

**This Opinion is Not a
Precedent of the TTAB**

Mailed: September 2, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re The Travel Chronicle
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Serial No. 85368593
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Jeffrey Evans, *pro se*.¹

Khanh M. Le, Trademark Examining Attorney, Law Office 116,
Michael W. Baird, Managing Attorney.

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Before Kuhlke, Cataldo and Taylor,
Administrative Trademark Judges.

Opinion by Kuhlke, Administrative Trademark Judge:

The Travel Chronicle (“Applicant”) seeks registration on the Principal Register of the mark THE TRAVEL CHRONICLE (in standard characters) for “art prints comprised of digital illustrations originating from photographs,” in International Class 16, and “providing a web site featuring travel information and commentary,” in International Class 39.²

¹ The Travel Chronicle is a sole proprietorship composed of Jeffrey Evans.

² Application Serial No. 85368593 was filed on July 12, 2011, based upon Applicant’s claim of first use anywhere on May 26, 2009 and use in commerce on August 31, 2010.

The Trademark Examining Attorney has refused registration of Applicant's mark on the ground that THE TRAVEL CHRONICLE is merely descriptive of Applicant's goods and services under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1).

When the refusal was made final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal was resumed. We affirm the refusal to register.

The test for determining whether a mark is merely descriptive is whether it immediately conveys information concerning a significant quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. *See, e.g., In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (internal citations omitted). *See also In re Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004), quoting, *Estate of P.D. Beckwith, Inc. v. Commissioner*, 252 U.S. 538, 543 (1920) ("A mark is merely descriptive if it 'consist[s] merely of words descriptive of the qualities, ingredients or characteristics of the goods or services related to the mark.") The determination of whether a mark is merely descriptive must be made in relation to the goods or services for which registration is sought. *Chamber of Commerce of the U.S.*, 102 USPQ2d at 1219. It is not necessary, in order to find a mark merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant ingredient, quality, characteristic, function, feature, purpose or use of the goods or services. *Chamber of*

Commerce of the U.S., 102 USPQ2d at 1219; *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987).

Where a mark consists of multiple words, the mere combination of descriptive words does not necessarily create a nondescriptive word or phrase. *In re Phoseon Tech., Inc.*, 103 UPQ2d 1822, 1823 (TTAB 2012); and *In re Associated Theatre Clubs Co.*, 9 USPQ2d 1660, 1662 (TTAB 1988). If each component retains its merely descriptive significance in relation to the goods or services, the combination results in a composite that is itself merely descriptive. *Oppedahl & Larson LLP*, 71 USPQ2d at 1371. However, a mark comprising a combination of merely descriptive components is registrable if the combination of terms creates a unitary mark with a unique, nondescriptive meaning, or if the composite has a bizarre or incongruous meaning as applied to the goods or services. See *In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (CCPA 1968); *In re Shutts*, 217 USPQ 363 (TTAB 1983).

Relying on the dictionary definitions of the word “chronicle” as “a narrative”³ and the word “travel” as “a journey especially to a distant or unfamiliar place: tour, trip – often used in plural,”⁴ the Examining Attorney contends that the proposed mark THE TRAVEL CHRONICLE merely describes the subject matter of its website featuring travel information and commentary and the manner in which it is provided, namely an online account or story of travel experiences. The Examining

³ www.merriam-webster.com, attached to December 19, 2012 Office Action.

⁴ www.merriam-webster.com, attached to June 24, 2013 Office Action.

Attorney points to excerpts from Applicant's website⁵ wherein Applicant writes about various travel experiences as shown below:

The Yellowstone Travel Chronicle describes one of the many travel adventures in - [The Travel Chronicle](#)

Page 4 – Yellowstone Wildlife and Scenery

The road layout in Yellowstone makes touring by private vehicle especially inviting. Five highway entrances from all four sides of the park provide the spokes for two inner circles. The figure eight formed by the loop roads in the middle of Yellowstone can be navigated in a variety of ways which reduce or eliminate the need for backtracking.

The snow-covered beauty and relative quiet we enjoyed by making our visit in the early spring was a trade-off for the fact that the smaller side-road loops and most of the trails were closed. In addition, the major highway link from "Canyon" to "Tower Falls" was also still closed.

The Galapagos Travel Chronicle describes one of the many travel adventures in - [The Travel Chronicle](#)

Ecuador – Galápagos Islands Cruise – August 2001

Without question the Galapagos Islands of Ecuador are among the most fascinating travel destinations that the world has to offer. It is nearly impossible not to focus on all that you can discover and learn while on the trip, so the difficulty in describing this travel experience is in not making it seem like a dry educational program. We promise not to let science get in the way of our sense of wonder, or an appreciation of the remarkable natural beauty, or the simple enjoyment of communing with a cast of amazing creatures - all of whom seem totally unconcerned by the presence of human visitors.

The Galapagos are volcanic islands situated at a point where three different tectonic plates rub up against each other about 600 miles off the west coast of Ecuador. The islands are slowly drifting to the east, so that as an island moves away from the area with the most volcanic action, new islands are formed to the west of the earlier island. The process is not as tidy as this description, but these are the basic mechanics which created the island chain. The result is that there are several different land masses within a relatively small area which are at dramatically different stages of development - from bare lava rock to lush equatorial jungle.

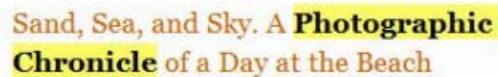
Our Galapagos Islands vacation cruise began and ended on Isla San Cristobal (formerly Chatham Island), one of

As the website makes clear at the top of each page "The Yellowstone Travel Chronicle describes one of the many travel adventures in - The Travel Chronicle"

⁵ Attached to June 24, 2013 Office Action.

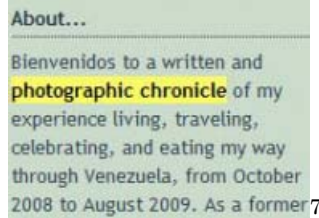
and “The Galapagos Travel Chronicle describes one of the many travel adventures in – The Travel Chronicle.”

With regard to the “art prints comprised of digital illustrations originating from photographs,” the Examining Attorney attached excerpts of online articles wherein the wording “travel photos” describes photographs taken during journeys and printouts from websites wherein photographs are used as photographic chronicles of travel, shown below:



Sand, Sea, and Sky. A **Photographic Chronicle** of a Day at the Beach

6



About...
Bienvenidos to a written and **photographic chronicle** of my experience living, traveling, celebrating, and eating my way through Venezuela, from October 2008 to August 2009. As a former

7



a photographic chronicle of boston

8

Applicant argues that the synonomous relationship between words, specifically “chronicle” and “narrative,” does not mean they have the same meaning, relying on the definition of the word “synonym” from the OXFORD ENGLISH DICTIONARY (OED):⁹

⁶ weekendsportfishermen.blogspot.com attached to June 24, 2013 Office Action.

⁷ jeremyluchalibre.blogspot.com attached to June 24, 2013 Office Action.

⁸ transienttravels.com attached to June 24, 2013 Office Action.

⁹ OED Second Edition on CD-ROM (v.4.0.03) attached to December 22, 2013 Response.

1. Strictly, a word having the same sense as another (in the same language); but more usually, either or any of two or more words (in the same language) having the same general sense, but possessing each of them meanings which are not shared by the other or others or having different shades of meaning or implications appropriate to different contexts...

Applicant essentially argues the meaning associated with the word “narrative” is too broad and the meaning of “chronicle” is limited to “1. A detailed and continuous register of events in order of time; a historical record, esp. one in which the facts are narrated without philosophic treatment, or any attempt at literary style.”¹⁰ However, the third definition for “chronicle” listed in the OED is “3. *gen.* A record, register, narrative, account.”¹¹ Applicant concludes that:

The applied-for mark THE TRAVEL CHRONICLE is not merely descriptive because the web site it identifies does not contain a chronicle, and does not ask contributors to provide a chronicle. Neither is there any information in the mark which would alert those familiar with the products with any of their attributes, other than an association with travel, a level of meaning which is allowable given that the word conveys no value judgment, description of the nature or character of the association, or categorical identity.

App. Br. p. 10.

As to the goods, Applicant argues:

¹⁰ OED Second Edition on CD-ROM (v. 4.0.0.3) attached to the April 27, 2012 Response.

¹¹ OXFORD ENGLISH DICTIONARY (2014) retrieved from www.oed.com. The Board may take judicial notice of dictionary definitions and entries from encyclopedias and standard reference works. *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 213 USPQ 594, 596 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re White Jasmine LLC*, 106 USPQ2d 1385, 1392 n.24 (TTAB 2013); *In re Yeley*, 85 USPQ2d 1150, 1153 nn. 10, 11 (TTAB 2007); *In re Red Bull GmbH*, 78 USPQ2d 1375, 1378 (TTAB 2006).

... [T]he act of traveling does not determine the features of a photograph. Terms like “underwater” or “aerial” might have some value in conveying knowledge of a significant quality, characteristic, or feature of a photograph, but no similar insight is provided by the word “travel”. As noted by the Applicant in the Request for Reconsideration, “It is a practical impossibility to determine whether a particular photograph has been taken during a trip ... [and] ... the term [travel] does not and cannot describe anything about the content, subject matter, location or purpose of the photograph itself.” ...

... [I]t has never been established or demonstrated by the Examiner that any form of written chronicle exists [sic] anywhere on the website. No portion, segment, page or paragraph conforms to the characteristics of a list like that of a ‘bibliography, blacklist, calendar, [or] checklist’, or achieves the purpose of providing “A detailed and continuous register of events in order of time; a historical record, esp. one in which the facts are narrated without philosophic treatment, or any attempt at literary style.”

App Br. pp. 8-9.

With regard to this argument, we take judicial notice that in the MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY¹² the explanatory notes indicate that:

A cross-reference immediately following a boldface colon is a synonymous cross-reference. It may stand alone as the only definitional matter for an entry or for a sense or subsense of an entry ... A synonymous cross-reference indicates that a definition at the entry cross-referred to can be substituted as a definition for the entry or the sense or subsense in which the cross-reference appears.¹³

In MERRIAM-WEBSTER’S, “narrative” is listed as a synonymous cross-reference serving as the second definitional entry for “chronicle” as follows: “Chronicle ... 1 : a usu. continuous historical account of events arranged in order of time without

¹² MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY (10th ed. 1993). See *White Jasmine LLC*, 106 USPQ2d at 1392 n.24; *In re Yeley*, 85 USPQ2d at 1153 nn. 10, 11.

¹³ *Id.* at 21(a)-22(a).

analysis or interpretation 2 : NARRATIVE.” Here, the word “narrative” although a synonym for “chronicle” is close enough to be listed as a definition. Moreover, even if viewed it as providing a “sense” or “subsense” of the definition, the word “chronicle” continues to encompass the definition of “narrative” in its general meaning. “Narrative” is defined as “an account, report, or story, as of events, experiences, etc.”¹⁴ More telling is the third definition noted above from the OXFORD ENGLISH DICTIONARY that specifically includes “narrative” and “account” in its definition of the word “chronicle.”

As noted above, a proposed mark need not describe every characteristic of the goods and services, and Applicant’s website and photographs, in addition to providing “commentary,” also literally chronicle Applicant’s travels. Second, the definition of “chronicle” does include providing an “account” or “narrative.” *See* OED (2014). Thus, we do not find persuasive, the arguments based on semantic nuance.

We recognize that the demarcation between suggestive marks and merely descriptive marks can be sometimes difficult to discern and when in doubt we must resolve that doubt in favor of the applicant. However, Applicant’s argument to a large extent is based on the analysis that the wording, in a vacuum, does not describe to consumers what the goods or services are. As noted above, we must consider the context in which the mark is used in connection with those goods and services and understand the significance that the mark would have to the average purchaser of the goods or services in the marketplace. *See Chamber of Commerce of*

¹⁴ www.merriam-webster.com, attached to December 19, 2012 Office Action.

the U.S., 102 USPQ2d at 1219. In the context of “a web site featuring travel information and commentary,” there is no question that THE TRAVEL CHRONICLE merely describes significant features of the website, namely, the provision of an account or narrative regarding travel. The fact that the word “chronicle” may have other more restrictive meanings does not limit its meaning here where its use as a broader commentary or account about travel is contemplated by the dictionary definitions. *See In re RiseSmart Inc.*, 104 USPQ2d 1931, 1933 (TTAB 2012). Moreover, the uses of the term by others in the context of other websites, *i.e.*, the use of the phrase “photographic chronicles,” is evidence that potential consumers would understand the significance of the term to be an account or narrative.

Further, the phrase THE TRAVEL CHRONICLE immediately describes the subject matter of the photographs, namely, photographs that chronicle travel. The evidence supports the Examining Attorney’s position that “travel photos” describe photographs taken during journeys, and that chronicles of travel “may take the form of photographs, as well as written words.” Ex. Att. Br. p. 6.

We add that, as to the services and the goods, the addition of “the” before the words “travel chronicle” does not add any source-indicating significance or otherwise affect the term’s descriptiveness. *In re The Place Inc.*, 76 USPQ2d 1467, 1468 (TTAB 2005).

Finally, Applicant argues that THE TRAVEL CHRONICLE is

... mildly incongruous given that a chronicle records historical events – and travel is an action with no

inherent importance. The mark imparts no information to suggest that the goods being offered are photographs in any form; and it requires “imagination, thought, or perception” to identify the web site as a place to find “commentary and photos” with a focus on the “culture, history, natural beauty and wildlife of the places we feature” rather than a compilation of historical records.

App. Br. p. 10.

As noted above, Applicant’s dictionary resources do not restrict “chronicle” to mean only “a compilation of historical records.” In addition, the phrase THE TRAVEL CHRONICLE does not create any double entendre or incongruity in the context of the respective goods and services. We find that the phrase THE TRAVEL CHRONICLE immediately describes significant features of the website and the photographs.

Decision: The refusal to register Applicant’s mark THE TRAVEL CHRONICLE is affirmed as to both classes of goods and services.