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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re JELD-WEN, inc.

Serial No. 78773844

Charles G. Zug, Lucas V. Haugh and David A. Harlow of
Nelson, Mullins, Riley & Scarborough, L.L.P. for JELD-WEN,
inc.

Susan Leslie DuBois, Trademark Examining Attorney, Law
Office 111 (Craig D. Taylor, Managing Attorney).

Before Quinn, Holtzman and Walsh, Administrative Trademark
Judges.

Opinion by Walsh, Administrative Trademark Judge:

JELD-WEN, inc. (applicant) has applied to register the
mark PRAIRIE BEVEL in standard characters on the Principal
Register for "decorative glass panels sold as an integral
component of metal doors" in International Class 6.¹ The
Examining Attorney has finally refused registration on the

¹ Application Serial No. 78773844, filed December 15, 2005, based
on a statement of a bona fide intention to use the mark in
commerce under Trademark Act Section 1(b), 15 U.S.C. § 1051(b).

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grounds that the mark merely describes the goods under Trademark Act Section 2(e)(1), 15 U.S.C. § 1052(e)(1). Applicant has appealed. Both applicant and the Examining Attorney have filed briefs.

We affirm.

A term is merely descriptive of goods within the meaning of Section 2(e)(1) if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods. *See, e.g., In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009, 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 in order to be considered merely descriptive; it is enough that the term describes one significant attribute or function of the goods. *See In re H.U.D.D.L.E.*, 216 USPQ 358, 359 (TTAB 1982); and *In re MBAssociates*, 180 USPQ 338, 339 (TTAB 1973).

Whether a term is merely descriptive is determined not in the abstract, but in relation to the goods identified in the application, and the possible significance that the term would have to the average purchaser of the goods because of the manner of use. *In re Polo International*

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Inc., 51 USPQ2d 1061, 1062 (TTAB 1999); and *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979).

The Examining Attorney states, "In this case the term 'PRAIRIE BEVEL' puts a term that describes well-known and established architectural style together with a term that identifies an architectural feature or element." Examining Attorney's Brief at 3.

Among other evidence, the Examining Attorney has provided brief excerpts of articles from the NEXIS database, including: an article from *The Atlanta Journal-Constitution* of February 5, 2006, entitled "New designs convey look of by-gone days," stating, "Homes in West Village have prairie-style windows, doors, floors and ceilings, deep front porches and extended rafters and are priced from..."; an article from the *Contra Costa Times* of January 15, 2006, entitled "A little piece of history in your living room," stating, "A Prairie-style casement window, redeemed from a Waterford House, is now a mullioned glass door on a kitchen cabinet."; and an article from the *South Bend Tribune*, entitled "Building the Wright house, famous architect's style inspired couple," stating, "Other Wright-ish touches include Prairie-style windows which they have left unadorned."

The excerpts also include articles referring to windows with "bevels" or "bevel-edged windows" from *The St. Petersburg Times*, *The Charlotte Observer* and *The Sunday Oklahoman*. The record also includes third-party registrations (Registration Nos. 2417375 and 2494167) for glass or glass-related services where "BEVEL" is part of the mark and it is disclaimed. See first Office action at 2-3. Applicant does not appear to dispute the fact that BEVEL is descriptive of the identified goods.

The evidence also includes a longer piece from buffalo.edu captioned "Prairie Style of Architecture in Buffalo, NY." The piece states:

Prairie houses (1905-1915) may be viewed in a larger context as one type of Arts and Craft ("Craftsman") style architecture.

The prairie house is one of the few indigenous American styles. The name is key to the style. The stereotypical image of the Midwestern prairie is that of a wide, flat, horizontal, treeless expanse that meets the horizon. To translate that scene into architecture Wright designed a horizontal building that was low to the ground. Thus, the architecture features:

- Broad horizontal forms
- Low-pitched roof, usually hipped with deeply projecting eaves
- Honest use of materials
- Organic ornament
- Two stories, with one-story wings or porches
- Eaves, cornice and facade emphasizing horizontal lines, often with massive square porch supports

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- Bands of casement windows
- Large, low chimney that forms the hub of the house
- Free-flowing interior plans
- Seamless transition between indoors and outdoors
- Both Prairie and Craftsman/Arts and Crafts have widely overhanging eaves, but the Prairie style does NOT have exposed rafter tails, or decorative beams or braces under the gables.

The piece also emphasizes the distinction/contrast between the Prairie style and Victorian, both in terms of concept and form. See first Office attachment.

On the other hand, applicant argues that its mark is "arbitrary, or at least suggestive" because PRAIRIE "no longer describes an architectural style in the minds of consumers." Applicant's Brief at 2. In the alternative, applicant also argues that the "unitary phrase" PRAIRIE BEVEL, when considered as a whole, is not merely descriptive, even if the individual components are considered descriptive.

The principal support for applicant's position is the affidavit of Arthur Cogswell, a registered architect. The affidavit first sets forth Mr. Cogswell's credentials; we have no reason to doubt Mr. Cogswell's credentials and experience in the field. Mr. Cogswell states:

4. At one time, the word Prairie was descriptive of a particular school of architecture. Specifically, it was at one time identified with the designs of Frank Lloyd Wright, circa 1910-1920, of sophisticated single family dwellings in the more exclusive suburbs of Chicago, and thereafter with Wright's related work in Wisconsin in the immediately following years.

5. However, with the passage of time, just as Wright's work evolved significantly to a wide variety of styles, the term "Prairie" has come to be applied by many individuals to all kinds of styles and designs, to the point where it no longer means much. The term "Prairie" has been applied to works which belong to the "Arts & Crafts" style in England. The "Arts & Crafts" style was developed in roughly the same time period as Wright's work described above, but it was independently developed, and is certainly a different architectural style.

6. Likewise, some people use "Prairie" interchangeably for what should be called "Craftsman". Others have characterized certain elements of the "Mission" style of the American Southwest as "Prairie". You can even find people calling elements of Victorian designs as "Prairie." Frank Lloyd Wright and Victorian are about as antithetical as anything I can imagine in architectural design...

7. ... In my opinion as an architect, the term "Prairie" does not describe particular characteristics of a house design or door design or window design.

Cogswell Affidavit at 2-3.

Mr. Cogswell does not refer to any publication he or any other authority in the field has authored as the basis for his statements. Nor does Mr. Cogswell refer to any

usage of PRAIRIE, like those the Examining Attorney submitted, to support his statements.

We have reviewed and take judicial notice of certain dictionaries and other reference works, in particular, works in the nature of encyclopedias, all in the field of architecture.² Those sources include: *The Dictionary of Architecture & Construction* (Third Edition 2002); *The Penguin Dictionary of Architecture and Landscape Architecture* (Fifth Edition 1998); *The Visual Dictionary of American Domestic Architecture* (1994); *Dictionary of Building Preservation* (1996); James Stevens Curl, *A Dictionary of Architecture* (1999); John Milnes Baker, *American House Styles - A Concise Guide* (1994); and *The Abrams Guide to American House Styles* (2004).

Each of these sources includes a definition or description of PRAIRIE-style architecture which is entirely consistent with the description the Examining Attorney furnished from buffalo.edu. We note the following, in particular, from these references:

The Dictionary of Architecture and Construction at pages 710-711 refers to the "Prairie style" as a house with, among other features, "a two-story height with wings and/or porches of one story,

² The Board may take judicial notice of dictionaries and encyclopedias. See, e.g., *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594 (TTAB 1982), aff'd, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

integrated with its site to provide a low, horizontal appearance ... and often a series of windows below the roof overhang, diamond shaped window panes set in lead comes...";

The Abrams Guide at page 284 identifies the "Prairie style" as "Composed of strong horizontal planes that echoed the flat plains of Illinois ... [with] massive central chimneys, low-pitched roofs with broad overhangs that seemed to hug the ground. Long strips of windows and use of windows at corners blur the distinction between inside and outside.";

The Dictionary of Building Preservation at 354 refers to "Prairie Style" as "... characterized by low-pitched hip roofs with wide eaves, casement ribbon windows and spaces that flow into one another at right angles...";

American House Styles at page 112 refers to "PRAIRIE" style as houses with "... open planning; shallow pitched roofs with broad sheltering overhangs; bands of casement windows, often with abstract patterns of stained glass; and a strong horizontal emphasis...";

The Visual Dictionary of American Domestic Architecture at 202 states, "Wright's work drew on many sources, including Japanese design, the contemporary English Arts and Crafts movement, and the Victorian preoccupation with the relationship of a building to its natural environment. Interpreted in the context of the flat Midwestern landscape—and Wright's own very personal design vocabulary—his Prairie style evolved as a truly original American art form.";

The Penguin Dictionary at page 454 defines "Prairie School" as "Architectural movement in American Midwest between 1900 and 1916, mainly in residential building. Inspired initially by Sullivan, it was given direction by Frank Lloyd Wright. Horizontality, open plans and emphasis on the natural qualities of materials, typified Prairie School buildings. After the first decade

they became more varied and personal in expression and less local in scope...."; and

A *Dictionary of Architecture* also identifies the "Prairie School or style" with Wright and states "It was characterized by low-pitched roofs with wide overhanging eaves, a strongly emphasized horizontality, large hearths separating parts of the living area, and use of traditional materials."

Based on this evidence, including the sources as to which we have taken judicial notice, we conclude that PRAIRIE BEVEL is merely descriptive of "decorative glass panels sold as an integral component of metal doors." *In re Ricci-Italian Silversmiths Inc.*, 16 USPQ2d 1727 (TTAB 1990) (ART DECO held generic for flatware); *In re Bauhaus Designs Canada Ltd.*, 12 USPQ2d 2001 (TTAB 1989) (BAUHAUS held generic for furniture).

We first note that the application is based on applicant's statement of a bona fide intention to use the mark in commerce. Nowhere has applicant stated that the goods with which it intends to use the mark, in fact, would not be in the PRAIRIE style, nor has applicant stated that the goods would not be beveled.

We reject applicant's argument that PRAIRIE has ceased to have any meaning in the architectural field today. The record includes numerous reference works, many of them of recent vintage, which continue to identify PRAIRIE in a

consistent manner as a defined architectural style. The excerpts from recent articles confirm the fact that the public continues to refer to the PRAIRIE style.

The fact that the style may be varied or that it may be derived from or share certain characteristics with other styles in no way detracts from the descriptive significance of PRAIRIE as applied to the identified goods. *In re Ricci-Italian Silversmiths Inc.*, 16 USPQ2d 1727, 1729 (TTAB 1990) ("It is not necessary, as applicant suggests, that a term must identify a specific pattern of flatware before it can be considered generic... The evidence makes it clear that the ART DECO style is characterized by certain features such as geometric shapes, smooth lines and streamlined forms, and that patterns of flatware containing these features would be recognized as being ART DECO in style."). We are not persuaded by Mr. Cogswell's observation that PRAIRIE has lost all meaning when we consider his conclusion in light of the other evidence.

Furthermore, because the goods are "decorative glass panels sold as an integral component of metal doors" we find the evidence specifically related to the significance of PRAIRIE as applied to windows, as well as doors, to be highly relevant and probative of the significance of PRAIRIE as applied to the goods. It is only logical that

the relevant public would view a term, such as PRAIRIE, which identifies an architectural style as having the same descriptive significance as applied to either windows or decorative glass panels in doors, or other features of buildings in the style.

Applicant also appears to argue that PRAIRIE is not merely descriptive here because definitions of "prairie" in general dictionaries, such as *Merriam-Webster's Collegiate Dictionary*, do not include a definition related to an architectural style. As the Examining Attorney correctly notes, the mere absence of a dictionary entry for the relevant term does not establish that the term is not merely descriptive. *In re Orleans Wines, Ltd.*, 196 USPQ 516 (TTAB 1977). In fact, in this case we have evidence in numerous dictionaries in the relevant field which establish the merely descriptive meaning where it counts. We reject this argument.

Applicant appears to argue further that, because "prairie" has meanings in other "fields," it is not merely descriptive here. The fact that the mark may have meanings in another context is not relevant for purposes of our determination. *In re IP Carrier Consulting Group*, 84 USPQ2d 1028, 1034 (TTAB 2007). We must determine whether the mark is merely descriptive as applied to the goods

identified in the application. *In re Bright-Crest, Ltd.*, 204 USPQ at 593. Accordingly, we reject this argument.

We also find unpersuasive applicant's argument that the combination of PRAIRIE and BEVEL is somehow distinctive and not merely descriptive. We find nothing in the combination of these terms which is at all unusual or distinctive. *See, e.g., In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1317 (TTAB 2002) (SMARTTOWER merely descriptive of commercial and industrial cooling towers). In fact, the combination of the terms reinforces the merely descriptive meaning as applied to the goods. The PRAIRIE style is defined by horizontal lines and employs geometric shapes. Thus, a beveled glass panel is consistent with and even representative of the PRAIRIE style.

Lastly, applicant has objected to the Examining Attorney's reliance on listings of results from searches in the Google search engine as evidence that its mark is merely descriptive, citing *In re Remacle*, 66 USPQ2d 1222, 1223 n.2 (TTAB 2002). Thus far, we have not referred to this evidence, nor need we rely on it. In *Remacle*, the Board stated, "The Examining Attorney's print-out of the results of an Internet search by the Yahoo search engine are of little probative value, largely because insufficient

text is available to determine the nature of the information and, thus, its relevance." *Id.*

Likewise in this case, more complete examples from web pages located by the search, rather than the listing of results, would have superior probative value, and we strongly prefer evidence in that form. Nonetheless, here, as the Board has done in *Remacle* and other cases, we decline to exclude the evidence entirely, but rather, we view it as having very limited probative value. However, to the extent the listings of record have any probative value, they do support the conclusions we have reached based on the other evidence.

For example, one listing referencing amazon.com states, "Art and Crafts Prairie Style Stained Glass Panel"; another listing referencing tdstainedglass.com states, "These "Prairie Style" stained glass windows were produced for one of the spec home..."; another listing referencing gommstudios.com states, "The other doors were in the Prairie Style of the same era..."; still another listing referencing ebay.com states, "Add a delightful touch to you (sic) home's decor with the colorful Prairie style panel inspired by Frank Lloyd Wright..."; and finally a listing referencing tiffanysource.com states, "This beveled glass panel is designed for a glass entry door." See attachments

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to final Office action. However, we hasten to reiterate that we would reach the same conclusions in this case with or without consideration of these listings.

In conclusion, we find that PRAIRIE BEVEL is merely descriptive of "decorative glass panels sold as an integral component of metal doors."

Decision: We affirm the refusal to register applicant's mark under Trademark Act Section 2(e)(1).