, our task in this appeal is to determine, based on the record before us, whether the applied-for mark is merely descriptive. Even if an applicant can point to other registrations that have "some characteristics similar to [this] application, the PTO's allowance of such prior registrations does not bind the Board or this court." *In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001).

Decision: The refusal to register under Section 2(e)(1) as to the services in classes 38 and 41 is affirmed.