

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

Mailed: February 2, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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*In re Douglas A. Shachnow*  
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Serial No. 85717182  
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Daniel S. Polley of Daniel S. Polley, P.A.,  
for Douglas A. Shachnow.

Karen K. Bush, Trademark Examining Attorney, Law Office 108,  
Andrew Lawrence, Managing Attorney.

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Before Wolfson, Gorowitz and Hightower,  
Administrative Trademark Judges.

Opinion by Gorowitz, Administrative Trademark Judge:

Douglas A. Shachnow (“Applicant”) seeks registration on the Principal Register  
of the mark WORLDBROWSER (in standard characters) for, as amended,

Providing travel information online via a classified  
encyclopedic guide and index to tourism sights and  
attractions worldwide, wherein travel agents may quickly  
locate the specific information regarding things that will  
interest a travel client, selected by category with each  
entry containing a short description, and also providing

links to the specific websites of others that contains [sic] full details in International Class 39.<sup>1</sup>

The Trademark Examining Attorney has refused registration of Applicant's mark under Section 2(e)(1) on the ground that the mark is merely descriptive of Applicant's services. 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.

### I. Discussion

A term is deemed to be merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. *DuoProSS Meditech Corp. v. Inviro Medical Devices Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). 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 Chamber of Commerce of the U.S.*, 102

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<sup>1</sup> Application Serial No. 8571782 was filed on August 30, 2012, based upon Applicant's allegation of a *bona fide* intention to use the mark in commerce under Section 1(b) of the Trademark Act.

USPQ2d at 1219 (citing *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). The burden is on the United States Patent and Trademark Office to make a prima facie showing that the mark in question is merely descriptive. See *In re Stereotaxis Inc.*, 429 F.3d 1039, 77 USPQ2d 1087, 1090 (Fed. Cir. 2005) (citing *In re Abcor Development*); see also *In re Merrill Lynch, Pierce, Fenner, and Smith, Inc.*, 828 F.2d 1567, 4 USPQ2d 1141, 1144 (Fed. Cir. 1987). We find that the burden has been met.

In her brief, the Examining Attorney noted that “the term ‘WORLD’ refers to the earth, which merely denotes the scope of the travel information.” Examining Attorney’s Brief, p. 3-4, 16 TTABVUE at 4-5. The definition is consistent with a definition of “world” from Dictionary.com.<sup>2</sup> Further, the phrase “see the world,” which is defined as “to travel to many different countries,”<sup>3</sup> supports the Examining Attorney’s position that when used in connection with travel services, the term “WORLD” immediately conveys the idea that travel services may relate to many

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<sup>2</sup> We take judicial notice that one of the definitions of “world” on Dictionary.com is “the earth or globe, considered as a planet.” Dictionary.com, <http://dictionary.reference.com/browse/world> (Random House, Inc. 2015).

The Board may take judicial notice of dictionary definitions, *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 213 USPQ 594 (TTAB 1982), *aff’d*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983), including online dictionaries that exist in printed format or have regular fixed editions. *In re Red Bull GmbH*, 78 USPQ2d 1375, 1377 (TTAB 2006).

<sup>3</sup> MacMillan Dictionary, using the American English definition of “see the world,” is located at: <http://www.macmillandictionary.com/dictionary/american/world> (Macmillan Publishers Limited 2015).

different countries. The Examining Attorney also submitted evidence of the USPTO's treatment of the word "WORLD" as merely descriptive for travel-related services, consisting of seven registrations which are either on the Supplemental Register or include a disclaimer of the word "WORLD." See, for example,



Reg. No. 3840647 -  
Services include: Providing a website featuring information on travel,  
Disclaimer: WORLD  
Status: Registered;

Reg. No. 2569193 – WORLD CHOICE TRAVEL  
Services include: Travel information services; travel agency services, namely, making reservations and bookings for transportation  
Disclaimer: WORLD and TRAVEL  
Status: Section 8 & 15 accepted and acknowledged; and

Reg. No. 4089269 – WORLD ADVENTURES  
Services: Providing a web site featuring travel information and commentary  
Register: Supplemental  
Status: Registered.

These registrations reflect that the word "WORLD" is considered descriptive by the USPTO when used in connection with travel related services. Third-party registrations can be used to demonstrate that a term may have a commonly accepted meaning. "Such third party registrations show the sense in which the word is used in ordinary parlance and may show that a particular term has descriptive significance as applied to certain goods or services." *Institut National Des Appellations D'Origine v. Vintners International Co.*, 958 F.2d 1574, 22 USPQ2d 1190, 1196 (Fed. Cir. 1992). See also *In re Box Solutions Corp.*, 79 USPQ2d 1953,

1955 (TTAB 2006) (“Third-party registrations can be used in the manner of a dictionary definition to illustrate how a term is perceived in the trade or industry.”); Trademark Manual of Examining Procedure (TMEP) §§ 1213 and 1213.03(a) (January 2015) (disclaimers are required of unregistrable components, e.g., a merely descriptive term).

To counter this evidence, Applicant introduced six registrations on the Principal Register for marks containing the word “WORLD” for travel-related services, wherein the word “WORLD” is not disclaimed. The marks in these registrations are distinguishable from those cited by the Examining Attorney because all but one is unitary.<sup>4</sup> Descriptive matter is not disclaimed if it is part of a unitary mark. TMEP § 1213.05(b). See for example,

Reg. No. 3831328 –



Services include: Arranging and coordinating travel arrangements ... arranging travel tours  
Status: Registered;

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<sup>4</sup> The only possible exception is a registration for the mark WORLD HUM. However, the question whether the word “WORLD” should have been disclaimed is not before us, nor is the record in that case. In any event, while consistency in examination is important, we cannot be bound by prior decisions and must decide each case that comes before us on its record. *In re Nett Designs, Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001).

Reg. No. 2569193 – THE WORLD’S TRAVEL  
INSPIRATION ENGINE

Services include: Arranging and coordinating travel  
arrangements ... arranging travel tours

Status: Registered; and

Reg. No. 4415404 – TRAVEL THE WORLD ONE HOP AT  
A TIME

Services include: Arranging and coordinating travel  
arrangements and providing on on-line searchable  
database featuring information on travel

Status: Registered.

Each of these marks employs the word “WORLD” in a slogan, and because slogans are considered unitary, the individual words in them are not disclaimed. *Leading Jewelers Guild Inc. v. LJOW Holdings LLC*, 82 USPQ2d 1901, 1905 n.7 (TTAB 2007). Therefore, even if deemed descriptive, the word “WORLD” would not be disclaimed in any of the registrations cited by Applicant, except perhaps for one; and one prior registration will not dictate the result in this case.

Based on the evidence of record, we find the word “WORLD” immediately conveys a feature of Applicant’s services, namely that the information relates to world-wide travel. As such, the word “WORLD” is merely descriptive of a feature of Applicant’s travel information-related services.

We look next at the word “BROWSER.” Both the Examining Attorney (in the Office Action dated December 18, 2012) and the Applicant (in the Request for Reconsideration dated December 19, 2013) submitted the following definition of “browser” from the Merriam-Webster On-Line Dictionary:

1 : one that browses

2 : a computer program used for accessing sites or information on a network (as the World Wide Web).<sup>5</sup>

Under both definitions, the word “BROWSER” is descriptive of Applicant’s services. With respect to the first definition (one who browses), the definition of “browse” from Oxford Dictionaries, which is “scan through a text, website, or collection of data to gain an impression of the contents.”<sup>6</sup> In the context of Applicant’s site, this definition of “BROWSER” immediately conveys a use of Applicant’s services, which is to scan through Applicant’s website and collection of data to gain an impression of its contents (world travel information).

“Browse” is also defined as: “to view the contents of a file or a group of files. Browser programs generally let you view data by scrolling through the documents or databases.”<sup>7</sup>

Relying on the definition of “BROWSER,” Applicant argues that “a browser is not a service ... a browser refers to the computer program that is used to provide access. Thus, a browser is a product.” Appeal Brief, p. 3, 14 TTABVUE at 4. The Examining Attorney counters this argument by asserting that Applicant’s “services will utilize a computer program (a product) that allows for accessing sites or information about world travel.” Examining Attorney’s Brief, unnumbered p. 4, 16 TTABVUE at 5. A term that is generic for goods is either descriptive or generic of

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<sup>5</sup> <http://www.merriam-webster.com/dictionary/browser>.

<sup>6</sup> We take judicial notice of the definition of “browse” from Oxford Dictionaries, [http://www.oxforddictionaries.com/definition/american\\_english/browse](http://www.oxforddictionaries.com/definition/american_english/browse).

<sup>7</sup> Alan Freedman, *The Computer Glossary, The Complete Illustrated Dictionary* (7<sup>th</sup> ed. 1995)

services utilizing those goods. *Cf. In re Pencils, Inc.*, 9 USPQ2d 1410 (TTAB 1988) (PENCILS held merely descriptive of office supply store services). In fact, Applicant's services include the accessing of information online via a classified encyclopedic guide and index. The encyclopedic guide and index constitute a database (which is "a collection of pieces of information that is organized and used on a computer").<sup>8</sup> Thus, since a "browser program" is the generic name of a computer program that allows viewers to scroll through documents or databases, and Applicant's service is to provide a database of world travel information and to link its customers "to the specific websites of others," the term "browser" is descriptive of Applicant's services.

We look next at the combination of the terms. When two descriptive terms are combined, the determination of whether the composite mark also has a descriptive significance turns upon the question of whether the combination of terms evokes a new and unique commercial impression. If each component retains its descriptive significance in relation to the goods or services, the combination results in a composite that is itself descriptive. *See Duopross Meditech Corp.*, 103 USPQ2d 1753 (SNAP SIMPLY SAFER merely descriptive for "medical devices, namely, cannulae; medical, hypodermic, aspiration and injection needles; medical, hypodermic, aspiration and injection syringes"); *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370 (Fed. Cir. 2004) (PATENTS.COM merely descriptive of

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<sup>8</sup> Merriam-Webster, *Merriam-Webster.com*. <http://www.merriam-webster.com/dictionary/database>.



computer software for managing a database of records that could include patents and for tracking the status of the records by means of the Internet).

Applicant acknowledges the Examining Attorney's position that the combination of the term "world" and "browser" merely details the scope of the travel services that are available via the web. However, Applicant contends that this is only "one possible uncommon interpretation of the combination of the terms." Appeal Brief, p. 3, 14 TTABVUE at 4. Applicant argues that its mark is registrable because it is a double entendre connoting "on the one hand, an individual who browses the world through traveling and, on the other, goods that allow one to access a website containing information about the world." *Id.* However, even if the mark conveys the impression of a user browsing the world through traveling, this is also merely descriptive of a feature of the goods; and even a mark encompassing a double entendre is considered merely descriptive unless one of its meanings is not merely descriptive in relation to the involved goods or services. *In re Leonhardt*, 109 USPQ2d 2091, 2098 (TTAB 2008).

In this case, all connotations of the term WORLDBROWSER are descriptive of Applicant's services, namely, providing access to travel information online regarding worldwide locations and attractions. As discussed, *supra*, the mark WORLDBROWSER immediately conveys a use of Applicant's services, which is to scan through Applicant's website and collection of data thereon to obtain travel information regarding many countries. The other connotation of the mark is that

Applicant's services consist of the provision of access to a database relating to worldwide travel information.

In conclusion, we find that as used in connection with Applicant's services, each of the words "WORLD" and "BROWSER" retains its descriptive significance when combined to create the term WORLDBROWSER and therefore, that the composite term WORLDBROWSER is merely descriptive of Applicant's services.

**Decision:** The refusal to register Applicant's mark WORLDBROWSER is affirmed.