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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re BSH Home Appliances Corporation

Serial No. 78694265

Russell W. Warnock for BSH Home Appliances Corporation.

Ray Thomas, Trademark Examining Attorney, Law Office 102
(Karen M. Strzyz, Managing Attorney).

Before Bucher, Grendel and Kuhlke, Administrative Trademark
Judges.

Opinion by Grendel, Administrative Trademark Judge:

BSH Home Appliances Corporation, applicant herein,
seeks registration on the Principal Register of the mark
TRIPLEFLAME (in standard character form) for goods
identified in the application as "heating, steam producing,
and cooking devices, namely, cooking, baking, frying,
grilling, toasting, thawing, and hot-keeping apparatus,

namely, domestic cooking ovens, electric and gas ranges, cooktops; and structural parts therefor," in Class 11.¹

The Trademark Examining Attorney has issued a final refusal to register applicant's mark on the ground that the mark, as applied to the goods identified in the application, is merely descriptive thereof. 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.

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

¹ Serial No. 78694265, filed on August 17, 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).

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.

The record shows that "triple" is defined, in pertinent part, as an adjective meaning "consisting of three parts or members." The American Heritage Dictionary of the English Language (4th ed. 2000). The word "flame is defined, in pertinent part, as a noun meaning "the zone of burning gases and fine suspended matter associated with rapid combustion; a hot, glowing mass of burning gas or vapor." Id.

In response to the Trademark Examining Attorney's Rule 2.61(b) requirement for information as to the nature of applicant's goods, applicant submitted a printout of a page from its website (www.boschappliances.com), with the caption "TRIPLEFLAME Burner." Alongside a photograph of an oven burner, the following explanatory text appears (emphasis added):

The three flame ports in this burner create an even flame pattern across multiple sizes of pans and multiple cooking modes. As the heat is turned down, the flame is turned off from the outside towards the inside of the pan sequentially - providing the right amount of flame in the right location always.

Based on this evidence, we find that TRIPLEFLAME directly and immediately describes a key feature of applicant's goods, i.e., that the cooking devices employ a burner which uses three flame ports. As noted above, our

mere descriptiveness determination must be made by considering the mark in relation to the identified goods. Thus, even if the term "triple flame" may have another meaning in another field unrelated to applicant's goods,² that meaning is irrelevant to our determination in this case of whether TRIPLEFLAME is merely descriptive of the goods identified in the application. Nor are we persuaded by applicant's suggestion that purchasers encountering applicant's goods might ascribe alternative meanings to "triple flame" as applied to applicant's goods, i.e., that it might be viewed as referring to "food prepared according to a particular recipe," or to "a timed sequence in which a first flame, a second flame, and a third flame are present."³ Clearly, the primary if not only significance

² Applicant, quoting from (but not providing copies of) articles from publications such as "Structure and Propagation of Triple Flames" and "Combustion Theory Modelling," asserts that "triple flame" has a specific meaning, e.g., "a canonical edge-flame structure that can potentially describe the flame stabilization mechanism at the base of a lifted turbulent jet diffusion flame. A triple flame is comprised of a curved premixed flame front spanning rich to lean compositions propagating along the stoichiometric mixture fraction line and a trailing diffusion flame formed from the excess fuel and oxidizer in the premixed branches." The specific field of technology to which this obviously highly technical discussion of "triple flame" pertains is not entirely clear. What is clear, however, is that this meaning or significance of "triple flame" is not the meaning that purchasers, i.e., ordinary consumers, will ascribe to the term upon encountering its use in connection with applicant's ovens and ranges with their three flame port burners.

³ Moreover, TRIPLEFLAME would likewise be merely descriptive of a cooking device with a burner which employs "a timed sequence in

ordinary purchasers are likely to ascribe to TRIPLEFLAME as applied to applicant's goods is as a direct description of "the three flame ports in this burner," identified in applicant's own webpage advertisement.

In summary, we conclude without any doubt that TRIPLEFLAME is merely descriptive of applicant's goods as identified in the application, and that registration of the mark on the Principal Register therefore is barred by Trademark Act Section 2(e)(1). Applicant's arguments to the contrary are wholly unpersuasive.

Decision: The refusal to register is affirmed.

which a first flame, a second flame, and a third flame are present."