

This Opinion is Not a  
Precedent of the TTAB

Mailed: December 3, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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*In re MDFT International, Inc.*

\_\_\_\_\_  
Serial No. 97004153

Paul Grijalva for MDFT International, Inc.

Mitchell Knief, Trademark Examining Attorney, Law Office 103,  
Stacy Wahlberg, Managing Attorney.

\_\_\_\_\_  
Before Kuhlke, Johnson and Bradley,  
Administrative Trademark Judges.

Opinion by Kuhlke, Administrative Trademark Judge:

MDFT International, Inc. (“Applicant”) seeks registration on the Principal Register for the proposed mark MULTIDIMENSIONAL FAMILY THERAPY in standard characters for “mental health therapy services.”<sup>1</sup>

The Trademark Examining Attorney has refused registration of Applicant’s proposed mark under: (i) Trademark Act Sections 1, 2, 3 and 45, 15 U.S.C. §§ 1051,

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<sup>1</sup> Application Serial No. 97004153, filed on August 31, 2021, based on an allegation of first use on January 1, 1991 and first use in commerce on March 16, 2009, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

1052, 1053, 1127, on the basis that the proposed mark is generic for the services; and (ii) in the alternative, Section 2(e)(1), 15 U.S.C. § 1052(e)(1), on the basis that the proposed mark is merely descriptive of Applicant's services, and Applicant's showing of acquired distinctiveness under Section 2(f), 15 U.S.C. § 1052(f), is insufficient to overcome the refusal.

## I. Background

Initially, the Examining Attorney refused registration under Section 2(e)(1) based on mere descriptiveness. Applicant responded by arguing against the refusal and, in the alternative, asserted acquired distinctiveness. The Examining Attorney then issued a Nonfinal Office Action, refusing registration on the grounds the proposed mark is generic for the services, maintained the refusal based on mere descriptiveness, and rejected the assertion of acquired distinctiveness. In response, Applicant argued against the genericness refusal and the mere descriptiveness refusal, and submitted evidence in support of its claim, in the alternative, of acquired distinctiveness. After the Examining Attorney issued the Final Office Action, Applicant requested reconsideration and filed a notice of appeal. The Examining Attorney denied the request and proceedings in the appeal were resumed. The appeal is fully briefed.<sup>2</sup> We reverse in part and affirm in part.<sup>3</sup>

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<sup>2</sup> Applicant's reference to the Supplemental Register for the first time in its appeal brief is given no consideration. *See In re Integrated Embedded*, Ser. No. 86140341, 2016 WL 7368696, at \*8 (TTAB 2016) (request to amend to Supplemental Register should be raised during prosecution).

<sup>3</sup> Citations to TTABVUE throughout the decision are to the Board's public online database that contains the appeal file, available on the USPTO website, [www.USPTO.gov](http://www.USPTO.gov). The first

## II. Is MULTIDIMENSIONAL FAMILY THERAPY Generic for the Identified Services?

“A generic name--the name of a class of products or services--is ineligible for federal trademark registration.” *U.S. Patent & Trademark Office v. Booking.com B.V.*, 591 U.S. 549, 549 (2020). Generic terms are “by definition incapable of indicating source, are the antithesis of trademarks, and can never attain trademark status.” *In re Merrill Lynch, Pierce, Fenner, & Smith, Inc.*, 828 F.2d 1567, 1569 (Fed. Cir. 1987), *quoted in In re Cordua Rests., Inc.*, 823 F.3d 594, 599 (Fed. Cir. 2016). “Generic terms are common names that the relevant purchasing public understands primarily as describing the genus of goods or services being sold. They are by definition incapable of indicating a particular source of the goods or services.” *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1344 (Fed. Cir. 2011) (citations omitted). *See also Royal Crown Co. v. Coca-Cola Co.*, 892 F.3d 1358, 1366 (Fed. Cir. 2018).

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number represents the docket number in the TTABVUE electronic case file and the second represents the page number(s).

Citations to the examination record refer to the USPTO’s online Trademark Status and Document Retrieval system (TSDR).

As part of an internal Board pilot citation program on broadening acceptable forms of legal citation in Board cases, the citation form in this opinion is in a form provided in the TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (“TBMP”) § 101.03 (2024). This opinion cites decisions of the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Customs and Patent Appeals only by the page(s) on which they appear in the Federal Reporter (e.g., F.2d, F.3d, or F.4th). For decisions of the Board, this opinion cites to the Westlaw (WL) database. Practitioners should also adhere to the practice set forth in TBMP § 101.03.

Whether a proposed mark is generic rests on its primary significance to the relevant public. *In re Am. Fertility Soc’y*, 188 F.3d 1341, 1347 (Fed. Cir. 1999); *Magic Wand Inc. v. RDB Inc.*, 940 F.2d 638, 640 (Fed. Cir. 1991). Making this determination “involves a two-step inquiry: First, what is the genus of goods or services at issue? Second, is the term sought to be registered ... understood by the relevant public primarily to refer to that genus of goods or services?” *H. Marvin Ginn Corp. v. Int’l Ass’n. of Fire Chiefs, Inc.*, 782 F.2d 987, 990 (Fed. Cir. 1986). “[A] term can be generic for a genus of goods or services if the relevant public . . . understands the term to refer to a key aspect of that genus.” *Cordua Rests.*, 823 F.3d at 604.

#### A. Genus of Services

Because the identification of goods or services in an application defines the scope of rights that will be accorded the owner of any resulting registration under Section 7(b) of the Trademark Act, 15 U.S.C. § 1057(b), generally “a proper genericness inquiry focuses on the description of [goods and/or] services set forth in the [application or] certificate of registration.” *Cordua Rests.*, 823 F.3d at 602 (quoting *Magic Wand*, 940 F.2d at 640). In this case, we find that the identification, “mental health therapy services,” appropriately expresses the genus of services at issue.

Thus, the ultimate inquiry is whether the relevant public understands MULTIDIMENSIONAL FAMILY THERAPY to refer to mental health therapy services. Based on this record, the relevant consumer includes those seeking mental health therapy services and providers seeking to provide a specific type of mental

health therapy. *The Loglan Inst. Inc. v. The Logical Language Grp.*, 962 F.2d 1038, 1041 (Fed. Cir. 1992) (quoting *Magic Wand Inc.*, 940 F.2d at 641).

B. Does the Relevant Public Understand the Designation Primarily Refers to the Genus?

“Evidence of the public’s understanding of the term may be obtained from any competent source, such as purchaser testimony, consumer surveys, listings in dictionaries, trade journals, newspapers and other publications.” *Merrill Lynch*, 828 F.2d at 1570; *see also Cordua Rests.*, 823 F.3d at 599. In some cases, dictionary definitions and an applicant’s own recitation of goods or services may suffice to show genericness. *In re Gould Paper Corp.*, 834 F.2d 1017, 1019 (Fed. Cir. 1987); *see also Am. Fertility Soc’y*, 188 F.3d at 1346.

In finding MULTIDIMENSIONAL FAMILY THERAPY generic for the services, the Examining Attorney analyzed the terms separately and then as a whole. We will follow the same approach.

1. The Meaning of the Separate Words

Clearly, on its face, the word THERAPY is generic for any type of therapy services, including mental health therapy. This is supported by the dictionary definition of THERAPY as “therapeutic medical treatment of impairment, injury, disease or disorder.”<sup>4</sup> FAMILY is defined as “the basic unit in society traditionally consisting of two parents rearing their children” or “any of various social units differing from but

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<sup>4</sup> June 6, 2022 Office Action, TSDR 15 (merriam-webster.com).

regarded as equivalent to the traditional family.”<sup>5</sup> Applicant’s description of its program uses the word FAMILY as a type of treatment: “Multidimensional family therapy (MDFT) is a family-based treatment developed for adolescents with drug and behavior problems.”<sup>6</sup> MULTIDIMENSIONAL is defined as “having or relating to multiple dimensions or aspects.”<sup>7</sup>

Based on the record, we find the word THERAPY is a generic designation for mental health services. We further find that FAMILY is also generic for a key aspect of a subcategory of mental health services, namely, therapy that is family-based. However, the evidence does not set out a reasonable predicate that the word MULTIDIMENSIONAL is generic for mental health services. There are examples of use where the word MULTIDIMENSIONAL is used with other types of therapy. *See, e.g.*, Nov. 17, 2023 Request for Reconsideration Denied, TSDR 5-6, 8 (ASHAWire (“Clinical Applications of a Multidimensional Approach for the Assessment and Treatment of Stuttering”); Cambridge University Press (“Multidimensional Grief Therapy”); Journal of Medical Extended Reality (“Virtual Reality-Based Multidimensional Therapy for the Treatment of Body Image Disturbances in Obesity”)). However, in these examples the word MULTIDIMENSIONAL simply

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<sup>5</sup> June 6, 2022 Office Action, TSDR 5 (merriam-webster.com).

<sup>6</sup> January 5, 2023 Office Action, TSDR 3-5 (apa.org summary of book authored by Howard Liddle the creator and developer of the MDFT program); *see also* June 6, 2022 Office Action, TSDR 3, 10 (mdft.org “The Proven Family-Centered Treatment for Youth”) (ncbi.nlm.nih.gov “[g]reater use of in-session family-focused techniques”).

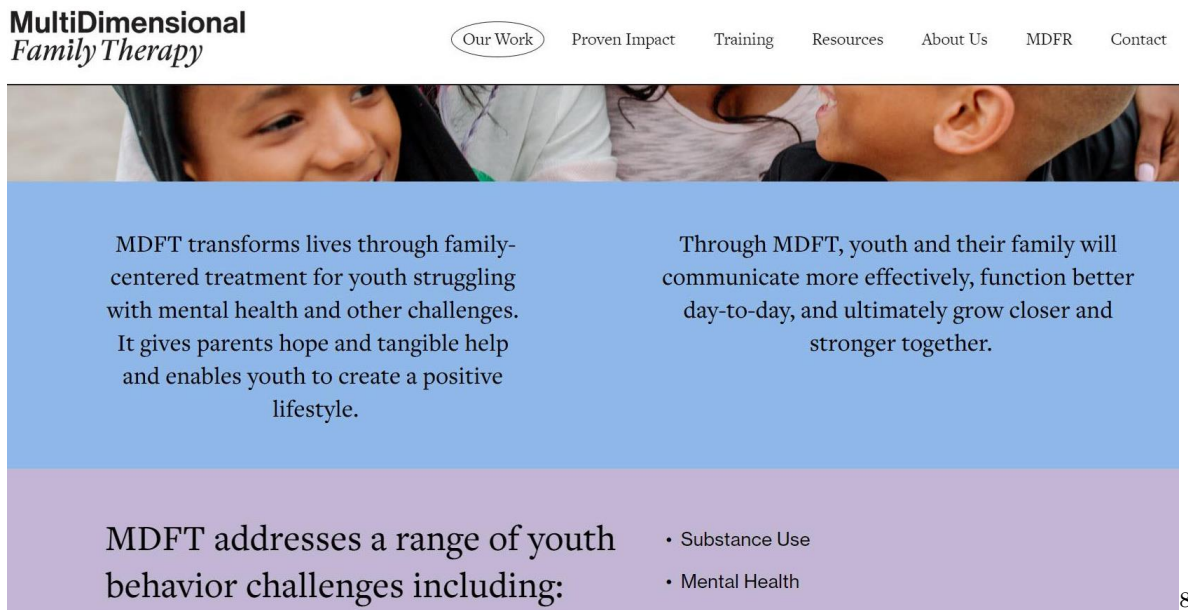
<sup>7</sup> June 6, 2022 Office Action, TSDR 7 (merriam-webster.com).

describes a feature of the various therapies rather than referencing a category of mental health services.

2. Use of the entire phrase MULTIDIMENSIONAL FAMILY THERAPY.

We have found that the individual word MULTIDIMENSIONAL is not generic for mental health therapy services. It follows then that the entire phrase incorporating that word would not be generic. However, for completeness we examine the phrase in its entirety. There are several examples of use of the entire phrase MULTIDIMENSIONAL FAMILY THERAPY in the record. Representative samples are reproduced below by category:

- Applicant's website:



- Third-party therapeutic providers' websites:

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<sup>8</sup> June 6, 2022 Office Action, TSDR 4 (mdft.org).



**LINCOLN FAMILIES** HOME GET INVOLVED PROGRAMS & SERVICES IMPACT ABOUT



## Multidimensional Family Therapy

**Facilitating Health and Recovery**

Youth with substance use issues are at a higher risk for mental health problems, including depression, behavioral issues, and suicide. **Lincoln's Multidimensional Family Therapy (MDFT)** provides short-term intensive therapy to families and youth struggling with substance use and mental health challenges through a variety of therapeutic and behavioral supports designed for:

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Information and Resources for Child Welfare Professionals

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Programs Topic Areas Rating Scales

Home < Program < Multidimensional Family Therapy <  compare (?)

## Multidimensional Family Therapy (MDFT)

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<sup>9</sup> June 6, 2022 Office Action, TSDR 6 (lincolnfamilies.org).

<sup>10</sup> June 6, 2022 Office Action, TSDR 8 (cebc4cw.org).





*Multidimensional Family Therapy for Early Adolescent Substance Abuse Treatment Manual*  
Author: Howard A. Liddle, Ed.D.

[Click here to download for free.](#)

**Author Contact Information:**

Dr. Howard Liddle  
305.243.6434  
[hliddle@med.miami.edu](mailto:hliddle@med.miami.edu)

*Multidimensional Family Therapy (MDFT) has been recognized as one of the most promising interventions for adolescent drug abuse in a new generation of comprehensive, multicomponent, theoretically derived, and empirically supported treatments. MDFT has demonstrated efficacy in numerous treatment and prevention studies. The MDFT model described in this manual is a 12- to 16-week intervention, specific for early adolescent drug abusers, that is delivered over 3 to 4 months. This treatment manual details the MDFT approach for treating young adolescents, focusing on the following topics and providing case examples detailing the approach:*

- The MDFT approach to early adolescent drug abuse treatment
- Operational features of the MDFT approach
- Goals, rationales, and procedures for MDFT interventions
- General theoretical assumptions and approach
- The stages of treatment of MDFT

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## MULTIDIMENSIONAL FAMILY THERAPY FOR TEENS: WHY IT WORKS

HOME / PARENTING / MULTIDIMENSIONAL FAMILY THERAPY FOR TEENS... 12

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<sup>11</sup> January 5, 2023 Office Action, TSDR 7 (chestnut.org).

<sup>12</sup> January 5, 2023 Office Action, TSDR 9 (destinationsforteens.com).



START HERE

SUBSTANCE TREATMENT

MENTAL HEALTH

OUR PROGRAMS

# Multidimensional Family Therapy

## Multidimensional Family Therapy

This integrative treatment approach was created with youth and young adults in mind. A multidimensional, family-centered approach is the core of this therapy.

Multidimensional Family Therapy (MDFT) is a unique, integrated, and family-centered approach to youth problems and disorders. MDFT addresses a variety of youth problem behaviors, including substance abuse, aggressive behavior, delinquency, school and family problems, and more. This therapy aims at approaching and minimizing these behaviors, while setting the individual up for long-term success.

The primary objectives of MDFT are to address and eliminate delinquency, crime, and substance abuse, and to improve mental health, along with school and family functioning. This therapy has been shown to improve the individual's coping and decision-making skills, and enhance family functioning. These components are the tools needed to provide a positive youth development for the individual.

MDFT promotes sustainable, long-term change in multiple facets, including:

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- Articles, grant and book references from various online sources:

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<sup>13</sup> November 17, 2023 Office Action, TSDR 2 (arborplaceinc.org).



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[J Fam Psychol](#). Author manuscript; available in PMC 2010 Mar 22.

PMCID: PM

*Published in final edited form as:*

NIHMSID: NIH

[J Fam Psychol](#). 2006 Dec; 20(4): 535–543.

PMID:

doi: [10.1037/0893-3200.20.4.535](https://doi.org/10.1037/0893-3200.20.4.535)

Author Manuscript

## Treatment Techniques and Outcomes in Multidimensional Family Therapy for Adolescent Behavior Problems

[Aaron Hogue](#) and [Sarah Dauber](#)

National Center on Addiction and Substance Abuse at Columbia University

[Jessica Samuolis](#) and [Howard A. Liddle](#)

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### Abstract

Go to: ▶

The link between treatment techniques and long-term treatment outcome was examined in an empirically supported family-based treatment for adolescent drug abuse. Observational ratings of therapist interventions were used to predict outcomes at 6 and 12 months posttreatment for 63 families receiving multidimensional family therapy. Greater use of in-session family-focused techniques predicted reduction in internalizing symptoms and improvement in family cohesion. Greater use of family-focused techniques also predicted reduced externalizing symptoms and family conflict, but only when adolescent focus was also high. In addition, greater use of adolescent-focused techniques predicted improvement in family cohesion and family conflict. Results suggest that both individual and multiperson interventions can exert an influential role in family-based therapy for clinically referred adolescents.

**Keywords:** family therapy, process–outcome research, treatment techniques, adolescent substance abuse

<sup>14</sup> June 6, 2022 Office Action, TSDR 9 (ncbi.nlm.nih.gov).

<sup>15</sup> June 6, 2022 Office Action, TSDR 10 (ncbi.nlm.nih.gov).

The current study meets a need in family therapy research for process studies that (a) specify theoretically derived treatment techniques with widespread usage by front-line clinicians and (b) are conducted on research-based treatments under controlled conditions to maximize the generalizability and potential impact of findings. We examine key treatment techniques of multidimensional family therapy (MDFT; [Liddle, 2002b](#)), a family-based intervention with demonstrated efficacy in treating adolescent substance abuse and related behavioral problems in several randomized trials ([Dennis et al., 2004](#); [Liddle, 2002a](#); [Liddle et al., 2001](#); [Liddle, Rowe, Dakof, Ungaro, & Henderson, 2004](#)). The intervention principles of MDFT emphasize that therapists focus on the individual problems, strengths, and goals of the adolescent in addition to focusing on parent issues, parenting and family relationships, and extrafamilial influences. 16

Specifically, MDFT contains four interdependent treatment domains: adolescents, parents and other family members, family interactional patterns, and extrafamilial systems of influence (described in the Method section). The four domains relate to empirically established areas of risk and protection for youth and families, as well as knowledge about the developmental psychopathology of adolescent drug abuse ([Liddle et al., 2000](#)). Each domain is considered critical to the change process, and MDFT therapists work simultaneously in each domain according to the particular risk 17



Multidimensional Family Therapy

## Multidimensional Family Therapy

### Program Goals/Target Population

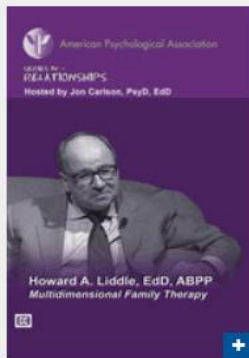
Multidimensional Family Therapy (MDFT) is a manualized family-based treatment and substance abuse prevention program developed for adolescents with drug and behavior problems and delinquency. It is typically delivered in an outpatient setting, though it can also be used in inpatient settings. 18

<sup>16</sup> June 6, 2022 Office Action, TSDR 11 ([ncbi.nlm.nih.gov](https://ncbi.nlm.nih.gov)).

<sup>17</sup> June 6, 2022 Office Action, TSDR 11 ([ncbi.nlm.nih.gov](https://ncbi.nlm.nih.gov)).

<sup>18</sup> June 6, 2022 Office Action, TSDR 17 ([youth.gov](https://youth.gov)).

# Multidimensional Family Therapy



With Howard A. Liddle, EdD, ABPP

**Format:** DVD [Closed Captioned]

**Availability:** Out of Stock

[Compatibility information](#)

**Running Time:** Over 100 minutes

**Item#:** 4310853

**ISBN:** 978-1-4338-0363-5

**Copyright:** 2009

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In *Multidimensional Family Therapy*, Dr. Howard A. Liddle demonstrates this integrative, empirically supported approach for working with families of adolescents with behavior and substance abuse problems. Multidimensional family therapy (MDFT) protocols guide therapists in assessing and intervening simultaneously in developmentally critical domains of a teen's and family's life. Emotions, cognitive processes, and behavior are interconnected and are all addressed in MDFT. Adolescent problems such as drug abuse and delinquency are multidimensional in etiology and current manifestation, and therefore attempted remedies and therapist behavior must be multidimensional as well.

As a multisystems model, MDFT clinicians work individually with the adolescent and the parent, with the family as a whole to facilitate new relationships, and with family members in relation to sources of ongoing influence such as school and juvenile justice systems to address current functioning and new solutions for the adolescent.

In this session, Dr. Liddle works with a 15-year-old boy, recently diagnosed with ADHD and depression, who seeks a better relationship with his father. Dr. Liddle meets with the adolescent client and his mother to help them move beyond previous therapy to make changes in their lives.

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<sup>19</sup> January 5, 2023 Office Action, TSDR 2 (apa.org).

<sup>20</sup> January 5, 2023 Office Action, TSDR 3 (apa.org).



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Home

## Multidimensional Family Therapy (MDFT)

### About This Resource

Multidimensional Family Therapy (MDFT) is an integrative, family-based, multiple systems treatment for youth with drug abuse and related behavior problems. The therapy consists of four domains: (1) engage adolescent in treatment, (2) increase parental involvement with youth and improve limit-setting, (3) decrease family-interaction conflict, and (4) collaborate with extra-familial social systems. Youth are generally aged 11 to 16 and have been clinically referred to outpatient treatment. For this meta-analysis, two studies measured the effects of MDFT on delinquency and ten measured the effects on subsequent substance use. All 12 studies included youth who were referred from the juvenile justice system as well as schools, child welfare agencies, health and mental health agencies, and parents. (Source)

Washington State Institute of Promising Practices [benefit-cost report](#) (rated: Research-Based)

Learn More:

<http://www.mdft.org/MD...>

### Who This Resource Is For

#### Category:

- Family-Focused Program
- Marijuana Use Prevention
- Mental Health
- Substance Use Prevention

#### Support Tier:

- Tier 3

#### Age Range:

- Middle
- High

#### Language:

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Applicant asserts that the vast majority of examples submitted refer to Applicant’s service. Applicant explains that:

The Mark refers to an actual method which has been coined in its use and created by Applicant. The Mark was not used prior to the inception and creation by Applicant’s director and founder, Dr. Gayle Dakof who is referenced in Attachment 10 to Office Action. As correctly stated in the Office Action, the Mark is widely and commonly used, however, such use is in relation to and due to tightly managed license agreements, which allows licensees to use the Mark as well as certain trade secrets associated with the developed method created by Applicant in association with the Mark. The Mark is used in connection with a uniquely created and developed program and method which goes well beyond the “four connected domains”

<sup>21</sup> January 5, 2023 Office Action, TSDR 8 (cde.state.co.us). Some of the discussion also pertains to acquired distinctiveness which we address more fully below.

referenced in the Office Action removing the Mark from being generic or merely descriptive. Additionally, while Applicant's position is that the Mark is not merely descriptive, even if it was merely [sic] the examining attorney's position, at this point, is that the Mark is descriptive, the Mark has acquired distinctiveness and secondary meaning as is shown by the wide use in the attachments provided in the Office Action. The Mark has been in continuous and exclusive use since 1991, with third party use only through license agreements between Applicant and third-party licensees.<sup>22</sup>

In a later response, Applicant supports these assertions with statements from Howard Liddle, the creator and developer of "the Multidimensional Family Therapy model (MDFT)"<sup>23</sup> and Lisa Saldana, Senior Scientist at Chestnut Health Systems (one of the third-party examples provided by the Examining Attorney).<sup>24</sup>

Mr. Liddle states:

I have been the lead principal investigator on NIH (National Institute of Health) grants and specifically grants focusing on adolescent drug abuse. In addition, I created and developed the Multidimensional Family Therapy model (MDFT). As a leading expert in the field of mental health, I can clearly and unequivocally state that MDFT is a unique model and is based on a multitude of factors not simply the model in and of itself. When creating MDFT and when coining the name, an approach was taken to ensure that it did not simply reflect the therapy model but also many factors within society. While there are different steps within the model, the term Multidimensional creates, and is recognized in the field as, an inference to the dimensions of society and family and

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<sup>22</sup> December 6, 2022 Response, TSDR 2.

<sup>23</sup> October 31, 2023 Response, TSDR 5.

<sup>24</sup> October 31, 2023 Response, TSDR 4. Applicant represents these statements as affidavits, however; they are not signed under oath or declaration. Nonetheless, the Examining Attorney has accepted and relied on the statements and we do the same. *See* TBMP § 1208 and cases cited therein (Board takes more permissive stance with respect to evidence in an ex parte proceeding).

factors that lead an individual and families to a path where they are in need of help. I can also attest to the fact that clients know of the one and only source that provides MDFT or licenses out the model, and that source is MDFT International, Inc. When MDFT is referenced in studies or publications, the reference is not a general or generic reference to a broad therapy model but rather the very specific and distinct MDFT model. I have read through the materials which you have provided, many of which specifically reference me personally as an author and as the author of such publications, I can assure you that all references to MDFT refer specifically to the MDFT model and specifically tie to MDFT International, Inc.<sup>25</sup>

Ms. Saldana states:

MDFT [(Multidimensional Family Therapy)] was created by Dr. Howard Liddle and its services are provided by MDFT International, Inc. whether through training and licensing the model or by the MDFT International, Inc. team themselves. ... It is a clear fact within the industry that whenever scholarly articles are published about MDFT, that the articles are referring to the MDFT model itself, not a generic field of family therapy. ... MDFT, like most models has various aspects, but the name MDFT, aside from the words Family Therapy, is unique and is not a clear reference to the MDFT model itself, this is something that all in the field, both therapists and clientele, are quite aware of. Being very familiar with MDFT and knowing the history of MDFT, I am aware of the holistic naming of MDFT, which gives reference to the multiple dimensions of society and family rather than the model specifically. Dr. Liddle is credited with such an ingenious naming approach to his ingenious and unique model.<sup>26</sup>

The Examining Attorney responded:

The applicant next contends that “the Mark has acquired distinctiveness and secondary meaning as is shown by the wide use in the attachments provided in the Office action”

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<sup>25</sup> October 31, 2023 Response, TSDR 5.

<sup>26</sup> October 31, 2023 Response, TSDR 4.



and contends that the third party use has taken place “only through license agreements between Applicant and third party licensees”. However, the fact that use of the mark is by numerous sources unrelated to the applicant is not evidence of acquired distinctiveness. Rather, this would be evidence against acquired distinctiveness.<sup>27</sup>

This response does not appreciate the relationships Applicant has created through license agreements. The Examining Attorney goes on to assert “that the applicant has provided no evidence that any third-party used [sic] was done as part of license agreements.”<sup>28</sup>

Applicant responds:

The examining attorney accurately references several sites that use or reference the Mark in order to substantiate refusal to register the Mark, however, it is important to note that each of the sites are either licensed by Applicant with permission to use the Mark or they specifically reference Applicant in connection with the Mark. Additionally, the examining attorney accurately references books and articles that reference the Mark, however it is also important to recognize that the books or articles were either written by the founder of the services associated with the Mark, or by Applicant’s executive director (Gayle Dakof), or by one of its associate directors (Cindy Rowe). In the instances where the Mark is referenced, either by a publication or by a licensee, such reference is in direct relation to the Mark itself and in direct relation to Applicant, as is shown by links within the sites specifically referenced by the examining attorney. The references in the treatment world to the Mark are akin to an individual referencing the mark “google” to perform a Google search in the sense that references are not to a broad spectrum of treatment class, but to a specific method created and administered by Applicant and its licensees. The evidence provided by the examining attorney strengthens rather than diminishes the argument for acquired distinctiveness

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<sup>27</sup> January 5, 2023 Office Action, TSDR 1.

<sup>28</sup> *Id.*

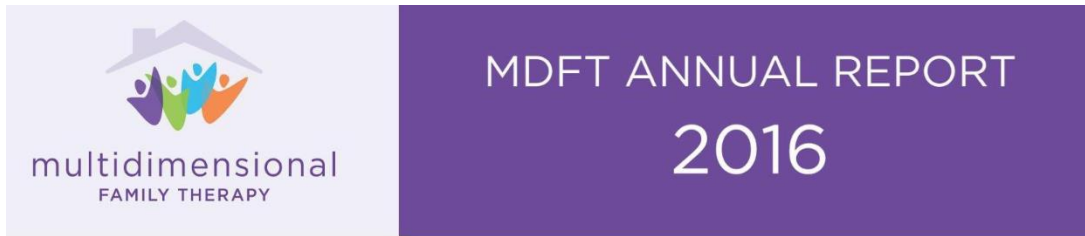
and registration of the Mark. In attached evidence (2020 Year in Review and 2021 Year in Review) a list of licensees is shown, some of which are referenced by the examining attorney in the Office Action as evidence of widespread use not in connection with Applicant, however, the fact is that these are licensees and the use is only as a result of being a licensee of Applicant with permission to reference the Mark.<sup>29</sup>

In addition, Applicant further contends the fact sheets, reference guides, scientific publication references, and year in review sheets submitted in response to a request for information point to studies that differentiate “the services (and their effectiveness) associated with the Mark in comparison to other therapy services.”<sup>30</sup> A representative sample is shown:

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<sup>29</sup> July 5, 2023 Response, TSDR 3.

<sup>30</sup> July 5, 2023 Response, TSDR 2.



**FAST FACTS: MDFT in the US**

**Over 2,100** cases served in 2016

**275** therapists

**94** supervisors

**3** juvenile drug court programs

**3** residential treatment programs

**90% of programs** that have ever completed MDFT training were still active in 2016

**Train-the-Trainers Program:** 76% of active sites had a local or agency-based trainer

Average length of treatment was **4.9 months**

**91% of families engaged in treatment** and received 8 sessions or more



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<sup>31</sup> July 5, 2023 Response, TSDR 4.

## What is MDFT?

Multidimensional Family Therapy (MDFT) is a family intervention that helps youth ages 10-26 achieve and remain on a safe and healthy developmental trajectory. It effectively reduces substance use, violence, criminal behavior, mental health symptoms, as well as improving school/vocational and family functioning.

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### 01. *Clinical and Cost Effective*

It works: MDFT is proven effective in over 25 years of research and over 20 years of implementation efforts in the United States and Europe (MDFT, CEBC).

It saves money: MDFT lowers costs by reducing hospitalizations, residential/inpatient treatment, emergency department visits, and short- and long-term incarcerations.

After MDFT training and implementation:

- ✓ The state of Connecticut saw a 50% reduction in hospitalizations.
- ✓ Riverside County, California saw an 81% reduction in mental health emergency department visits.

Research shows that MDFT costs 64% less than residential treatment (Zavala et al., 2005)

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### 02. *Efficient and Holistic*

MDFT is a "One-Stop Shop":

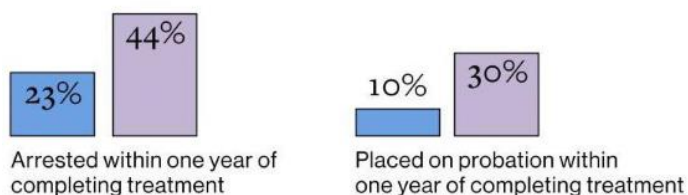
- ✓ It is an "all-in-one" effective mental health and substance use treatment.
- ✓ It provides individual therapy for youth, parent education and support, family therapy for youth and parents together, and community services to help families.
- ✓ It achieves significant, life-transformative changes in less than 6 months
- ✓ Its effects are long lasting: Studies indicate that youth and families in MDFT maintain and even build on treatment gains for many years after treatment ends.

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# MDFT in Randomized Clinical Trials

Young Adolescent Study

● MDFT ● Group Therapy



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## MDFT

### Family Functioning

MDFT reduces family conflict, increases family cohesion, and improves parenting skills to a greater extent than standard alternative treatments.

Recognized by:

- ✓ [California Evidence-Based Clearinghouse for Child Welfare gave MDFT its highest possible rating for scientific support](#)
- ✓ [Early Intervention Foundation \(EIK\)](#)
- ✓ [Penn State U-Clearinghouse for Military Readiness](#)

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<sup>33</sup> July 5, 2023 Response, TSDR 19.

<sup>34</sup> July 5, 2023 Response, TSDR 21.



## Mental Health & Comorbidity

MDFT reduces the depression and anxiety symptoms of youth, and can be particularly effective with youth showing high severity of drug use and psychiatric comorbidity.

Recognized by:

- ✓ American Psychological Association recognized MDFT as an effective mental health treatment
- ✓ California Evidence Based Clearinghouse (CEBC) gives MDFT its highest rating for “Disruptive Behavior Treatment” defined as the treatment of ADHD, Conduct Disorders and Oppositional Defiant Disorder
- ✓ The Finnish Association for Mental Health rates MDFT as effective for youth
- ✓ Title IV-E Prevention Services Clearinghouse

### *What People are Saying*

“Rowe and Liddle’s MDFT protocol demonstrated how an efficacious family intervention can be adapted to crisis situations. Because the model operates on the premise of intense intervention and accommodation to the needs of each family, the intervention proved to have a positive impact on families affected by mass trauma.”

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The list of Agencies connected to Applicant in 2020 and 2021 include several appearing in the evidence submitted by the Examining Attorney (e.g., Lincoln, Arbor, and Chestnut, shown above).<sup>36</sup> The Examining Attorney responds in the Final Office Action:

In the present case, applicant’s goods and/or services are broadly worded and encompass the narrower category of “multidimensional family therapy” because multidimensional family therapy is encompassed by the applicant’s identified “Mental health therapy services”. Therefore, the genus of goods and/or services at issue includes multidimensional family therapy.<sup>37</sup>

<sup>35</sup> July 5, 2023 Response, TSDR 27.

<sup>36</sup> July 5, 2023 Response, TSDR 12.

<sup>37</sup> July 31, 2023 Office Action, TSDR 1.

The Examining Attorney points to articles from various third-party publications that discuss MULTIDIMENSIONAL FAMILY THERAPY and argues this evidence shows consumers would understand it to refer primarily to that genus of services. But these articles are referencing the therapy program developed by Applicant, and could also be viewed as simply referencing Applicant and its program.

The Examining Attorney continues:

Here, the applicant applied for MULTIDIMENSIONAL FAMILY THERAPY, as the applicant themselves notes, is a subcategory of applicant's broadly worded identification of services. ... The applicant goes on to note that "the evidence provided clearly demonstrates that the relevant public understands 'MULTIDIMENSIONAL FAMILY THERAPY' to refer to this specialized treatment". Thus, the applicant themselves [sic] has conceded that the relevant public would understand this designation to refer primarily to a subcategory of applicant's broadly worded identification, or a particular "mental health therapy service".<sup>38</sup>

The Examining Attorney and Applicant accept that MULTIDIMENSIONAL FAMILY THERAPY is used in connection with a specific type of family-based treatment, but differ on the legal significance. The Examining Attorney's position is that the treatment itself, referred to as MULTIDIMENSIONAL FAMILY THERAPY, fits within the broadly worded identification of services. However, this logic seems to jump a step by first determining that the entire phrase MULTIDIMENSIONAL FAMILY THERAPY names a category of treatment when the evidence shows it references a treatment program developed by Applicant. Being the first to use a term

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<sup>38</sup> *Id.*

does not necessarily rescue a term from being generic, but this record shows Applicant developed a type of mental health service and provides this service directly or through affiliates. One of these affiliates provided a statement that this phrase, MULTIDIMENSIONAL FAMILY THERAPY, identifies source, specifically Applicant. In addition, the examples of third-party use frequently display MUTLIDIMENSIONAL FAMILY THERAPY in capitalized form which diminishes its probative value to show genericness. *In re Country Music Ass'n, Inc.*, Ser. No. 78906900, 2011 WL 5600319, at \*7 (TTAB 2011) (“[C]apitalization of a term or phrase is generally used to designate a brand name, as opposed to a generic term.”).

While the term MULTIDIMENSIONAL may be descriptive of the therapeutic program and the entire phrase MULTIDIMENSIONAL FAMILY THERAPY may describe the features of that program, this record does not show that MULTIDIMENSIONAL FAMILY THERAPY is the name of a category of therapy rather than one program developed by one entity and provided by that source or its affiliates.

In view thereof, we find this record does not present a prima facie case that the phrase MULTIDIMENSIONAL FAMILY THERAPY is generic.

### III. Is MULTIDIMENSIONAL FAMILY THERAPY Merely Descriptive?

Section 2(e)(1) of the Act excludes from registration any “mark which, when used on or in connection with the goods [or services] of the applicant is merely descriptive ... of them.” 15 U.S.C. § 1052(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 Com. of the U.S.*, 675 F.3d 1297, 1300 (Fed. Cir. 2012) (citations omitted). The determination of whether a mark is merely descriptive must be made in relation to the goods or services for which registration is sought, not in the abstract. *In re Chamber of Com.*, 675 F.3d at 1300; *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 964 (Fed. Cir. 2007). This requires consideration of the context in which the mark is used or intended to be used in connection with those goods or services, and the possible significance that the mark would have to the average purchaser of the services in the marketplace. *In re Chamber of Com.*, 675 F.3d at 1300; *In re Bayer*, 488 F.3d at 964. In other words, the question is not whether someone presented only with the mark could guess the goods or services listed in the identification. Rather, the question is whether someone who knows what the goods or services are will understand the mark to convey information about them. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254 (Fed. Cir. 2012) (quoting *In re Tower Tech, Inc.*, Ser. No. 75709532, 2002 WL 992268, at \*3 (TTAB 2002)).

Evidence that a term is merely descriptive to the relevant purchasing public “may be obtained from any competent source, such as dictionaries, newspapers, or surveys,” *In re Bayer*, 488 F.2d at 964, as well as “labels, packages, or in advertising material directed to the [services].” It may also be obtained from websites and publications. *In re N.C. Lottery*, 866 F.3d 1363, 1368 (Fed. Cir. 2017).

We find the proposed mark merely descriptive based on the entire record discussed above. There is no doubt that consumers encountering MULTIDIMENSIONAL

FAMILY THERAPY in connection with mental health therapy services will immediately understand the phrase as describing a type of therapy that is family-based and uses an approach that relates to multiple dimensions or aspects. As found above, the word THERAPY is generic for therapy services, and FAMILY THERAPY is generic for family-based therapy. The word MULTIDIMENSIONAL has the general definition of “having or relating to multiple dimensions or aspects.” Applicant confirms its services intervene in “Four Connected Domains,” i.e., multiple aspects, and as such is merely descriptive of a feature of the services. These individual components retain their generic and merely descriptive meanings in relation to the services, and the combination itself is merely descriptive and not registrable absent a showing of acquired distinctiveness.

Because we must address the degree of descriptiveness as that bears on the quantity and quality of evidence required to prove acquired distinctiveness, *Royal Crown*, 892 F.3d at 1368, we find MULTIDIMENSIONAL FAMILY THERAPY in its entirety to be merely descriptive.

#### IV. Has MULTIDIMENSIONAL FAMILY THERAPY Acquired Distinctiveness?

Because we have found the proposed mark in its entirety to be merely descriptive, Applicant’s burden of establishing acquired distinctiveness under Section 2(f) is not increased. *See Virtual Indep. Paralegals*, Ser. No. 86947786, 2019 WL 1453034, at \*11 (TTAB 2019) (citing cases).

We begin by acknowledging Applicant’s offer to disclaim the words FAMILY THERAPY, and find that even if MULTIDIMENSIONAL FAMILY THERAPY as a

whole may acquire distinctiveness, the wording FAMILY THERAPY cannot, and would need to be disclaimed.<sup>39</sup>

To establish that a term has acquired distinctiveness, “an applicant must show that in the minds of the public, the primary significance of a product feature or term is to identify the source of the product rather than the product itself.” *See In re La. Fish Fry Prods., Ltd.*, 797 F.3d 1332, 1336 (Fed. Cir. 2015) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1379 (Fed. Cir. 2012)). To meet this burden, an applicant may offer three basic types of evidence:

1. A claim of ownership of one or more active prior registrations on the Principal Register of the same mark for goods or services that are sufficiently similar to those identified in the pending application. Trademark Rule 2.41(a)(1), 37 C.F.R. § 2.41(a)(1).
2. A verified statement that the mark has become distinctive of the applicant’s goods or services by reason of the applicant’s substantially exclusive and continuous use of the mark in commerce for five years before the date on which the claim of distinctiveness is made. Trademark Rule 2.41(a)(2), 37 C.F.R. § 2.41(a)(2).
3. Other appropriate evidence of acquired distinctiveness. Trademark Rule 2.41(a)(3), 37 C.F.R. § 2.41(a)(3).

The applicant may submit one or any combination of these types of evidence.

Ultimately, our Section 2(f) analysis of acquired distinctiveness and determination in this case is based on all of the evidence considered as a whole. Considerations that may be assessed in determining whether a mark has acquired secondary meaning include: (1) association of the [mark] with a particular source by

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<sup>39</sup> July 5, 2023 Response, TSDR 2.

actual purchasers (typically measured by customer surveys); (2) length, degree, and exclusivity of use; (3) amount and manner of advertising; (4) amount of sales and number of customers; (5) intentional copying; and (6) unsolicited media coverage of the product embodying the mark. *In re Snowizard, Inc.*, Ser. No. 87134847, 2018 WL 6923620, at \*4 (TTAB 2018) (quoting *Converse, Inc. v. Int'l Trade Comm'n*, 909 F.3d 1110, 1120 (Fed. Cir. 2018)). “All six factors are to be weighed together in determining the existence of secondary meaning.” *Converse*, 909 F.3d at 1120.

Applicant has used MULTIDIMENSIONAL FAMILY THERAPY in connection with its mental health services for over several years. While Applicant did not provide the exact dates in its statement from its founder, Mr. Liddle, the numerous examples of agencies that use the therapy and the books and articles referencing the therapy corroborate the 2009 use in commerce date in the application.<sup>40</sup> The statements from the creator of the program and a specialist in the field of mental health services provide the context of Applicant’s services, and how they began and continue to be provided. Moreover, Ms. Saldana, as someone who works in the field generally and as a customer, confirms the source identifying quality of the phrase. In addition, we agree with Applicant that the evidence the Examining Attorney submitted in the form of third-party websites showing agencies, articles and studies referencing Applicant’s mental health program over the years supports Applicant’s assertion of acquired distinctiveness. *Cf. In re Lizzo LLC*, Ser. No. 88466264, 2023 WL 1507238, at \*12 (TTAB 2023) (evidence of third-party use submitted by examining attorney

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<sup>40</sup> See, e.g., January 5, 2023 Office Action, TSDR 2 (apa.org).

associates the applied-for mark with applicant and functions as mark). This is corroborated by the list of affiliates provided by Applicant. Overall, we find the record shows that Applicant has acquired distinctiveness in the mark as a whole, but that it cannot register absent the disclaimer of FAMILY THERAPY, which is generic for family-based therapy.

In view of the above and Applicant's acceptance of the disclaimer in the alternative, the application will be amended to seek registration under Section 2(f) and add a disclaimer for FAMILY THERAPY.

**Decision:** We reverse the refusal to register Applicant's proposed mark on the ground that it is a generic designation of the identified services, we affirm the refusal to register on the ground that the proposed mark is merely descriptive, but reverse on the issue of acquired distinctiveness contingent on the entry of the disclaimer for the wording FAMILY THERAPY.