

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 Excel Dryer, Inc.*

Serial No. 86754756

Patrick J. O'Shea of O'Shea Getz P.C., for Excel Dryer, Inc.

Joanna M. Shanoski, Trademark Examining Attorney, Law Office 104, Dayna  
Browne, Managing Attorney.

Before Kuhlke, Shaw, and Gorowitz  
Administrative Trademark Judges.

Opinion by Shaw, Administrative Trademark Judge:

Excel Dryer, Inc. ("Applicant") seeks registration on the Principal Register of the mark ALL IN ONE (in standard characters) for goods identified as "electric wall-mounted hand dryers," in International Class 11.<sup>1</sup>

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

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<sup>1</sup> Application Serial No. 86754756 was filed on September 11, 2015 under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), alleging a bona fide intent to use the mark in commerce.

made final, Applicant appealed and requested reconsideration. The Examining Attorney denied the request for reconsideration and the appeal resumed. The case is fully briefed. We affirm the refusal to register.

**Mere Descriptiveness under Section 2(e)(1)**

“A term is merely descriptive if it immediately conveys knowledge of a quality, feature, function, or characteristic of the goods or services with which it is used.” *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (quoting *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009, 1009-10 (Fed. Cir. 1987). Whether a particular term is merely descriptive is determined in relation to the goods for which registration is sought and the context in which the term is used, not in the abstract or on the basis of guesswork. *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); *In re Remacle*, 66 USPQ2d 1222, 1224 (TTAB 2002).

The Examining Attorney argues that the term ALL IN ONE merely describes wall-mounted hand dryers, such as Applicant’s, that combine multiple functions or feature in one unit:

The wording ALL IN ONE in common usage can describe any type of goods that have two or more parts or functions that together form a single unit or have a single purpose. . . . Specific to the goods at hand, electric wall-mounted hand dryers come in a variety of ALL IN ONE

configurations which have hand drying as one of the functions of the unit.<sup>2</sup>

In support of her position that the mark is merely descriptive of the applied-for goods, the Examining Attorney submitted the following dictionary definitions:

- **all-in-one**<sup>3</sup> - made up of two or more parts that form a single unit or have a single purpose or use  
*an all-in-one Internet appliance*
- **all-in-one**<sup>4</sup> - Combining two or more items or functions in a single unit.  
*'an all-in-one shampoo/conditioner'*

The Examining Attorney also made of record excerpts from Internet web sites showing wall mounted hand dryers with a number of common functions or features. The following examples are the most relevant.

- A “High-speed Hand Dryer” from Mitsubishi Electric which is purported to have multiple features, including hygienic design, easy cleaning, and an automatic sensor.<sup>5</sup>
- An article on “Hand Dryer Technology” from “ElectricHandDryers.com.”

The article lists some of the features available on electric hand dryers:

Many new hand dryers are automatic and touchless, activated by motion sensors. Some are smaller and able to meet ADA requirements without having to recess the hand dryer into the wall. Other hand dryers can now automatically detect 110, 208, or 220 voltages, thereby adjusting itself to the appropriate voltage and thus making it easier to replace an existing installation. Adjustable

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<sup>2</sup> Examining Attorney’s Br., p. 5, 9 TTABVue 5.

<sup>3</sup> Macmillandictionary.com, Office action of February 8, 2017, p. 2.

<sup>4</sup> Oxforddictionaries.com, Office action of February 8, 2017, p. 3.

<sup>5</sup> Office action of February 8, 2017, p. 4.

variable speed motors allow the installer to determine noise level vs. air speed.<sup>6</sup>

- A review of a wall-mounted, cordless, combination hand and hair dryer from “Yanko Design.”<sup>7</sup>
- A product description of a wall-mounted commercial hand dryer from “American Dryer” which is described as a “Hand or Hair Dryer” with features such as “Universal Voltage” compatibility, “Vandal Resistant,” and an “Automatic Sensor.”<sup>8</sup>
- A product description for wall-mounted dryers from the “Bradley Corporation” described as “Hand/Hair Dryers.”<sup>9</sup>
- A product description from “American Specialties” for a combination electric hand dryer, paper towel dispenser, and waste bin, described as an “all-in-one unit” combining “an automatic, high-speed hand dryer, a 400 C-fold paper towel dispenser, and a 6.8 gal waste receptacle with spring closed lid.”<sup>10</sup>
- A product description for the “VERDIIdri all-in-one hand dryer” from “World Dryer.” The dryer is purported to have multiple features, including ADA compliance, energy efficiency, HEPA filter, two-speed control, universal voltage, antimicrobial technology, and vandal resistance.<sup>11</sup>

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<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.* at 9.

<sup>9</sup> *Id.* at 10.

<sup>10</sup> Office Action of July 23, 2016, p. 2.

<sup>11</sup> *Id.* at 3.

Applicant argues that its goods “perform only as an electric wall-mounted electric hand dryer,” therefore, ALL IN ONE “requires significant imagination and thought for a relevant consumer to reach a conclusion as to the nature of the associated goods.”<sup>12</sup> That is, Applicant’s hand dryers perform only one function so they cannot be “all-in-one” units. This argument is unpersuasive.

The Examining Attorney’s evidence establishes that wall-mounted hand dryers such as Applicant’s frequently combine a number of functions or features into one unit. These hand dryers may include the ability to dry both hands and hair. In addition, the dryers may include automatic sensors, be ADA compliant, vandal resistant and able to handle multiple voltages, incorporate antimicrobial technology, or have paper towel dispensers as well. Because Applicant’s identification of goods is broadly worded and without limitation as to function or feature, it must be interpreted to include functions or features common to such hand dryers. Accordingly, we find that consumers will readily understand from the term ALL IN ONE that Applicant’s hand dryers will combine two or more functions or features in a single unit. Indeed, two of the foregoing hand dryer product descriptions, the “VERDIIdri all-in-one hand dryer” and the American Specialties “all-in-one unit,” use the term “all-in-one” to describe similar competing products with multiple such functions or features.<sup>13</sup> ALL IN ONE must remain available for competitors to use in describing

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<sup>12</sup> Applicant’s Br., p. 4, 7 TTABVUE 5.

<sup>13</sup> The presence or absence of hyphens in a mark typically is legally insignificant for purposes of determining descriptiveness. *See In re Vanilla Gorilla, L.P.*, 80 USPQ2d 1637 (TTAB 2006) (finding that the presence of a hyphen in the mark “3-0’s” does not negate mere descriptiveness of mark for automobile wheel rims).

their hand dryers with multiple functions or features. *See In re Abcor Dev.*, 200 USPQ at 217 (“The major reasons for not protecting [merely descriptive] marks are . . . to maintain freedom of the public to use the language involved, thus avoiding the possibility of harassing infringement suits by the registrant against others who use the mark when advertising or describing their own products.”).

For the reasons discussed, we conclude that when used on or in connection with Applicant’s identified goods the proposed mark, ALL IN ONE, merely describes electric wall-mounted hand dryers with multiple functions or features.

***Decision:*** The refusal to register Applicant’s mark ALL IN ONE under Section 2(e)(1) of the Trademark Act is affirmed.