

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Brasserie D'Achouffe, Société Anonyme

Serial No. 79107741

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Before Holtzman, Kuhlke, and Wellington,
Administrative Trademark Judges.

Opinion by Wellington, Administrative Trademark Judge:

Applicant, Brasserie D'Achouffe, Société Anonyme, filed an application to register the mark ACHOUFFE on the Principal Register for "beers, namely, ale, lager, porter and stout" in International Class 32.¹

The trademark examining attorney refused registration under Section 2(e)(2) of the Trademark Act, 15 U.S.C. §

¹ The application, filed on November 3, 2011, is a request for an extension of protection for an International Registration, pursuant to Section 66(a) (Madrid Protocol).

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1052(e)(2), on the basis that ACHOUFFE is primarily geographically descriptive of applicant's goods.

When the refusal was made final, applicant appealed. Applicant and the examining attorney filed briefs.

The test for determining whether a mark is primarily geographically descriptive is whether (1) the mark (or a portion thereof) is the name of a place known generally to the public, and (2) the public would make a goods/place association, that is, believe that the goods identified in the application originate in that place. See *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987); *In re Joint-Stock Co. "Baik"*, 80 USPQ2d 1305 (TTAB 2006); and *In re JT Tobacconists*, 59 USPQ2d 1080 (TTAB 2001).

As to the initial question of whether ACHOUFFE is the name of place generally known to the public, we look to the *Vittel* decision wherein the Federal Circuit held that "it is necessary that the purchasers perceive the mark as a place name and this is where the question of obscurity or remoteness comes to the fore." 3 USPQ2d at 1452. After reviewing a record showing that "Vittel" is the name of a small town in France, the Federal Circuit posed the question, "how many people in this country know that?" and ultimately found the evidence "insufficient to show the

likelihood of [the relevant consuming public] thinking that Vittel refers to a place where the goods come from." *Id.* Coincidentally, the Federal Circuit ended the decision by equating the circumstances therein to two earlier Board decisions that involved beer companies seeking registration of geographic terms. In the first decision, *In re Brauerie: Aying Franz Inselkammer KG*, 217 USPQ 73 (TTAB 1983), the Board held AYINGER BIER for beer not to be primarily geographically descriptive because, in part, Aying "is a tiny hamlet in Bavaria having only 500 inhabitants and does not convey a readily recognizable geographical significance to the average consumer." *Id.* In the second Board decision, *In re Bavaria St. Pauli Brauerie Ag*, 222 USPQ 926 (TTAB 1984), the term JEVER for beer was held not primarily geographically descriptive despite the fact that the beer comes from Jever, a town with over 10,000 inhabitants in Germany, because the evidence did not show that "the purchasing public in America would expect a beer labeled 'JEVER' to come from Jever, West Germany." *Id.* at 928.

Here, there is no dispute that "Achouffe" is the name of a small village in the municipality of Houffalize, located in the Wallonia region of Belgium. The examining attorney asserts that Achouffe is "neither remote nor

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obscure" and that the record "shows that beer drinkers, especially those who drink Belgian beer, are familiar with the town of Achouffe." In support, the examining attorney submitted printouts from several websites and blogs.

Upon review of the record, we do not find the evidence supports the examining attorney's contention that the town of Achouffe in Belgium is generally known to the relevant consuming public, namely, prospective beer purchasers.

Rather, the evidence reflects that Achouffe is very much an obscure location and would be relatively unknown to the relevant American consumer. At most, the evidence shows that the town of Achouffe would be known to individuals who have become intimately familiar with applicant's beer and, more exactly, have visited the home town of applicant. For example, the writer of the "Dallas Beer Snobs" blog describes his visit to applicant's brewery and, in doing so, portrays the town of Achouffe as a "tiny, quiet and ... one industry town with the brewery being pretty much the only game in town." In a second blog (Chuck Smith's Blog), the writer describes what appears to be a personal "Beer Tour of Belgium" with one segment listed as "Day 9: Achouffe and Liege," but later mentions driving "southwards from Liege to Chouffe to taste beers." Later in his blog, he posts photographs of "Achouffe" that are clearly focused

on beer and applicant's brewery. Although these blogs reflect two individuals' visits to applicant's brewery and the town of Achouffe, there is no indication that it is common knowledge amongst beer drinkers that applicant's beer derives from the town of Achouffe or that this town would otherwise be known to the consuming public. To the contrary, there is a strong presumption in the blogs that the readers thereof are not already familiar with the town of Achouffe. Finally, there is no indication as to what level of popularity or exposure these blog sites may possess; thus, we cannot discern whether a reasonable number of beer consumers have since learned of the town of Achouffe through these sites.

The remaining evidence is equally unpersuasive for purposes of showing that Achouffe is a known geographic location to American beer purchasers. For example, the "Belgium King.com" website merely lists applicant as one of "Top 10 Belgium Brewery Cafes/Taps" and notes that applicant's *beer* has become "internationally known in very short order." Other than identifying the brewery's location in Achouffe, Belgium, there is no indication that the town itself is known to the relevant American consuming public.

Finally, as to the printouts from the websites VirtualTourist.com, Tripadvisor.com, and Priceline.com, they too contain very little information concerning the town of Achouffe and any reliance on them would be an exaggeration of their relevance. For example, only one review of Achouffe is provided in the "Most Recent Things to Do in Achouffe" section of the Virtual Tourist website and the town itself is described as "cosy [and] tiny" and the subject of the review essentially involves applicant's brewery.² Likewise, the Trip Advisor website listing for Achouffe merely contains one restaurant and one "attraction" which is the applicant's brewery. None of the hotels or vacation rentals listed on Trip Advisor is actually in Achouffe; rather, they are listed as being "within 15 miles of Achouffe, Wallonia." Thus, these sites are unimpressive for purposes of showing that Achouffe would be familiar to American consumers because it is a known tourist destination.

In sum, the record does not establish that the relevant American consumer is generally aware of the town of Achouffe in Belgium and thus, we do not find that the

² In addition to using the British English spelling of the word "cozy," the reviewing writer makes other references and variant spellings (e.g., "draught" instead of "draft") indicating that his views or knowledge of the town would not necessarily reflect that of the relevant American consumer.

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consumer, upon encountering the mark "Achouffe" on beer, would believe this term is a geographic reference to the origin of the beer.

Decision: The refusal to register the mark ACHOUFFE on the ground that the mark is primarily geographically descriptive of the goods is reversed. The application will be forwarded for publication.