

**THIS OPINION IS NOT A
PRECEDENT OF THE TTAB**

Mailed:
June 24, 2011
Bucher

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Joseph S. Pongratz

Serial No. 76697006

David G. Bray of Mariscal Weeks McIntyre & Friedlander, P.A.
for Joseph S. Pongratz.

Paul A. Moreno, Trademark Examining Attorney, Law Office 103
(Michael Hamilton, Managing Attorney).

Before Bucher, Zervas and Bergsman, Administrative Trademark
Judges.

Opinion by Bucher, Administrative Trademark Judge:

Joseph S. Pongratz seeks registration on the Principal
Register of the term **STERNALVEST** (*in standard character
format*) for goods identified in the application, as follows:

therapeutic thoracic/abdominal compression vest
used for the purposes of stabilizing,
immobilizing, and compressing any type of
medical condition including an open wound or
closed medical condition or for any preoperative
and/or postoperative surgical procedure,
in Int. Cl. 10.¹

The Office refused registration, finding the term to be
merely descriptive under Section 2(e)(1) of the Trademark

¹ Application Serial No. 76697006 was filed on April 22, 2009,
based upon claims of first use anywhere and first use in commerce
at least as early as August 1, 2003.

Act, 15 U.S.C. § 1052(e) (1). After the Trademark Examining Attorney made the refusal final, applicant appealed to this Board.

We affirm the refusal to register because the applied-for term names the goods and does not create any non-descriptive meaning as used in connection with these goods.

The word "vest" alone is generic for applicant's product inasmuch as the only listed International Class 10 item is a "vest." Hence, the only remaining determination is the result under Section 2(e) (1) of the Trademark Act with the insertion of the word "sternal" immediately before the word "vest."

Dictionary entries show that "sternal" is defined as "of or relating to or near the sternum." According to the applicant's website [<http://www.sternalvest.com/>], specimen of record, and the identification of goods, applicant markets a therapeutic vest worn on or over the sternum. The resulting telescoped term names the goods while failing to create any separate and impressionable non-descriptive meaning.

Decision: The refusal to register this matter under Section 2(e) (1) of the Lanham Act is hereby affirmed.