

**THIS OPINION IS NOT A  
PRECEDENT OF  
THE T.T.A.B.**

Mailed: February 6, 2013

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**  
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In re Camp Bow Wow Distribution, LLC  
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Serial No. 85138662  
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Katherine Keating and Jill J. Chalmers of Bryan Cave LLP  
for Camp Bow Wow Distribution, LLC.

Mark Shiner, Trademark Examining Attorney, Law Office 102  
(Karen M. Styz, Managing Attorney).

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Before Cataldo, Wolfson and Gorowitz,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Camp Bow Wow Distribution, LLC, has applied  
to register in standard characters on the Principal  
Register the mark CAMPER CAMS for the following services,  
as amended:

Remote monitoring of data indicative of the  
health or condition of an individual or group of  
individuals, namely, video monitoring of pets,  
viewable through a global computer network and  
mobile devices

in International Class 44; and

Monitoring for security and safety purposes, namely, video monitoring of pets, viewable through a global computer network and mobile devices

in International Class 45.<sup>1</sup>

The trademark examining attorney has refused registration under Section 2(e)(1) of the Trademark Act on the ground that applicant's mark is merely descriptive of a feature or quality of both classes of applicant's services.

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

#### **Issue on Appeal**

As noted above, the issue on appeal in this case is whether applicant's mark, CAMPER CAMS, merely describes a function, feature or characteristic of both classes of services recited in the involved application.<sup>2</sup>

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<sup>1</sup> Application Serial No. 85138662 was filed on September 27, 2010, based on applicant's assertion of June 30, 2001 as the date of first use of the mark anywhere and in commerce in connection with both classes of services. Applicant disclaimed "CAMS" in response to the examining attorney's refusal to register that is the subject of this appeal.

<sup>2</sup> We note that the examining attorney suggested amendment of the application to seek registration on the Supplemental Register; however, applicant did not pursue such an amendment and, as such, the issue of the registrability of the applied-for mark on the Supplemental Register is not before us.

We further note that the examining attorney did not suggest, and applicant did not request, an amendment to seek registration under Section 2(f) of the Trademark Act based upon a showing of acquired distinctiveness. Accordingly, the issue of acquired distinctiveness is not before us.

The examining attorney maintains that the mark merely describes a feature or quality of the services, namely, that they provide video monitoring of pets. In support of the refusal, the examining attorney has made of record the following dictionary definitions:

"camp" - "a place, usually in the country, for recreation or instruction often during the summer <goes to camp every July>; also a program offering access to recreational or educational facilities for a limited period of time;"<sup>3</sup>

"camper" - "one who camps;"<sup>4</sup> and

"cam" - (abbreviation) "camera; especially: video camera."<sup>5</sup>

The examining attorney has also made of record webpages from applicant's website, which evidence applicant's own use of the terms "camp" to identify dog boarding facilities and "camper" to identify dogs visiting such facilities, e.g.:

**Camp Bow Wow & Home Buddies**

Camp Bow Wow® and Home Buddies by Camp Bow Wow® are North America's providers of premier doggy day care and overnight **Camps** and premiere in home pet care. ...

... Unlike traditional kennels, our **camp** does not charge extra for medication, meals, treats, web

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<sup>3</sup> Merriam-webster.com

<sup>4</sup> Id.

<sup>5</sup> Id.

cams, walks, playtime or potty breaks. We offer a one price guarantee for day **camp**s and boarding. All overnight **campers** receive dog day **camp** at no additional charge. All **campers** are treated equally and enjoy a tasty bedtime treat before being tucked into their comfy, raised cot with fleece blanket. Our 4' x 4' cabins are comfy and cozy for all cuddly canines, our 4' x 5' cabins are spacious enough for two, and our massive 5' x 10' cabins can comfortably house up to three **campers**. ...<sup>6</sup>

The examining attorney has further made of record articles and advertisements retrieved from Internet webpages, reflecting such use by third parties. Excerpts from a representative sample of these webpages follow:

**PetSmart Doggie Day Camp**

PetSmart Doggie Day Camp is a superior alternative to dog sitting. It's a place for your pooch to enjoy hours of play and exercise when you can't be there. Your best friend will enjoy playing with our caring staff and other friends who have been screened for group dog day **camp** play. You'll feel good because a day at dog day **camp** is good for her, and when you pick her up, her wagging tail will tell you she's happy. What's more, a day at dog day **camp** is ideal for helping her burn off extra energy. ...<sup>7</sup>

**Critter Camp of Iowa**

No matter what size or breed of dog you have, dogs love to **camp** at Critter Camp! We offer four different areas for our dog **campers**. Based upon their personality and temperament, we will assign them to an area that best meets their needs. All our **campers** are monitored throughout the day, we pay particular attention to eating habits, elimination habits, signs of stress or illness, and that they are comfortable and having a good

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<sup>6</sup> Campbowwowusa.com (applicant's website)

<sup>7</sup> Petshotel.petsmart.com

time. Each **camper** has a kennel card posted on their kennel with their name, feeding instructions, special needs, etc. For our **campers** who eat our food, we feed NutriSource Lamb and Rice Adult, a high quality dog food twice a day. ...<sup>8</sup>

#### **Stout Kennels Doggie Camp**

We are a small kennel so we know our **campers** by name. You can leave your pet with confidence that all his special needs will be attended to, be it diet, medicines, or just that extra hug or belly rub. All **campers** will be given a special bedtime snack when they are tucked into our 24 hr. supervised sleeping area. ...<sup>9</sup>

#### **Sheba's Doggy Day Camp**

... Nestled on our 10-acre farm, Sheba's Doggy Day Camp values good old-fashioned fresh air, green grass and room to run. We treasure the sight of our **campers** interacting with other **campers** - maybe for the first time - or learning what a doggy pool is, or even playing a new game like doggy soccer, or finally understanding the concept of don't eat the ball!

Doggy **campers** can also choose to enjoy the quaint climate-controlled doggy cabin where they can relax on comfy dog beds, listen to soothing music, wrestle with a favorite friend or just hang out. ...<sup>10</sup>

It is well settled that a term is considered to be merely descriptive of goods and/or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality, feature or characteristic thereof or if it directly conveys

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<sup>8</sup> Crittercampiowa.com

<sup>9</sup> Stoutkennels.com

<sup>10</sup> Shebasdoggydaycamp.com

information regarding the nature, function, purpose or use of the goods and/or services. See Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052. See also *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978). It is not necessary that a term describe all of the properties or functions of the goods and/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 feature about them. Moreover, whether a term is merely descriptive is determined not in the abstract, but in relation to the goods and/or services for which registration is sought. See *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). Thus, "[w]hether consumers could guess what the product is from consideration of the mark alone is not the test." *In re American Greetings Corp.*, 226 USPQ 365 (TTAB 1985).

In the instant case, the evidence made of record by the examining attorney supports a finding that the term "camp" is used to describe a type of boarding facility for pets that emphasizes an open, camp-styled environment as opposed to a more traditional confined kennel; and that "camper" is used to describe pets, particularly dogs, enrolled in such pet camps. As a result, we find that CAMPER CAMS, as applied to applicant's services, would

immediately describe, without conjecture or speculation, a significant characteristic or feature thereof, namely, that they provide video monitoring by staff and owners of pets enrolled in camp-style boarding facilities in order to ensure their health or condition, security and safety.

The evidence made of record includes the above-referenced dictionary definitions, which establish that CAMPER CAMS merely describes video cameras used to monitor campers. Further, evidence from applicant's own website confirms that applicant provides web cams to allow monitoring of pets to determine their condition, health, security and safety. As such, applicant's own website, including the screenshot submitted by applicant as a specimen of record, supports a finding that CAMPER CAMS merely describes a function or feature of the recited services.

In addition, the Internet articles and advertisements submitted by the examining attorney establish that the services identified by applicant's CAMPER CAMS mark are used to monitor pets at its camp-styled boarding facilities. Material obtained from the Internet is acceptable in *ex parte* proceedings as evidence of potential public exposure to a term. See *In re Fitch IBCA, Inc.*, 64 USPQ2d 1058 (TTAB 2002).

We note applicant's argument that its mark only suggests a characteristic of its services and otherwise is a playful, incongruous combination of terms that does not immediately describe its services. However, the evidence of record indicates that it is not uncommon for pet boarding facilities to refer to boarded pets as campers, in much the same way as children enrolled in day or summer camps are so identified. Thus, CAMPER CAMS immediately describes, without mental pause, services that provide video camera monitoring of boarded pets, or campers. Further, we appreciate that individuals and families that enroll their pets in boarding facilities, as well as prospective clients, may take great comfort and satisfaction in being able to observe and monitor the activities of pets so enrolled. Nonetheless, CAMPER CAMS merely describes the services that permit such video monitoring.

We note in addition that even if applicant was the first and/or the only user of the term CAMPER CAMS in connection with its services, it is well settled that such does not entitle applicant to the registration thereof where, as here, the term has been shown to immediately convey only a merely descriptive significance in the context of applicant's goods and services. *See, e.g., In*



*re National Shooting Sports Foundation, Inc.*, 219 USPQ 1018, 1020 (TTAB 1983); and *In re Mark A. Gould, M.D.*, 173 USPQ 243, 245 (TTAB 1972).

Finally, we have considered the third-party registration evidence submitted by applicant and the examining attorney. These registrations, containing the terms CAMP or CAMPER, with or without a disclaimer thereof, cover a wide range of goods and services, most of which are unrelated to the services involved in this application. These registrations are not of assistance in determining whether the mark CAMPER CAMS is merely descriptive, particularly inasmuch as we do not know the reason for the treatment of the term "CAMP" or "CAMPER" in each. *In re International Taste Inc.*, 53 USPQ2d 1604, 1606 (TTAB 2000) ("With respect to third-party registrations which include disclaimers...we do not have before us any information from the registration files as to why an Examining Attorney required and/or why the applicant/registrant offered such disclaimers."). See *In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001) ("Even if some prior registrations had some characteristics similar to [applicant's] application, the PTO's allowance of such prior registrations does not bind the board or this

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court."); and *In re Scholastic Testing Service, Inc.*, 196 USPQ 517 (TTAB 1977).

Accordingly, based upon the evidence of record, including any evidence not specifically discussed herein, we find that applicant's mark is merely descriptive as contemplated by Section 2(e)(1) of the Act.

Decision: The refusal to register is affirmed.