

THIS OPINION IS
NOT A PRECEDENT OF
THE TTAB

Mailed: July 11, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re International Data Group, Inc.

Serial No. 78508383

Mark B. Harrison of Venable for International Data Group, Inc.

Sonya B. Stephens, Trademark Examining Attorney, Law Office 109
(Dan Vavonese, Managing Attorney).

Before Holtzman, Drost and Bergsman, Administrative Trademark
Judges.

Opinion by Holtzman, Administrative Trademark Judge:

Applicant, International Data Group, Inc., has filed an
application to register the mark SYNDICATE (in standard character
form) for services ultimately identified as follows:

Arranging and conducting trade shows, expositions and
exhibitions in the fields of computers and web site [sic]
content syndication trends, and emerging syndication
technologies (in Class 35).¹

Arranging and conducting seminars, conferences, and
discussion groups in the fields of computers and web site

¹ Serial No. 78508383, filed October 29, 2004, based on an allegation
of a bona fide intention to use the mark in commerce.

[sic] content syndication trends, and emerging syndication technologies (in Class 41).²

The trademark examining attorney has refused registration on the ground that the mark is merely descriptive of applicant's services under Section 2(e)(1) of the Trademark Act.³

When the refusal was made final, applicant appealed. Applicant and the examining attorney have filed briefs.

The examining attorney argues that SYNDICATE describes applicant's services which relate to advising and educating others on how to syndicate, i.e., advising others about syndication. The examining attorney has submitted definitions of "syndicate" from a number of dictionaries and points to pages from applicant's websites (*idg.com* and *syndicatedconference.com*), which according to the examining attorney, confirm that applicant conducts events concerning online media syndication.

Applicant agrees that its services deal with online media syndication but argues that its mark SYNDICATE does not immediately or directly convey information regarding the nature, function purpose or use of its services. Applicant argues that its company is not a "syndicate" or acting as a "syndicate"; that its services "deal with 'syndication trends' not 'syndicate'" (Brief, p. 3); and that the two terms "syndicate" and

² Serial No. 78539762, filed December 29, 2004, alleging a date of first use in June 2002 and first use in commerce on October 26, 2002.

³ The examining attorney had also initially refused registration under Section 2(d) of the Act. That refusal was subsequently withdrawn.

"syndication" are not synonymous or interchangeable. In applicant's view, the term SYNDICATE only suggests to customers that attend applicant's conference, that "they may find information related to syndication or how they might be able to syndicate their own articles or cartoons." (Brief, p. 4.) Applicant concludes, without further elaboration, that "there is a multistage reasoning process required to take a customer from the term SYNDICATE to Applicant's services." Id.

A term is merely descriptive within the meaning of Section 2(e)(1) if it immediately conveys knowledge of a quality, characteristic, function, feature, purpose or use of the goods or services with which it is used or intended to be used. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987). Moreover, the question of whether a particular term is merely descriptive must be determined not in the abstract, but in relation to the goods or services for which registration is sought. See In re Engineering Systems Corp., 2 USPQ2d 1075 (TTAB 1986).

Applicant conducts seminars, conferences, exhibitions and other events in the field of "website content syndication" under the mark SYNDICATE. When viewed in the context of applicant's services, SYNDICATE would immediately and directly inform purchasers about a significant feature or characteristic of the services, namely the subject matter of applicant's services.

The word "syndicate" has a meaning both as a noun and as a verb. The two forms of the word are pronounced differently and are used in different contexts. As a noun, "syndicate" (last syllable pronounced with a short "i" sound) refers to the nature of an organization.⁴ Used as a verb, "syndicate" (last syllable pronounced with a long "a" sound) refers to the nature of an activity. For purposes of our analysis, we focus solely on the verb form the term "syndicate." Contrary to applicant's contention, it is this form of the term, not the noun form, that the examining attorney has found conveys the descriptive meaning in relation to applicant's services. Representative dictionary entries for the relevant form of "syndicate" are as follows (emphasis in original):

- **verb/sindikayt/...2** publish or broadcast simultaneously in a number of media.

DERIVATIVES **syndication** noun.

Compact Oxford English Dictionary, supra.

- *v.t.* [*Pronunciation* -v.sin'di-kāt]...2. to publish simultaneously, or supply for simultaneous publication, in a number of newspapers or other periodicals in different places: *Her column is syndicated in 120 papers.*

Random House Unabridged Dictionary (1997) (*infoplease.com*)

- **1. transitive verb sell something for multiple publication:** to sell something such as an article or a comic strip for

⁴ The Compact Oxford English Dictionary (2006) (*askoxford.com*) defines "syndicate" as follows: "**noun/sindik[i]t/ 1** a group of individuals or organizations combined to promote a common interest. **2** an agency supplying material simultaneously to a number of news media." (Emphasis in original.)

publication in a number of newspapers or magazines simultaneously.

- **syn-di-ca-tion** [sindi kaysh'n]n

Encarta World English Dictionary [North American Edition]
(2005) (*encarta.msn.com*)

It can be seen from these entries that "syndication" is a derivative of the word "syndicate" and there is no dispute that the concept of "syndication" applies to both traditional media and online media. There is also no dispute, and applicant's website materials make it clear, that "syndication" of online media is the subject matter of applicant's conferences and events. Portions of applicant's website, *syndicateconference.com*, which advertises an upcoming conference, are quoted below (emphasis in original):

Syndicāte

the Premier Event for
Content Syndication Trends

Syndicāte New York
Dawn of
the Dialogue Age
May 15-17, 2006

About Syndicāte

As the premier event for content syndication trends, Syndicāte™ (www.syndicateconference.com) is a B2B Conference providing awareness, clarity, education, deal making and strategic business opportunities surrounding the emergence of online media syndication. This program will focus on emerging technologies such as RSS (Really Simple Syndication), for content owners and producers, new media executives, marketers, advertisers and public relations professionals.

Syndicated Technologies & Trends: Syndication is a brand new field where new technologies, standards and practices are emerging and evolving constantly. This track will explore new syndication technologies, standards, trends and practices. Subjects covered include: mobile RSS, tagging, structured blogging, wikis, vertical market syndication, attention tracking, social software, IRC, and new areas where hundreds of million dollars of venture money are flowing.

"Syndicate's speaker list includes many of the leading thinkers and do-ers in media, marketing communications and technology," said Doc Searis, Syndicate's conference chairperson. "Syndication, its technologies and its tools are changing the way we communicate and do business on the Net. ..."

Based on the definitions of "syndicate," and in the context of applicant's services as identified in the application and as described on applicant's website, there is no question that applicant is providing information about the "syndication" of online media, that is, about the formats, technologies and methods used to "syndicate" online media. Furthermore, applicant's frequent use of SYNDICATE in its advertising with the long mark over the "a" ("Syndicate") makes it clear that applicant intends the term to have that meaning and ensures that prospective purchasers will understand the meaning.

Contrary to applicant's contention, the two terms, SYNDICATE and "syndication" are virtually synonymous and interchangeable, if not grammatically, then certainly in significance and in the meaning conveyed to prospective customers. In any event, it is

not necessary that the two terms be synonymous or interchangeable in order for us to find SYNDICATE descriptive of the services. See *The F. & M. Schaefer Brewing Co. v. Pittsburgh Brewing Company*, 148 USPQ 449, 451 (TTAB 1965) ("the fact that other terms may more aptly describe the [goods] does not render the term [sought to be registered] any less descriptive thereof."). SYNDICATE, as the root word of syndication and the word from which syndication is derived, would have an obvious descriptive meaning to applicant's customers, that is, the RSS publishers, advertisers, marketers and public relations companies who would attend applicant's conferences and events. Applicant has simply changed "syndication" to a different form, and no new or different meaning is imparted by that form.⁵ See, e.g., *In re Gray Inc.*, 3 USPQ 1558, 1559 (TTAB 1987) (finding PROTECTIVE EQUIPMENT merely descriptive of burglar and fire alarms notwithstanding that the evidence only showed uses of variants of the term, "protect" and "protection," the Board stated, "These terms all have the same meaning, differing only in their form.");

⁵ Applicant submitted, for the first time with its brief, a definition of "syndication" from the website *rhymezone.com* as meaning "noun: selling (an article or cartoon) for publication in many magazines or newspapers at the same time. Example: '*He received a comfortable income from the syndication of his work.*'" (Italics in original.) The examining attorney objected to this evidence as untimely correctly pointing out that it is not the type of evidence that is appropriate for judicial notice. We do not need this definition to understand the meaning of "syndication." Even if we had considered this evidence, it would merely further confirm that SYNDICATE would be perceived as a descriptive term.

and In re Lativ Systems, Inc., 223 USPQ 1037, 1039 (TTAB 1984) ("Merely by converting a term [vinyl] to its adjectival form [VINYLIZING] does not impart trademark or service mark distinctiveness to the term in relation to the goods or services [coating compound]").

There is no question that the ordinary meaning of the word SYNDICATE would be well understood in the context of applicant's services. Prospective purchasers of applicant's services, would without any guesswork or the exercise of any imagination, immediately recognize SYNDICATE as describing the subject matter of applicant's conferences which involves the syndication of online media. This is a descriptive term that competitors of applicant should be free to use in connection with their own services in that field.

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