

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

Mailed:
May 23, 2012

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Quality Spring Products, Inc.

Serial No. 77738221

Douglas T. Johnson of Miller & Martin PLLC for Quality
Spring Products, Inc.

Brian Neville, Trademark Examining Attorney, Law Office 114
(K. Margaret Le, Managing Attorney).

Before Seeherman, Kuhlke and Lykos, Administrative
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Quality Spring Products, Inc. has appealed from the
final refusal of the trademark examining attorney to
register THE BIG RIG MATTRESS in standard characters, with
MATTRESS disclaimed, for "mattresses."¹ Registration has
been refused pursuant to Section 2(e)(1) of the Trademark

¹ Application Serial No. 77738221, filed May 15, 2009, based on
Section 1(b) of the Trademark Act (intent-to-use).

Act, 15 U.S.C. § 1052(e)(1), on the ground that applicant's mark is merely descriptive of the identified goods.

A term is deemed to be merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. 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 to be merely descriptive; rather, it is sufficient that the term describes one significant attribute, function or property of the goods or services. 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 the 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).

Applicant has conceded that one meaning of its mark is merely descriptive of its goods. "The Applicant is in agreement with the Examining Attorney that one interpretation of Applicant's mark THE BIG RIG MATTRESS is 'truck mattress,' and that this meaning is descriptive of a [sic] some of Applicant's goods." Brief, p. 6. Applicant also states that "The Applicant agrees with the Examining Attorney that a portion of its product line is adapted to be utilized with tractor trailer trucks, and that therefore, one interpretation of the mark is 'truck mattresses,' which is descriptive." Brief, p. 4. Accordingly, we need not discuss in detail the evidence submitted by the examining attorney, but note that he has submitted a dictionary definition of "big rig" showing that it is defined as "a tractor-trailer truck," www.dictionary.com, and a page from applicant's website showing that "Big Rig Mattress" is advertised as a "Truck Sleeper mattress."

Applicant argues that its mark is registrable because it is a double entendre, with a non-descriptive second meaning. Applicant claims that its mark can be viewed as the word "rig," which means "gear (including necessary

machinery) for a particular enterprise or special equipment or gear used for a particular purpose," and that "the double-entendre is created because 'big can be seen as modifying the word 'rig' so that the words 'big rig' are interpreted as 'big gear/apparatus' in addition to 'truck.'" Brief, p. 5. Applicant contends that this second meaning of the mark is "a heavy duty mattress or heavy duty sleeping gear." Brief, p. 6. Applicant analogizes this meaning of "rig" to the situation of a "hi-fi rig" as referring to "hi-fidelity electronics for sound reproduction," and "gaming rig" as referring to "a computer setup adapted for game play." Brief, pp. 6-7. Applicant goes on to say that "where a person possesses two sets of gear or equipment for a particular purpose, the larger set of equipment would naturally be referred to as the 'big rig.'" Brief, p. 7. As a result, it is applicant's position that "when a *rig* is interpreted to mean equipment or gear, *big* is an adjective modifying that equipment or gear," and that "*big* as an adjective modifying *rig* is not simply 'large', but there is a suggestion that the *big rig* is the stronger, more powerful, more heavy duty piece of equipment or gear in comparison to the normal, ordinary, or small rig. Id. Thus, applicant asserts that the second meaning of THE BIG RIG MATTRESS is "The Heavy

Duty or High Quality Equipment or Gear Mattress." Brief, p. 8.

To qualify as a double entendre, the second non-descriptive meaning of the mark must be immediately apparent to the consumer. In re The Place Inc., 76 USPQ2d 1467 (TTAB 2005). We are not persuaded by applicant's very strained argument that THE BIG RIG MATTRESS will be understood by purchasers of mattresses to be used in big rigs, i.e., tractor-trailers, to mean "The Heavy Duty or High Quality Equipment or Gear Mattress." On the contrary, they will not go through this very convoluted reasoning when the meaning of BIG RIG as a tractor-trailer will be very evident to them, and THE BIG RIG MATTRESS will mean to them only that the mattress on which this mark is used is a mattress designed for big rigs.

Because we are not persuaded that THE BIG RIG MATTRESS is a double entendre having a non-descriptive meaning in addition to the very clear descriptive meaning of this term, we find that applicant's mark is merely descriptive of its identified goods.

Decision: The refusal of registration is affirmed.