

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re The Procter & Gamble Company

Serial No. 78512103

Carl J. Roof, Esq. for The Procter & Gamble Company.

Tonia M. Fisher, Trademark Examining Attorney, Law Office
113 (Odette Bonnet, Managing Attorney).

Before Hairston, Bucher and Kuhlke, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

The Procter & Gamble Company has filed an application
to register the mark RAINFOREST RESERVE in standard
character form for "coffee."¹

The trademark examining attorney has refused
registration under Section 2(e)(1) of the Trademark Act, 15
U.S.C. §1052(e)(1), on the ground that applicant's mark,

¹ Serial No. 78512103, filed on November 5, 2004, which alleges a
date of first use anywhere and in commerce of September 13, 2004.

when applied to applicant's goods, is merely descriptive of them.

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

It is applicant's position that RAINFOREST RESERVE is at most suggestive of its goods because consumers "must go through some mental exercise before making a conclusion as to the goods with which the composite mark is associated." (Brief at unnumbered p. 3). Further, applicant argues that even if RAINFOREST and RESERVE, individually are descriptive of applicant's goods, two or more descriptive terms, when combined, can be suggestive and therefore registrable as a mark.

The examining attorney, on the other hand, argues that RAINFOREST and RESERVE, individually have descriptive significance as applied to applicant's goods, and the combined mark RAINFOREST RESERVE is merely descriptive of such goods. The examining attorney maintains that the word "rainforest" is descriptive of applicant's coffee because it originates in or is sourced from a rainforest, and that the word "reserve" is descriptive of such goods because "reserve" is commonly used and understood in the coffee industry to refer to a premium blend of coffee.

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 goods 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 goods 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 goods 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 goods. In re Bright-Crest, Ltd. 204 USPQ 591 (TTAB 1979); and In re Recovery, 196 USPQ 830 (TTAB 1977).

With respect to the word "rainforest," the examining attorney noted that applicant's specimen, a photograph of bagged coffee, includes graphics depicting a rainforest, and a statement that applicant's coffee is certified by the "Rainforest Alliance" organization. The examining attorney

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submitted an Internet printout of the organization's homepage which contains the statement that "Rainforest Alliance Certified coffee is grown on farms where forests are protected" In addition, the examining attorney submitted copies of four third-party registrations for marks that include the word RAINFOREST, namely, Registration No. 1986423 for the mark RAIN FOREST NUT (NUT is disclaimed) for "whole roasted coffee beans, ground roasted coffee beans and processed ground coffee beans," which issued on the Principal Register under Section 2(f); Registration No. 2291802 for the mark RAINFOREST HONEY (HONEY is disclaimed) for "honey," which issued on the Principal Register under Section 2(f); Registration No. 2426295 for the mark RAIN FOREST RESCUE for "coffee" and "coffee cups," which issued on the Principal Register with a disclaimer of "RAIN FOREST"; and Registration No. 2857065 for the mark BORNEO RAINFOREST TEA for "organic tea for consumption," which issued on the Supplemental Register with a disclaimer of "RAINFOREST TEA."

With respect to the word "reserve," the examining attorney submitted an entry from The American Heritage Dictionary of the English Language (3rd ed. 2002) which defines "reserve" as "to be set apart for a particular person or use." In addition, the examining attorney

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submitted Internet printouts wherein the term "reserve" is used in connection with coffee:

Wolfgang Puck Coffee
Reserve Blend
24 2.25 oz Bags
Rich in Parisian Coffeehouse tradition. An exotic blend of the finest coffee from Columbia and Kenya.
<http://www.hot50.coffee.com>

Estate Trelis Reserve 1 lb.
Item Price: \$45.00
The Only Coffee of its kind in the world. Our Estate Pure Kona Coffee grown like wine grapes in a trelis system.
<http://www.konajoe.com>

Maxwell House® Caffè'
Origins Special Reserve Coffee
Gourmet coffee from 100% Arabica beans
<http://www.cleansupply.com>

Kenya AA Reserve Green Coffee Beans - 3 lb bag
Kenya has always been a popular coffee for good reason... We offer the finest of the Kenya AA - a special reserve lot that is the best of the best - enjoy this special coffee today.
<http://www.coffee-maleos-expresso-machines.com>

Finally, the examining attorney submitted copies of third-party registrations for marks that include the word "reserve," namely, Registration No. 2745332 for the mark ROASTERS RESERVE for "coffee and coffee beans," which issued on the Supplemental Register, and Registration No. 2588248 for the mark JR RESERVE BLEND for "coffee," which issued on the Principal Register with a disclaimer of "RESERVE BLEND."

Based on the above evidence, we conclude that the word "rainforest" clearly has descriptive significance as applied to coffee that is grown in a rainforest. Further, we find the evidence demonstrates that the word "reserve" has a descriptive meaning as applied to coffee in that it conveys that the coffee is exceptional or superior in nature. Moreover, the composite mark RAINFOREST RESERVE is as descriptive in its entirety as the words are individually. We are not persuaded by applicant's contention that the combination is only suggestive of its goods. Rather, applicant's mark RAINFOREST RESERVE, when used in connection with the identified goods, immediately describes, without conjecture or speculation, that a significant feature of applicant's coffee is that it is grown in a rainforest and is of exceptional quality. When viewed in the context of applicant's goods, there is nothing in the term RAINFOREST RESERVE which is incongruous, ambiguous, or even suggestive, nor is there anything which would require the gathering of further information, in order for the merely descriptive significance thereof to be readily apparent to consumers of applicant's goods. Instead, such term merely describes two significant features or characteristics of applicant's goods, namely that the coffee is grown in a rainforest and

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is of exceptional quality. See, e.g., In re Entenmann's Inc., 15 USPQ2d 1750 (TTAB 1980) [OATNUT held merely descriptive of bread containing oats and hazelnuts].

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