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*Decision Mailed:
August 7, 2008
GDH/gdh*

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Quinn Industries LLC

Serial No. 78832056

Clark A. Puntigam of Jensen & Puntigam, P.S. for Quinn Industries LLC.

Jessica Ellinger Fathy, Trademark Examining Attorney, Law Office 110 (Chris A. F. Pedersen, Managing Attorney).

Before Quinn, Hohein and Hairston, Administrative Trademark Judges.

Opinion by Hohein, Administrative Trademark Judge:

Quinn Industries LLC has filed an application to register on the Principal Register in standard character form the term "CENTRIPETAL DRIVE" for "mechanical apparatus in the nature of a motor-driven series of solid disc elements mounted for rotation about a central axis and connected together by a series of gears, with an input shaft driving a first disc element in the series and the last disc element in the series driving an output

shaft, for changing the level of power between the input and output shafts" in International Class 7.¹

Registration has been finally refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that, when used in connection with applicant's goods, the term "CENTRIPETAL DRIVE" is merely descriptive thereof.

Applicant has appealed and briefs have been filed. We affirm the refusal to register.

It is well settled that a term is considered to be merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it forthwith conveys information concerning any significant ingredient, quality, characteristic, feature, function, purpose, subject matter or use of the goods or services. 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). It is not necessary that a term describe all of the properties or functions of the goods or services in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or idea about them. Moreover, 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 or is intended to be used on or in connection with those goods or services and the possible significance that

¹ Ser. No. 78832056, filed on March 8, 2006, which is based on an allegation of a bona fide intention to use such term in commerce. The word "DRIVE" is disclaimed.

the term would have to the average purchaser of the goods or services because of the manner of such use. See *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). Thus, "[w]hether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re American Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

Applicant, in its brief, contends that the term "CENTRIPETAL DRIVE" is not merely descriptive of its goods because there is no dictionary definition or any other evidence of record "as to any meaning in the marketplace of the term 'centripetal drive.'" Instead, applicant argues that the Examining Attorney, "by combining separate dictionary definitions of 'centripetal' and 'drive,'" which are of record, has postulated "the meaning of the mark as 'a drive mechanism (means of converting motion into power) that rotates toward a central axis.'" Applicant maintains, in view thereof, that:

[T]he constructed definition of the examiner is anomalous and would not directly and immediately convey knowledge about the goods or some aspect thereof. It in fact would be confusing to the average purchaser. It is difficult to conceive of a drive mechanism, *i.e.* a mechanism which converts motion into power, which rotates toward a central axis. There is nothing in the record to indicate that such a device is commonly known or understood. Substantial thought would be necessary on the part of the average consumer to understand what the examiner's definition actually means. Unless the mark has a meaning which is understood, it cannot be descriptive of anything, let alone the goods set forth in this application. The examiner's definition does not meet that standard. Hence, the examiner's rejection fails on the basis that the meaning of the mark as propounded by the examiner would not

be commonly understood by the average purchaser in the relevant marketplace.

Applicant further argues that, "even if the meaning of the examiner's definition is readily understood by the average consumer, the mark is still not [merely] descriptive of applicant's goods." Applicant notes in this regard that, based on the description of its goods as set forth in detail in the copy of U.S. Patent No. 6,827,655 which is of record herein, it is the case that:

The goods are a motor-driven input to a series of solid disc elements mounted for rotation about a central axis. The apparatus changes the level of power between the input and output shafts. An input shaft, driven by a motor, drives the first disc element and the last disc element drives an output shaft. While elements of the apparatus rotate about an axis, the elements do not move or pull toward a central axis to produce a drive function. Hence, the mark, as defined by the examiner, does not actually describe an action, feature or characteristic of the goods within the meaning of the Trademark Act.

Applicant contends, therefore, that the Examining Attorney has failed to establish that the term "CENTRIPETAL DRIVE" is merely descriptive of its goods.

The Examining Attorney, relying on the definitions of record of "centripetal" and "drive" from the Encarta World English Dictionary (2006), argues on the other hand that the term "CENTRIPETAL DRIVE" is merely descriptive of "a specific characteristic of the goods provided by applicant, namely[,] a drive mechanism that rotates toward a central axis" because "the definitional evidence ... clearly defines the term CENTRIPETAL as

'acting, moving, or pulling toward a center or axis' and DRIVE as 'the means of converting power into motion.'" Noting, further, that such dictionary, in relevant part, more fully defines "centripetal" as "**1. PHYSICS toward center:** acting, moving, or pulling toward a center or axis. **2. TECHNOLOGY employing centripetal force:** using or operated by centripetal force" and lists "drive" as "**4. ENGINEERING transmission of power:** the means of converting power into motion in a machine such as a motor vehicle," the Examining Attorney insists that "no significant imagination is needed to understand [that] a characteristic or feature of the applicant's goods," as conveyed forthwith by the term "CENTRIPETAL DRIVE," is that of "providing a drive mechanism that rotates toward a central axis."

In addition, the Examining Attorney contends that the copy of record of the "patent submitted by the applicant ... makes clear that the goods feature a drive utilizing a centripetal feature" inasmuch as:

The Summary of the Invention states:
"Accordingly, the present invention includes at least two power disc elements mounted for rotation about a central axis, wherein the first power disc element includes a first peripheral portion [in] the vicinity of the rim [thereof by which the first power disc element is turned; ... and wherein the second power disc element has ... gear members rotatably mounted so as to mate with the second peripheral gear portion on the first power element; a central gear which is mounted so as to be fixed relative to the central axis and which is further mounted to mate with the ... gears on the second power disc element; such that rotation of the first system gear by a motor results in rotation of the first and second power disc members] ..."

With respect to applicant's argument that, while its goods "rotate about an axis, the elements do not move or pull toward a central axis to produce a drive function" and, thus, the term "CENTRIPETAL DRIVE" "does not actually describe an action, feature or characteristic of the goods," the Examining Attorney notes that she "disagrees," asserting that (footnote omitted; italics in original):

Based on the identification of record, the applicant's goods consist of rotating discs and gears mounted on a central axis. As previously stated, the definition of the word CENTRIPETAL is "acting, moving, or pulling toward a center axis." The discs and gears move by rotation on a central axis. For the purpose of a Section 2(e)(1) analysis, a term need not describe all of the purposes, functions, characteristics or features of the goods to be merely descriptive. *In re Dial-[A]-Mattress Operating Corp.*, 240 F.3d 1341, ... 57 U.S.P.Q.2d 1807 (Fed. Cir. 2001). It is enough if the term describes only one significant function, attribute or property. *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) ("[A] mark may be merely descriptive even if it does not describe the 'full scope and extent' of the applicant's goods or services.") (quoting *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)).

Furthermore, as to applicant's contentions that the term "CENTRIPETAL DRIVE" is not merely descriptive of its goods because it lacks a commonly understood meaning and that an inherent ambiguity exists with respect to the meaning of such term, the Examining Attorney correctly points out that, as to the former, the fact that applicant may be the first and sole user thereof does not entitle it to registration where the term has otherwise been shown to immediately and particularly convey only

a merely descriptive significance in the context of applicant's goods. See, e.g., In re Acuson, 225 USPQ 790, 792 (TTAB 1985) [term "COMPUTED SONOGRAPHY" held merely descriptive of ultrasonic imaging instruments]; In re National Shooting Sports Foundation, Inc., 219 USPQ 1018, 1020 (TTAB 1983) [phrase "SHOOTING, HUNTING, OUTDOOR TRADE SHOW AND CONFERENCE" found merely descriptive of conducting and arranging trade shows in the hunting, shooting and outdoor sports products field]; and In re Mark A. Gould, M.D., 173 USPQ 243, 245 (TTAB 1972) [term "CENTER FOR INTERPERSONAL STUDIES" held merely descriptive of clinical hospital and out-patient services for the treatment and diagnosis of psychiatric and psychological disorders, including testing and research]. As to the latter, the Examining Attorney is also correct that, as indicated previously herein, 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. See, e.g., In re Polo International Inc., 51 USPQ2d 1061, 1062-63 (TTAB 1999) [term "DOC-CONTROL" found merely descriptive of document management software" inasmuch as term "DOC" would be understood in the context of such goods to refer to "document" rather than "doctor"].

Upon consideration of the evidence and arguments presented, we find that when considered in its entirety, the term "CENTRIPETAL DRIVE" immediately describes, without speculation or conjecture, the purpose, use or function of applicant's "mechanical apparatus in the nature of a motor-driven series of solid disc elements mounted for rotation about a central axis and

connected together by a series of gears, with an input shaft driving a first disc element in the series and the last disc element in the series driving an output shaft, for changing the level of power between the input and output shafts." Such goods plainly constitute a *drive*, consisting of a motor driven series of solid disc elements mounted for rotation about a central axis and connected together by a series of gears, which changes the power level between input and output shafts by use or application of *centripetal* force, as imparted to the series of solid disc elements. While, as applicant stresses, the goods do not produce a specific movement or pull in the direction of a center, it is apparent from the figures illustrating the goods and the explanation of the manner in which the apparatus works, as set forth in the patent therefor, that centripetal force is utilized as a means to change power levels between the input and output shafts of the drive by causing the rotation of a series of solid disc elements about a central axis and connected together by a series of gears.

Moreover, contrary to applicant's arguments that the combination of the words "CENTRIPETAL" and "DRIVE" to form the term "CENTRIPETAL DRIVE" not only would be "anomalous and would not directly and immediately convey knowledge about the goods or some aspect thereof" but "in fact would be confusing to the average purchaser" thereof, it is clear from the dictionary definitions and the copy of applicant's patent for its goods that, when viewed in the context of such apparatus, nothing in the term "CENTRIPETAL DRIVE" is incongruous, anomalous, ambiguous

or suggestive, nor is there anything which would require the exercise of imagination, cogitation or mental processing, or necessitate the gathering of further information, in order for the merely descriptive significance thereof to be readily apparent to the electrical engineers, mechanical engineers, product development engineers and the like who would constitute the principal customers for applicant's goods. Such highly trained and technically knowledgeable purchasers would immediately recognize the combined term "CENTRIPETAL DRIVE" as having a meaning identical to the pertinent connotations of the separate words of which it is composed, irrespective of the apparent absence of such term from any dictionary. See *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1112 (Fed. Cir. 1987); and *In re Orleans Wines, Ltd.*, 196 USPQ 516, 517 (TTAB 1977). Clearly, no new and unique commercial impression is created thereby and, tellingly, applicant has not even attempted to indicate what such might be. Rather, the constituent elements retain their descriptive significance and their combination is itself merely descriptive of applicant's goods. Nothing in the combined term is so unintelligible, unusual or bizarre as to possess no definitive meaning or significance other than that of an identifying mark for applicant's goods, nor does such term otherwise possess a new meaning different from its constituent words when used in connection with applicant's goods.

Instead, it is plain that to customers for applicant's "mechanical apparatus in the nature of a motor-driven series of solid disc elements mounted for rotation about a central axis and

connected together by a series of gears, with an input shaft driving a first disc element in the series and the last disc element in the series driving an output shaft, for changing the level of power between the input and output shafts," the term "centripetal force drive" or, for short, "CENTRIPETAL DRIVE" conveys forthwith that a purpose, function or use thereof is that of a drive which utilizes centripetal force to vary power levels between the input and output shafts. Such term is thus merely descriptive of applicant's goods within the meaning of the statute. See, e.g., In re Abcor Development Corp., supra at 200 USPQ 219 (Rich, J., concurring) [term "GASBADGE," like the full name "gas monitoring badge," found merely descriptive of a chemically treated badge to determine and to monitor the amount of personal exposure of an individual to gaseous pollutants given that "the users of language have a universal habit of shortening full names--from haste or laziness or just economy of words" and therefore it is "inevitable that a gas monitoring badge will be called a gas badge as the name of the goods to the same extent as gas monitoring badge is the name" thereof].

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