

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

Mailed: May 30, 2014

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re Hannan Products Corp.

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Serial No. 85442708

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Kenneth L. Mitchell of Woodling Krost and Rust for Hannan Products Corp.

Helene Liwinski, Trademark Examining Attorney, Law Office 104 (Chris Doninger, Managing Attorney).

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Before Cataldo, Wolfson and Lykos,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Hannan Products Corp. (“Applicant”) filed an application to register as a mark on the Principal Register the term DIAMOND (in standard characters) for “paper cutting machine parts, namely, steel rule dies for cutting paper products” (International Class 7).<sup>1</sup>

The Trademark Examining Attorney issued a final refusal of registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C.

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<sup>1</sup> Application Serial No. 85422708, filed October 7, 2011, based upon applicant’s assertion of its bona fide intent to use the mark in commerce.

§ 1052(e)(1), on the ground that applicant's proposed mark, when used in connection with Applicant's goods, is merely descriptive thereof. Applicant appealed. Applicant and the examining attorney filed briefs.

**Mere Descriptiveness**

A mark is deemed to be merely descriptive of goods or services, within the meaning of Section 2(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 Chamber of Commerce of the United States of America*, 675 F.3d 1297, 102 USPQ2d 1217 (Fed. Cir. 2012); *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 82 USPQ2d 1828 (TTAB 2007); and *In re Abcor Development*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). A mark need not immediately convey an idea of each and every specific feature of the applicant's goods or services in order to be considered merely descriptive; rather, it is sufficient that the mark 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); and *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

It is further settled that whether a mark 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 mark would have to the average purchaser of the goods or services because of

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the manner of its use. *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). “The question is not whether someone presented with only the mark could guess what the goods or services are. Rather, the question is whether someone who knows what the goods or services are will understand the mark to convey information about them.” *In re Tower Tech Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002).

With its August 1, 2012 communication, Applicant submitted screenshots from its internet website ([www.hannanpak.com](http://www.hannanpak.com)) containing the following information:

HANNAN® manufactures a variety of steel rule dies for cutting, creasing, scoring, and trimming applications. The most economical choice is usually a HANNAN® “standard” steel rule die. These are available in popular sizes designed for minimum waste when cutting standard material. Custom dies can also be manufactured to your specifications.

Our steel rule dies are made with 3pt. Steel Rule, the highest quality multi-ply die board, and precision metal backup materials. HANNAN® routinely manufactures custom steel rule dies for a wide variety of applications. We manufacture dies for die cutting applications using cardboard for boxes and displays, foam, rubber, gasket material, and of course card stock for skin and blister packaging.

In support of the refusal to register, the Examining Attorney submitted an “English Worldwide” dictionary definition of the word “diamond” obtained from the online version of *Collins* dictionary ([www.collinsdictionary.com](http://www.collinsdictionary.com)). The *Collins* dictionary, while in the English language, is published in Glasgow, Scotland and the definition itself clearly pertains to varieties of British English, notwithstanding that the website also

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provides an option for “American” English definitions. In the absence of evidence of exposure to U.S. consumers, the “English Worldwide” definition is of little or no probative value.

The Examining Attorney further made of record with her Office actions evidence from commercial and informational internet websites in which “diamond” is used to describe one of many shapes cut by steel dies. The following examples are illustrative:

Die Cut Shapes

Die cuts are shapes, letters and numbers cut from pieces of cardstock or construction paper using a die cut machine. They can be used for library programs, bookmarks, bulletin boards and more. ...

Shape

Diary (Food Group)

Daisy

Daisy #2

Desk Plate/Plain

Detective Hat

Diamond

Dinosaur – Brontosaurus ...

([www.statelibraryofiowa.org](http://www.statelibraryofiowa.org));

Custom Shape Pros builds custom steel-rule dies for commercial or personal use in a variety of applications – printing and packaging, consumer goods, paper and fabric crafts, prototypes and more. ...

What Our Customers Have to Say

I absolutely LOVE diamonds! No, not the sparkly, expensive, gem kind – the shape. I own most of AccuCut’s diamond shapes in their standard dies, but when I started to design scrapbook pages for our business, I decided I needed my own diamonds. So, I designed a background of diamonds. Then I decided I needed another background of diamonds. ...

([www.customshapepros.com](http://www.customshapepros.com));

Ellison® Prestige® SureCut™ Die, Math, Large, Diamond  
Cuts as many as 5 pieces of paper at once.

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Measuring 4 7/8" x 5 7/8", die creates larger shapes that demonstrate basic math principles to advanced problem-solving. Laser-accurate steel-rule is precisely placed to ensure optimal cutting performance.  
(www.officedepot.com);

Custom Dies Easy as... 1. 2. 3.  
Ellison Die Cutting Machine  
We have an Ellison machine and dies available for your use! The Ellison machine does the cutting for you! ...  
Crown border  
Cup & Saucer XL  
Diamond  
Dinosaur BB  
Dog/Scottie ...  
(www.ellison.com);

Nesting Dies  
Nesting Diamond Die  
Useful for frames, patterns, windows, argyle or even folded into pennants – this set of dies won't be collecting dust anytime soon.  
(www.lifestylecrafts.com).

Based upon the internet evidence submitted by the Examining Attorney, it is clear that steel dies such as Applicant's "paper cutting machine parts, namely, steel rule dies for cutting paper products" may be used to cut a variety of shapes, including diamonds and patterns in the shape of a diamond. The evidence of record further establishes that the term "diamond" is used by third parties to describe one of the many shapes that may be cut into paper and other products using steel rule dies such as those identified in the subject application. In its brief on appeal (p. 2) Applicant acknowledges that its "steel rule dies are not limited to any particular shape, and they can be any imaginable shape." Thus, Applicant acknowledges that its goods may be used to cut diamond shapes, among others. In view of the evidence of

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record, including any evidence not specifically discussed herein, we find that the term DIAMOND “immediately conveys knowledge of a quality, feature, function, or characteristic of the goods or services with which it is used.” *In re Bayer Aktiengesellschaft*, 82 USPQ2d at 1831, citing *In re Gyulay*, 820 F.2d 1216, 1217, 3 USPQ2d 1009 (Fed. Cir. 1987).

**Decision:** The refusal to register is affirmed.