

THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB

Hearing: April 26, 2023

Mailed: May 2, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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*In re People.Online, Inc.*  
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Application Serial No. 90489798  
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Bryan H. Opalko of Buchanan Ingersoll & Rooney PC for People.Online, Inc.

Maureen Reed, Trademark Examining Attorney, Law Office 115,  
Daniel Brody, Managing Attorney.

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Before Bergsman, Pologeorgis, and Larkin,  
Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

People.Online, Inc. (“Applicant”) seeks registration on the Principal Register of the proposed mark PEOPLE.ONLINE (in standard characters) for the goods and services listed below:<sup>1</sup>

Downloadable computer software for creating, editing, transmitting and sharing information, text, photos, images, audio, video, graphics, and multimedia files via the Internet, in International Class 9;

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<sup>1</sup> Application Serial No. 90489798 was filed on January 26, 2021, under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based upon Applicant’s asserted bona fide intention to use the mark in commerce in connection with all the applied-for goods and services.

Telecommunication services, namely, transmission of electronic media, multimedia content, videos, movies, pictures, images, text, photos, user-generated content, audio content, and information via the Internet and electronic communications networks; Providing online forums for communication, namely, transmission of messages among computer users on topics of general interest; providing online chat rooms and electronic bulletin boards for transmission of messages among computer users in the field of general interest; Telecommunications services, namely, electronic transmission of data, messages, graphics, images, videos and information between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; Providing online chat rooms and electronic bulletin boards for transmission of information, photos, audio and video content messages among computer users in the field of social networking, in International Class 38;

Entertainment services, namely, providing an online interactive database containing user-generated messages, digital images, photos, text, graphics, music, audio, video clips, multimedia content, and visual and audio performances in the field of art, music, and sports via a website; Publication of online journals, web logs and blogs featuring user-generated content in the field of social networking, in International Class 41;

Creating virtual forums, namely, building websites for others for the transmission and sharing of audio, video, photographic images, text, graphics and data in the field of social networking; Creating online virtual forums, namely, building websites for others for users to organize groups and events, participate in discussions, and engage in social interaction and networking; Providing temporary use of online nondownloadable software applications for social interaction and networking, namely, for creating virtual forums and transmission and sharing of information, text, audio, video, photos, graphics and data, in International Class 42; and

Internet based social networking services; Online social networking services; Providing a website on the Internet for the purpose of social interaction and networking;

Providing online computer databases and online searchable databases in the field of social interaction and networking; Providing an online interactive database containing user-generated messages, digital images, photos, text, graphics, music, audio, video clips, multimedia content, and visual and audio performances, namely, providing a social networking website for entertainment purposes; Providing an online interactive database containing user generated content in the nature of digital images, photos, text, graphics, music, audio, video clips and multimedia content, namely, providing a social networking website for users to engage in social interaction and networking, in International Class 45.

The Examining Attorney refused to register 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 merely describes a feature of the applied-for goods and services because those goods and services are used to connect people online.<sup>2</sup>

#### I. Preliminary Issue

Applicant attached evidence to its brief that has been previously submitted by the Examining Attorney.<sup>3</sup> Evidence that was properly submitted need not and should not be resubmitted because it comprises either untimely or unnecessary copies of timely

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<sup>2</sup> Examining Attorney's Brief (6 TTABVUE 5).

When we cite to the briefs, we refer to TTABVUE, the Board's docketing system by docket entry and page number (e.g., 6 TTABVUE 5).

When we cite to the prosecution history record, we refer to the USPTO Trademark Status and Document Retrieval (TSDR) system in the downloadable .pdf format (e.g., August 18, 2021 Office Action (TSDR 4)).

<sup>3</sup> "The record in the application should be complete prior to the filing of an appeal. Evidence should not be filed with the Board after the filing of a notice of appeal." Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d).

evidence. The Board has addressed this situation in *LifeZone Inc. v. Middleman Grp., Inc.*, 87 USPQ2d 1953, 1955 n.4 (TTAB 2008):

Parties to Board cases occasionally seem to be under the impression that attaching previously-filed evidence to a brief (and citing to the attachments, rather than to the original testimony or notices of reliance) is a courtesy or a convenience to the Board. It is neither. When considering a case for final disposition, the entire record is readily available to the panel. Because we must determine whether such attachments are properly of record, Trademark Rule 2.123(l), citation to the attachment requires examination of the attachment and then an attempt to locate the same evidence in the record developed during trial, requiring more time and effort than would have been necessary if citations were directly to the trial record.

## II. Whether PEOPLE.ONLINE is merely descriptive

### A. Applicable Law

Section 2(e)(1) of the Trademark Act prohibits registration on the Principal Register of “a mark which, (1) when used on or in connection with the goods [and services] of the applicant is merely descriptive . . . of them,” unless the mark has been shown to have acquired distinctiveness under Section 2(f) of the Trademark Act, 15 U.S.C. § 1052(f). A mark is “merely descriptive” within the meaning of Section 2(e)(1) if it conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods and services. *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1709 (Fed. Cir. 2017). “A mark need not immediately convey an idea of each and every specific feature of the goods [and services] in order to be considered merely descriptive; it is enough if it describes one

significant attribute, function or property of the goods [and services].” *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1513 (TTAB 2016) (citing *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987)).<sup>4</sup>

Whether a mark is merely descriptive is “evaluated ‘in relation to the particular goods [and services] for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods [and services] because of the manner of its use or intended use,’” *Chamber of Commerce of the U.S.*, 102 USPQ2d at 1219 (quoting *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)), and “not in the abstract or on the basis of guesswork.” *Fat Boys*, 118 USPQ2d at 1513 (citing *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978)). We ask “whether someone who knows what the goods [and services] . . . are will understand the mark to convey information about them.” *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1374 (Fed. Cir. 2018) (quoting *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (internal quotation omitted)).

A mark is suggestive, and not merely descriptive, if it requires imagination, thought, and perception on the part of someone who knows what the goods or services

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<sup>4</sup> Given multiple classes and size of the descriptions of goods, we note that it is not necessary that a term describe all of the purposes, functions, characteristics, or features of a product to be considered merely descriptive; it is enough if the term describes one significant function, attribute, or property in a specific International class. *In re Chamber of Commerce*, 675 F.3d at 1300, 102 USPQ2d at 1219 (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)); *In re Fallon*, 2020 USPQ2d 11249, at \*7 (quoting *Fat Boys*, 118 USPQ2d at 1513).

are to reach a conclusion about their nature from the mark. *See, e.g., Fat Boys*, 118 USPQ2d at 1515.

If one must exercise mature thought or follow a multi-stage reasoning process in order to determine what characteristics the term identifies, the term is suggestive rather than merely descriptive.

*In re Tennis in the Round, Inc.*, 199 USPQ 496, 497 (TTAB 1978).

“We ‘must consider the *commercial impression* of a mark as a whole.” *In re Fallon*, 2020 USPQ2d 11249, at \*7 (TTAB 2020) (quoting *Real Foods*, 128 USPQ2d at 1374). “In considering [the] mark as a whole, [we] ‘may not dissect the mark into isolated elements,’ without consider[ing] . . . the entire mark,” *id.* (quoting *Real Foods*, 128 USPQ2d at 1374) (internal quotation omitted), “but we ‘may weigh the individual components of the mark to determine the overall impression or the descriptiveness of the mark and its various components.” *Id.* (quoting *Real Foods*, 128 USPQ2d at 1374) (internal quotation omitted). “Indeed, we are ‘required to examine the meaning of each component individually, and then determine whether the mark as a whole is merely descriptive.” *Id.* (quoting *DuoProSS*, 103 USPQ2d at 1758).

“Where a mark consists of multiple words, the mere combination of descriptive words does not necessarily create a non-descriptive word or phrase.” *In re Omniome, Inc.*, 2020 USPQ2d 3222, at \*4 (TTAB 2019). “If the words in the proposed mark are individually descriptive of the identified goods, we must determine whether their combination ‘conveys any distinctive source-identifying impression contrary to the descriptiveness of the individual parts.’” *Fallon*, 2020 USPQ2d 11249, at \*7 (quoting *Fat Boys*, 118 USPQ2d at 1515-16) (internal quotation omitted). “If each word

instead ‘retains its merely descriptive significance in relation to the goods, the combination results in a composite that is itself merely descriptive.’” *Id.* (quoting *Fat Boys*, 118 USPQ2d at 1516) (internal quotation omitted)). “A mark comprising a combination of merely descriptive components is registrable only if the combination of terms creates a unitary mark with a non-descriptive meaning, or if the composite has a bizarre or incongruous meaning as applied to the goods or services.” *Omniome, Inc.*, 2020 USPQ2d 3222, at \*4.

In determining how the relevant consuming public perceives Applicant’s proposed PEOPLE.ONLINE mark in connection with its identified goods and services, we may consider any competent source, including dictionary definitions and Applicant’s own advertising material and explanatory text. *See N.C. Lottery*, 123 USPQ2d at 1709-10; *Bayer*, 82 USPQ2d at 1831.

## B. Facts

The online dictionary Lexico.com defines “People” as “human beings in general or considered collectively.”<sup>5</sup> It defines “Online” as “controlled by or connected to another computer or to a network” and “while so connected or under computer control.”<sup>6</sup>

The Harvard Business Review (<https://hbr.org>) posted the article “How to Make Friends On the Internet” (April 13, 2021) that states “[t]he easiest way to connect with people online is to focus on finding the communities you really care about.”<sup>7</sup>

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<sup>5</sup> August 18, 2021 Office Action (TSDR 6).

<sup>6</sup> *Id.* at TSDR 7.

<sup>7</sup> *Id.* at TSDR 12.

The remainder of the evidence is screenshots from third-party websites that do not display the term “People.Online,” “People Online,” or any variation thereof. The evidence listed below is illustrative of the remaining evidence (emphasis added):

- Reddit website (reddit.com)

#### Sharing Our Community Values

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From building new features that enhance existing products to sharing insights about content moderation, our Community Values are embedded across multiple facets of how we support and engage with our users. These values will only become more important as we continue to provide an **online** space for more **people** to interact and connect with one another.<sup>8</sup>

- Rakuten Viber website (viber.com)

#### Communities on Viber bring **people** together

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Each user is responsible for their own behavior **online**, including the kind of content they choose to share and their interaction with other users.<sup>9</sup>

- Facebook.com

#### FACEBOOK

We build technologies that help **people** connect with friends and family, find communities, and grow businesses.<sup>10</sup>

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<sup>8</sup> March 14, 2022 Office Action (TSDR 16).

<sup>9</sup> *Id.* at TSDR 6-7.

<sup>10</sup> August 18, 2021 Office Action (TSDR 9).

C. Arguments

The Examining Attorney contends that PEOPLE.ONLINE “is merely a combination of two descriptive terms that are descriptive of Applicant’s goods and services and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods and services.”<sup>11</sup> That is, PEOPLE.ONLINE is merely descriptive of a feature or characteristic of Applicant’s goods and services because “they connect people who are online.”<sup>12</sup> According to the Examining Attorney, the above-noted evidence shows that PEOPLE.ONLINE “means ‘human beings connected to the internet’” because the words “people” and “online” are commonly used in connection with similar social networking websites to mean people are connected over a computer network or online.<sup>13</sup>

Applicant argues, to the contrary, that PEOPLE.ONLINE, in its entirety, creates a meaning distinct from its components (i.e., the goods and services connect users to each other rather than to a network).<sup>14</sup> For example,

The use of the word “people” in connection with “online” does not immediately require that a person, or group of people, are on a network specifically to connect with one another. It would instead infer that Applicant is providing a means for people to connect to the Internet, or to another computer.<sup>15</sup>

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<sup>11</sup> Examining Attorney’s Brief (6 TTABVUE 5).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 8.

<sup>14</sup> Applicant’s Brief, p. 3 (4 TTABVUE 5).

<sup>15</sup> *Id.* at p. 5 (4 TTABVUE 7).

Therefore, it is clear that Applicant's mark "PEOPLE.ONLINE" requires a "mental leap" to go to social networking-related goods/services, forums, and/or chat rooms. The nature of Applicant's goods/services are not readily ascertainable from the plain meaning of the mark. To the contrary, a consumer must use thought and ingenuity to conclude that Applicant provides social networking-related goods/services under its "PEOPLE.ONLINE" mark.<sup>16</sup>

Finally, Applicant contends that PEOPLE.ONLINE is not the usual or normal manner in which consumers refer to the purpose of the applied-for goods or services (citing *In re Pennwalt Corp.*, 173 USPQ 317 (TTAB 1972) (DRI-FOOT is obviously not the usual or normal manner to describe the purpose of an anti-perspirant and deodorant for the feet)).<sup>17</sup>

#### D. Analysis

As set forth by the dictionary definitions discussed above, the components of the mark PEOPLE.ONLINE, "People" and "Online," are descriptive. "People" means human beings and "Online" means connected to a computer or network. The components of the mark retain their descriptive meaning in the applied-for mark PEOPLE.ONLINE because they directly convey to prospective consumers the purpose or users of the goods and services (i.e., humans connected to a computer or network or people using the Internet or people online). The combination does not convey any meaning contrary to the descriptiveness of the individual parts. *See In re Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370, 1372 (Fed. Cir. 2004)

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<sup>16</sup> *Id.* at p. 6 (4 TTABVUE 8).

<sup>17</sup> *Id.* at p. 7 (4 TTABVUE 9).

(PATENTS.COM for “computer software for managing a database of records and for tracking the status of the records by means of the Internet” is merely descriptive); *Omniome*, 2020 USPQ2d 3222 (TTAB 2019) (SEQUENCING BY BINDING for reagents, laboratory analyzers, devices for analysis, and related services is merely descriptive); *In re King Koil Licensing Co.*, 79 USPQ2d 1048, 1052 (TTAB 2006) (holding THE BREATHABLE MATTRESS merely descriptive of beds, mattresses, box springs, and pillows where the evidence showed that the term “breathable” retained its ordinary dictionary meaning when combined with the term “mattress” and the resulting combination was used in the relevant industry in a descriptive sense). *Cf. In re Am. Fertility Soc’y*, 188 F.3d 1341, 51 USPQ2d 1832, 1836 (Fed. Cir. 1999) (“[T]he PTO can satisfy its evidentiary burden by producing ‘evidence including dictionary definitions that the separate words joined to form a compound have a meaning [to the relevant public] identical to the meaning common usage would ascribe to those words as a compound.’”) (quoting *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111-12 (Fed. Cir. 1987)).

In other words, if the compound word would plainly have no different meaning from its constituent words, and dictionaries, or other evidentiary sources, establish the meaning of those words to be generic, then the compound word too has been proved generic.

*Am. Fertility Soc’y*, 51 USPQ2d at 1836.<sup>18</sup>

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<sup>18</sup> We acknowledge that we “cannot simply cite definitions and generic uses of the constituent terms of a mark, or in this case, a phrase within the mark, in lieu of conducting an inquiry into the meaning of the disputed phrase as a whole to hold a mark, or a phrase within in the mark, generic.” *Am. Fertility Soc’y*, 51 USPQ2d at 1836. “[T]he PTO may properly consider the meaning of “patents” and the meaning of “.com” with respect to the goods identified in the application. However, if those two portions individually are merely descriptive of an

As noted above, it is entirely acceptable to consider the component parts of a composite mark when divining the likely perception of the composite. *In re Petroglyph Games, Inc.*, 91 USPQ2d 1332, 1336-37 (TTAB 2009) (“First, we examine the evidence concerning the meanings that would be ascribed to the term BATTLECAM and the separate terms BATTLE and CAM, when used with applicant’s goods.”) (citing *In re Zanova Inc.*, 59 USPQ2d 1300, 1302 (TTAB 2001) (ITool would be perceived as short for “internet tools” and was refused as descriptive for goods and services including software for creating Web pages); *In re Polo Int’l Inc.*, 51 USPQ2d 1061, 1063 (TTAB 1999) (DOC-CONTROL for document management software is merely descriptive because DOC-CONTROL is not incongruous, creates no double entendre, and does not create or present a commercial impression or meaning other than “document control.”). *See also In re King Koil Licensing Co.*, 79 USPQ2d 1048, 1051 (TTAB 2006) (“Nor has the examining attorney engaged in impermissible dissection of a mark by determining that one term in the mark is descriptive and

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aspect of appellant’s goods, the PTO must also determine whether the mark as a whole, i.e., the combination of the individual parts, conveys any distinctive source-identifying impression contrary to the descriptiveness of the individual parts.” *Oppedahl & Larson LLP*, 71 USPQ2d at 1372. *See also Omniome*, 2020 USPQ2d 3222, at \*4 (if the descriptive components of multiple word mark retain their descriptive significance in relation to the applied-for goods and services, “the combination results in a composite that is itself merely descriptive.”). While we have considered the definitions of the components as part of our consideration of the mark as a whole, we emphasize that we base our finding that PEOPLE.ONLINE is merely descriptive on the mark in its entirety because the individual components retain their descriptive meanings in the mark as a whole, in which the word PEOPLE is combined with what appears to be a top-level domain, .ONLINE. That is, the individual components of the mark do not have a new and different meaning when combined in the mark PEOPLE.ONLINE.

another generic. This is all part and parcel of routine examination of a multiword mark.”).

Applicant contends that PEOPLE.ONLINE is suggestive because consumers will make a “mental leap” to associate the mark with the applied-for goods and services.<sup>19</sup>

The nature of Applicant’s goods/services are not readily ascertainable from the plain meaning of the mark. To the contrary, a consumer must use thought and ingenuity to conclude that Applicant provides social networking-related goods /services under its “PEOPLE.ONLINE” mark.<sup>20</sup>

However, as discussed above, the test of whether a mark is merely descriptive is not whether a consumer can guess the applied-for goods or services based on the mark, but “whether someone who knows what the goods [and services]. . . are will understand the mark to convey information about them.” *Real Foods*, 128 USPQ2d at 1374 (quoting *DuoProSS Meditech Corp.*, 103 USPQ2d at 1757). As such, the mark PEOPLE.ONLINE describes the users of Applicant’s goods and services.

The purchasing public will perceive PEOPLE.ONLINE as if it were PEOPLE ONLINE without the period between “People” and “Online.” *See, e.g., B.V.D. Licensing v. Body Action Design*, 846 F.2d 727, 6 USPQ2d 1719, 1721 (Fed. Cir. 1988) (B.A.D. will be viewed as the word “bad”); *Nahshin v. Prod. Source Int’l LLC*, 107 USPQ2d 1257, 1258 n.2 (TTAB 2013) (“the presence or absence of a hyphen is insignificant to our . . . decision”); *Mag Instrument Inc. v. Brinkmann Corp.*, 96 USPQ2d 1701, 1712 (TTAB 2010) (hyphen did not distinguish MAGNUM from

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<sup>19</sup> Applicant’s Brief, p. 6 (6 TTABVUE 8).

<sup>20</sup> *Id.*

MAG-NUM); *Henry I. Siegel Co., Inc. v. Highlander, Ltd.*, 183 USPQ 496, 499 (TTAB 1974) (H.I.S. will be viewed as “his”).

Applicant argues that PEOPLE.ONLINE is not merely descriptive because “it is not the usual or normal manner in which the purpose of the goods/services would be described”<sup>21</sup> and it “does not preclude the use of ordinary descriptive terms needed by competitors in order to describe their goods and services.”<sup>22</sup>

Thus, third parties have virtually a limitless number of terms and phrases they can use to describe their social networking goods and services. It is further noted that all of these terms require an additional qualifier other than just “PEOPLE” and “ONLINE” to impart the intended goods and services offered, such as “connect with”, “stay in touch with”, “social networking”, “community”, etc. Registration of “PEOPLE.ONLINE”, which no third party uses anyway, will not impact this.<sup>23</sup>

While a competitive need to use a term is probative that the mark is merely descriptive, it is not a prerequisite to finding that a term is merely descriptive. *Fat Boys*, 118 USPQ2d at 1514 (“Under the current standard, there is no requirement that the Examining Attorney prove that others have used the mark at issue or that they need to use it, although such proof would be highly relevant to an analysis under Section 2(e)(1).”); *In re Carlson*, 91 USPQ2d 1198, 1203 (TTAB 2009) (competitor need

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<sup>21</sup> Applicant’s Brief, p. 7 (6 TTABVUE 9). At the oral hearing, Applicant emphasized that the PEOPLE.ONLINE is not the usual or normal way in which consumers refer to Applicant’s applied-for goods and services by pointing out that the Examining Attorney submitted only one example of a third-party using the term “people online.” *See also* Applicant’s Reply Brief, p. 2 (7 TTABVUE 3) (“Only one article cited by the Examining Attorney uses the words ‘PEOPLE’ and ‘ONLINE’ in succession (*see* screenshots from the Harvard Business Review article, August 18, 2021, Office Action, TSDR pp. 7-8.)).

<sup>22</sup> Applicant’s Brief, p. 9 (6 TTABVUE 11).

<sup>23</sup> Applicant’s Brief, p. 10 (6 TTABVUE 12).

is not the test for descriptiveness). It is well-settled that just because Applicant may be the first or only user of a term does not justify its registration when the only significance conveyed by the term is merely descriptive. *See KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc.*, 543 U.S. 111, 72 USPQ2d 1833, 1838 (2004) (trademark law does not countenance someone obtaining “a complete monopoly on use of a descriptive term simply by grabbing it first”); *Clairol, Inc. v. Roux Distrib. Co.*, 280 F.2d 863, 126 USPQ2d 397, 398 (CCPA 1960) (even novel ways of referring to the goods may nonetheless be descriptive); *Fat Boys*, 118 USPQ2d at 1514.

Finally, Applicant argues that if the logic used by the Examining Attorney to support the descriptiveness refusal were applied in other circumstances, “then surely any mark using the words [sic] ‘ONLINE’ with other identifiers would additionally be merely descriptive.”<sup>24</sup> However, the Board must decide each case on its own merits. *In re Nett Designs, Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001) (citing *In re Owens-Corning Fiberglas Corp.*, 774 F.2d 1116, 227 USPQ 417, 424 (Fed.Cir.1985)). That is, we “assess each mark on the record of public perception submitted with the application,” *id.*, and, therefore, decline to draw any conclusions regarding Applicant’s contention because it is not based on any facts before us. *Id.*

We find that Applicant’s mark PEOPLE.ONLINE is merely descriptive for the applied-for goods and services.

**Decision:** We affirm the refusal to register Applicant’s mark under Section 2(e)(1) of the Trademark Act.

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<sup>24</sup> Applicant’s Reply Brief, p. 3 (7 TTABVUE 4).