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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Global Gaming League, Inc.

Serial No. 78687059

Marvin H. Kleinberg of Kleinberg & Lerner, LLP for Global Gaming League, Inc.

Dorritt Carroll, Trademark Examining Attorney, Law Office 116 (Michael W. Baird, Managing Attorney).

Before Bucher, Grendel and Cataldo, Administrative Trademark Judges.

Opinion by Grendel, Administrative Trademark Judge:

Global Gaming League, Inc., applicant herein, seeks registration on the Principal Register of the mark HIP HOP GAMING LEAGUE (in standard character form) for goods and services identified in the application as:

Class 9:

Software for enabling connectivity between gamers, gathering and tracking multiplayer gaming statistics, providing opportunity for multiplayer gamers to interact in the field of computer

games; software for matching multiplayer gamers based on skill and interests in the field of enabling digital interactivity; computer peripheral devices, namely, joysticks, game controllers, steering wheels, trackballs, laser pointing devices, mouse pads and speakers; headphones; downloadable computer game software for computers consoles and mobile devices;

Class 16:

Newsletters and magazines in the field of computer gaming; and

Class 41:

Entertainment services, namely, providing competitive multi-player video gaming via worldwide and local computer networks; on-line video gaming information services, namely, providing dynamically-updated statistics and results of the performance of video game players and related content, connecting video game players to others with similar interest and skill levels to compete in a multi-player game environment by means of a global network; computer gaming information, namely, providing editorial content and commentary concerning video games and related content for transmission by means of cable television, over the air broadcasts, worldwide computer networks, wireless and other digital transmission means; providing on-line web logs, articles and editorial publications in the field of computer gaming.¹

The Trademark Examining Attorney has issued a final refusal to register applicant's mark on the ground that the mark is merely descriptive of the goods and services

¹ Serial No. 78687059, filed on August 5, 2005. The application is based on applicant's asserted bona fide intention to use the mark in commerce. Trademark Act Section 1(b), 15 U.S.C. §1051(b).

identified in the application. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1).

Applicant has appealed the final refusal. After careful consideration of the evidence of record and the arguments of counsel, we affirm the refusal to register as to all three classes of goods and services.

A term is deemed to be merely descriptive of goods or services, within the meaning of Trademark Act Section 2(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. *See, e.g., 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, 217-18 (CCPA 1978). A term need not immediately convey an idea of each and every specific feature of the applicant's goods or services in order to be considered merely descriptive; it is enough that the term describes one significant attribute, function or property of the goods or services. *See In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); *In re MBAssociates*, 180 USPQ 338 (TTAB 1973). Whether a term is merely descriptive is determined not in the abstract, but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with those goods or

services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use. That a term may have other meanings in different contexts is not controlling. *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). Moreover, it is settled that "[t]he question is not whether someone presented with only the mark could guess what the goods or services are. Rather, the question is whether someone who knows what the goods or services are will understand the mark to convey information about them." *In re Tower Tech Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002). See also *In re Patent & Trademark Services Inc.*, 49 USPQ2d 1537 (TTAB 1998); *In re Home Builders Association of Greenville*, 18 USPQ2d 1313 (TTAB 1990); and *In re American Greetings Corporation*, 226 USPQ 365 (TTAB 1985).

Applying these principles in the present case, we find as follows.

First, we find that the words GAMING LEAGUE are merely descriptive of applicant's goods and services as they are identified in the application. "Gaming" is defined, in pertinent part, as "the playing of games, especially video games." The American Heritage Dictionary of the English Language (4th ed. 2000). Applicant itself repeatedly uses the word "gaming" descriptively or even generically in its

identification of goods and services. Based on this evidence, we find that GAMING is merely descriptive of applicant's goods and services. Applicant does not contend otherwise.

We also find that the word LEAGUE is merely descriptive of applicant's goods and services as they are identified in the application. "League" is defined in pertinent part as: "*Sports* An association of teams or clubs that compete chiefly among themselves." (Id.) Applicant's primary argument in opposition to the mere descriptiveness refusal in this case is that its goods and services do not involve or relate to a "league" under this definition, because they do not involve structured competition among "teams" or "clubs," but rather involve an unstructured and only loosely organized opportunity and forum for competition among individual gamers. We are not persuaded.

First, applicant's identification of goods and services is broad enough to encompass a gaming environment which is organized and structured as a competition among teams, not just competition among individual gamers. That is, nothing in the identification of goods and services would preclude applicant from organizing individual gamers into teams for team competition, based on skill level,

preferred types of games, or otherwise. Due to the nature of video games, the individual contests most likely would pit individuals against individuals in either one-on-one or multiplayer competition, but, consistent with the identification of goods and services, these individual gamers readily could be organized into teams and compete as teams in a team league format as well.

Second, it is apparent from excerpts from applicant's website (made of record by the Trademark Examining Attorney) that applicant has structured and patterned its gaming competition environment in the manner of a sports league, with many of the trappings of a league. Like sports leagues, applicant's gaming league has a commissioner (the hip-hop star Snoop Dogg). Like sports leagues, the competition is organized into yearly seasons (there are references to "season one" and "season two"). Each season involves "regular season" competition and "playoffs" competition. The competition leads to a season-ending tournament which determines the league championship. The menu tabs on applicant's website include "standings," "schedule" and "stats," all of which are typical of league play. Like professional sports leagues, applicant's gaming league has a "draft day" every year.

In answer to this evidence showing that applicant's competition environment is organized in a typical league format, applicant argues that these league trappings do not pertain to the identified goods and services which are directed to applicant's purchasers (individual gamers who join as members). Rather, "the championship and playoff matches are simply a promotional campaign that ONLY features celebrities and it does not go to the goods and services of the mark." (Applicant's brief at 5.) This argument is unpersuasive. There is nothing in applicant's identification of goods and services which limits use of the league format, including playoffs, tournaments and championships, to celebrity gamers. Second, even if the league format is limited to celebrity gamers, and applicant's ordinary members/purchasers are relegated to the role of spectators, those spectators still would view the celebrity competition as being in the form of a league, essentially similar to the National Football League or Major League Baseball with its National League and American League.

Alternatively with respect to the mere descriptiveness of LEAGUE, we note that "league" also is defined as "an association of states, organizations or *individuals* for common action...." The American Heritage Dictionary of the

English Language (4th ed. 2000) (emphasis added).

Applicant's goods and services clearly are intended or designed to create an opportunity for individual gamers to associate together for the purpose of sharing their common interest in gaming. The word "league" merely describes this aspect, function and purpose of the goods and services.

For these reasons, we find that LEAGUE is merely descriptive of applicant's goods and services. The word as it appears in applicant's mark and as it is applied to applicant's goods and services would have no other significance to purchasers than its merely descriptive significance. We have considered all of applicant's arguments to the contrary, but find them to be unpersuasive.

To summarize, we find that the word GAMING and the word LEAGUE are merely descriptive of applicant's goods and services, and that the combination GAMING LEAGUE likewise is merely descriptive. It directly informs purchasers that the goods and services involve or relate to a league for competitive gaming and gamers.

Having found that GAMING LEAGUE is merely descriptive of applicant's goods and services, we likewise find that HIP HOP is merely descriptive of the goods and services.

"Hip-Hop" is defined as a noun meaning "a popular urban youth culture, closely associated with rap music and with the style and fashions of African-American inner-city residents." As an adjective, "hip-hop" is defined as "of or characteristic of hip-hop culture." The American Heritage Dictionary of the English Language (4th ed. 2000).

Applicant's identification of goods and services is sufficiently broad to encompass a gaming league which is based on or involves hip-hop culture. Moreover, it is apparent from applicant's website that applicant's goods and services are marketed specifically to gamers who are involved in or interested in hip-hop culture. The commissioner of applicant's gaming league is Snoop Dogg, a world-famous hip-hop star. Applicant's celebrity gamers are primarily hip-hop personalities and stars such as Method Man and Ying Yang Twinz. The purchasers and other users of applicant's goods and services would immediately and directly understand that HIP HOP in applicant's mark refers to this hip-hop focus of applicant's gaming league. Thus, HIP HOP is merely descriptive of applicant's goods and services.

Finally, we find that applicant's combination of the merely descriptive terms HIP HOP and GAMING LEAGUE does not negate the mere descriptiveness of the two terms in

themselves, nor does it result in a composite that is unique, incongruous or otherwise distinctive. We note that applicant has not identified any such distinctive meaning for the composite phrase. Indeed, there is content on applicant's website which suggests that there is a connection in the relevant public's perception between hip-hop culture and gaming culture. An article on the "HHGL NEWS" page of applicant's website, under the headline "Hip Hop and Video Games: Unwanted Children Unite!", begins:

Right now, all over the world, the suits are struggling to catch up to what we have known for years. Hip-hop and video games are it. It's a familiar arithmetic: two rejected art forms forced underground reemerge dominant. Now, everybody wants a piece. But, that ain't gonna happen. Like Paul Wall, hip hop and video games are by the people, for the people. So, get your shovel, we goin back underground.

For all of the reasons discussed above, and notwithstanding applicant's unpersuasive arguments to the contrary, we find that HIP HOP GAMING LEAGUE is merely descriptive of applicant's goods and services. HIP HOP GAMING LEAGUE directly describes the subject matter of applicant's Class 41 entertainment and information services. It directly describes applicant's Class 9 software and hardware products, which would be used to provide access to the gaming league and enable users to

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participate. It directly describes the subject matter of the Class 16 publications. We find that registration therefore is properly refused under Trademark Act Section 2(e)(1) as to all three classes.

Decision: The refusal to register is affirmed.