

This Opinion is Not a
Precedent of the TTAB

Mailed: November 27, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Family Defined Benefits, LLC
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Serial Nos. 97248954 and 97248972
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Brie Crawford of Crawford Intellectual Property Law LLC,
for Family Defined Benefits, LLC.

Jacob Vigil, Trademark Examining Attorney, Law Office 103,
Stacy Wahlberg, Managing Attorney.

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Before Lynch, Hudis and Casagrande,
Administrative Trademark Judges.

Opinion by Hudis, Administrative Trademark Judge:

In two separate applications that are the subject of these consolidated appeals, Family Defined Benefits, LLC (“Applicant”) seeks registration on the Principal Register of the standard character mark ASK ME ABOUT RISK TAXES REGULATION INFLATION DEPRECIATION OF THE DOLLAR for:

Application Serial No. 97248954 (the “954 Application”)

Annuity services, namely, account and investment administration; Estate planning; Insurance administration; Insurance brokerage services; Insurance consultancy; Insurance consultation; Insurance consulting in the field of life and long term care insurance; Insurance information; Insurance services, namely, insurance eligibility review

and verification and consultation in the life and long term care industry; Investment management of and distribution of annuities; Issuance and administration of annuities; Life insurance brokerage; Providing information in insurance matters, in International Class 36

Business training consultancy services; Business training in the field of business development and business operation in the field of estate planning; Education services, namely, providing non-downloadable webinars in the field of tax preparation; Educational services, namely, conducting classes, seminars, and workshops in the field of estate planning; Educational services, namely, conducting classes, seminars, and workshops in the field of operating an estate planning business in International Class 41.¹

Application Serial No. 97248972 (the “972 Application”)

Downloadable webinars in the field of tax preparation; Downloadable webinars in the field of estate planning; Downloadable webinars in the field of operating an estate planning business, in International Class 9.²

The Trademark Examining Attorney refused registration of the proposed mark of the '954 Application on the ground that it fails to function as service mark under Trademark Act Sections 1, 2, 3, and 45, 15 U.S.C. §§1051, 1052, 1053, and 1127; and refused registration of the proposed mark of the '972 Application on the ground that it fails to function as trademark under Trademark Act Sections 1, 2, and 45, 15 U.S.C. §§1051, 1052, and 1127. The Examining Attorney also refused registration of the proposed mark of both Applications under Trademark Act Section 2(e)(1), 15 U.S.C.

¹ The '954 Application was filed on February 1, 2022 under Trademark Act Section 1(a), 15 U.S.C. § 1051(a), based upon Applicant's claim of first use anywhere and first use in commerce of the mark since at least as early as December 4, 2018 for the services in Class 36, and since at least as early as March 3, 2021 for the services in Class 41.

² The '972 Application also was filed on February 1, 2022, but was filed under the Trademark Act Section 1(b), 15 U.S.C. § 1051(b), based upon Applicant's allegation of a bona fide intention to use the mark in commerce.

§ 1052(e)(1), on the ground that it merely describes the services identified in the '954 Application and the goods identified in the '972 Application, respectively.

After the Examining Attorney made the refusals final, Applicant appealed to this Board.³ During the pendency of these Appeals, the Board consolidated them pursuant to the Examining Attorney's request.⁴ Since these appeals present common questions of law and fact and the prosecution records are nearly identical, in the interest of judicial economy we decide them in this single opinion. *See In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1085 (TTAB 2016) (Board consolidated appeals involving two applications upon examining attorney's motion, and decided them in a single opinion); TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 1214 (2023). We have considered all evidence filed and arguments made in each case. References to the record and briefs in this opinion are to the file and briefs in the '954 Application unless otherwise indicated.

We affirm the refusals to register under Trademark Act Section 2(e)(1). "Because we affirm the ... [merely descriptive] refusal[s] ..., we need not analyze the failure to function refusal[s] under Sections 1, 2, 3, and 45 of the Trademark Act." *In re Suuberg*, 2021 USPQ2d 1209, at *9 (TTAB 2021); *see also Multisorb Tech., Inc. v.*

³ Page references herein to the Application records refer to the online database of the USPTO's Trademark Status & Document Retrieval ("TSDR") system. All citations to documents contained in the TSDR database are to the downloadable .pdf versions of the documents in the USPTO TSDR Case Viewer. References to the briefs on appeal refer to the Board's TTABVUE docket system. In each appeal, Applicant's Brief may be found at 4 TTABVUE; the Examining Attorney's Brief may be found at 8 TTABVUE; and Applicant's Reply Brief may be found at 9 TTABVUE. Before the TTABVUE designation is the docket entry number; and after this designation are the page references, if applicable.

⁴ Consolidation Order, 6 TTABVUE.

Pactiv Corp., 109 USPQ2d 1170, 1171 (TTAB 2013) (“Like the federal courts, the Board has generally used its discretion to decide only those claims necessary to enter judgment and dispose of the case. ... [T]he Board’s determination of registrability does not require, in every instance, decision on every pleaded claim.”).

I. Applicable Law – Mere Descriptiveness

“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 AG*, 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).⁵ “[W]e need only find that ... [Applicant’s proposed mark] immediately conveys information about one feature or characteristic of at least one of the designated services [or goods] within each of ... [the] [A]pplications” now on appeal. *In re Chamber of Commerce*, 102 USPQ2d at 1220; *see also In re Positec Grp. Ltd.*, 108 USPQ2d 1161, 1171 (TTAB 2013) (“If the Board affirms a refusal of an entire class based on the descriptiveness of the mark for one or more goods [or services] in the class, then the entire class will fail.”).

Moreover, “[a] mark need not recite each feature of the relevant goods or services in detail to be descriptive, it need only describe a single feature or attribute.” *In re*

⁵ A term that is merely descriptive of the identified goods and services may not be registered on the Principal Register without a showing of acquired distinctiveness. Trademark Act Sections 2(e)(1), 2(f), 15 U.S.C. §§ 1052(e)(1), 1052(f). Applicant does not claim in either appeal that the proposed mark (or any of its individual terms) has acquired distinctiveness; and we therefore do not consider the issue.

Chamber of Commerce, 102 USPQ2d at 1219 (citation and internal quotation omitted); *see also In re Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (“A mark may be merely descriptive even if it does not describe the ‘full scope and extent’ of the applicant’s goods or services.”) (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)). Moreover, “[t]hat a term may have other meanings in different contexts is not controlling on the question of descriptiveness.” *In re NextGen Mgt., LLC*, 2023 USPQ2d 14, at *6 (TTAB 2023).

Whether a particular term is merely descriptive is determined in relation to the goods or services 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). In other words, the question is whether someone who knows what the goods or services are will understand the mark to convey information about them. *In re TriVita, Inc.*, 783 F.3d 872, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012); *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1316–17 (TTAB 2002). “On the other hand, if one must exercise mature thought or follow a multi-stage reasoning process in order to determine what product or service characteristics the term indicates, the term is suggestive rather than merely descriptive.” *In re Tennis in the Round, Inc.*, 199 USPQ 496, 497 (TTAB 1978). The Board resolves any doubts as to the mere descriptiveness of a proposed mark in favor of the applicant and publishes

the mark for potential opposition. *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1512 (TTAB 2016).

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 Phoseon Tech., Inc.*, 103 USPQ2d 1822, 1823 (TTAB 2012); *In re Assoc. Theatre Clubs Co.*, 9 USPQ2d 1660, 1662 (TTAB 1988). A mark comprising a combination of merely descriptive components is registrable if “the combination of the component words of Applicant’s mark ‘conveys any distinctive source-identifying impression contrary to the descriptiveness of the individual parts.’” *In re Fat Boys*, 118 USPQ2d at 1515-16 (quoting *In re Oppedahl & Larson LLP*, 71 USPQ2d at 1372).

However, if each component retains its merely descriptive significance in relation to the goods or services, the combination results in a composite that is itself merely descriptive. *See In re Oppedahl & Larson*, 71 USPQ2d at 1374 (PATENTS.COM merely descriptive of 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); *see also In re Phoseon Tech.*, 103 USPQ2d at 1823 (“When two or more merely descriptive terms are combined, ... [i]f each component retains its merely descriptive significance in relation to the goods or services, the combination results in a composite that is itself merely descriptive.”).

Thus, our determination as to whether ASK ME ABOUT RISK TAXES REGULATION INFLATION DEPRECIATION OF THE DOLLAR is merely descriptive is based on an analysis of the proposed mark as a whole. *DuoProSS*

Meditech, 103 USPQ2d at 1756 (“When determining whether a mark is merely descriptive, the Board must consider the commercial impression of a mark as a whole.”). On the other hand, we may consider the significance of each element separately in the course of evaluating the mark as a whole. *Id.* at 1756-57 (noting that “[t]he Board to be sure, can ascertain the meaning and weight of each of the components that makes up the mark.”).

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*, 82 USPQ2d at 1831, as well as “labels, packages, or in advertising material directed to the goods [or services].” *In re Abcor*, 200 USPQ at 218. It also may be obtained from websites and publications. *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1710 (Fed. Cir. 2017); *In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1565 (Fed. Cir. 2001). “Evidence that a term is merely descriptive similarly may come from an applicant’s own usage other than that found on its labels, packaging or advertising materials.” *In re Omniome, Inc.*, 2020 USPQ2d 3222, at *4 (TTAB 2019) (citing *In re Chamber of Commerce*, 102 USPQ2d at 1220 (content of applicant’s website, along with articles discussing the activities of chambers of commerce, constituted substantial evidence supporting the Board’s mere descriptiveness finding)).

II. Evidence of Mere Descriptiveness, and Analysis

The Examining Attorney made of record the following evidence to demonstrate that “ASK ME ABOUT ...” phrases (that is, “Ask me about ...” followed by a descriptive or generic term, grouping of words, or subject matter description) are

commonly used to express areas of expertise or interest and invite questions or discussion:

- A LinkedIn post stating “**Ask me about** our financial literacy resources that may help!” August 9, 2022 Office Action, at 6.
- A financial professional’s biography page with a section titled “**Ask Me About**” followed by a list of areas of expertise including investment portfolios, wealth management plans and investment vehicles. August 9, 2022 Office Action, at 7.
- A tax professional biography stating “**Ask me about** investing in the tax industry roll up syndicate.” August 9, 2022 Office Action, at 8.
- Article from the Ultimate Tax website with a section titled “Selling Your Expertise” stating “Try to put up an ‘**Ask Me About Taxes**’ booth, where convention goers can come up to you and ask for advice on tax-related questions.” August 9, 2022 Office Action, at 11.
- A Facebook page for a social event stating “Entrepreneurs, come by HHM, socialize, and ask away! HHM will have several ‘ask the CPA’ stations like ‘**ask me about** taxes & bookkeeping’, ‘**ask me about** entity selection & raising capital’, ‘**ask me about** deal structuring & mergers and acquisitions’.” August 9, 2022 Office Action, at 12.
- An insurance agent’s Facebook page on which is posted a video titled “**Ask me about** homeowners insurance.” August 9, 2022 Office Action, at 14.
- An article on the George Mason University website titled “Welcome Week: **Ask me about** the ‘**Ask Me about** Mason’ Booths” regarding booths that will be available for answering questions during the university’s Welcome Week. August 30, 2022 Office Action, at 7.
- University group co-chair biographies with “**Ask Me About**” sections listing areas of expertise and personal interest. August 30, 2022 Office Action, at 8.
- An information page on the Student Academy of Audiology website titled “**Ask Me About** Audiology” featuring an annual campaign in which audiology students educate members of the community about hearing healthcare, the impact of hearing loss/noise exposure, and the profession of audiology. August 30, 2022 Office Action, at 9.
- A webpage for an “Ask the Author” event with the prompt “**Ask me about** writing, publishing, ... or my cat!” August 30, 2022 Office Action, at 10.
- A video on the Coloradoan website titled “Check out the **Ask Me About** Local Music booth” with the caption “Whether you like rock, folk, funk or hip hop, let the Fort Collins Musicians Association help you find your new favorite band.” August 30, 2022 Office Action, at 11.

- A webpage on the Cornell University website featuring Ph.D. Teaching Assistants, with “**Ask me about**” captions inviting readers to inquire about their non-educational social interests. August 30, 2022 Office Action, at 12.
- A Staff webpage on the White Oak Christian Church website with “**Ask me about**” captions inviting readers to inquire about the campuses and programs of the church. August 30, 2022 Office Action, at 13.
- A webpage on the University of Nebraska-Lincoln, College of Journalism and Mass Communications website featuring the short biographies of its student ambassadors with “**Ask me about**” captions inviting readers to inquire about the school’s programs. August 30, 2022 Office Action, at 14.
- An insurance agent’s page on his insurance agency’s websites with the introductory title “**Ask Me About:**” followed by drop-down menus on the agency’s various insurance offerings. August 30, 2022 Office Action, at 15.
- An article posted on LinkedIn by a “Certified Cyber- Security Practitioner (Ce-CSP),” which states “**Ask me about** Risk Appetite, Risk Management, vulnerabilities, assets and impact areas.” August 30, 2022 Office Action, at 16.
- A personal page posted by a finance and investing author on the Maudlin Economics website with a listing of “**Ask me about**” topics to promote his financial advice podcasts. August 30, 2022 Office Action, at 17.
- A personal biography posted on the Integral Care website, stating “**Ask Me About:** Equity in the homeless response system” August 30, 2022 Office Action, at 18.
- Article with “**Ask me about** risk” section with tips and information on how to manage anxiety. August 30, 2022 Office Action, at 19.

This evidence shows that “ASK ME ABOUT ...” titles, prompts, and phrases are used across numerous subject areas, including those areas identified in the Applications on appeal, in the context of informational booths and events, advertisements, biographies, among many other uses, to convey information about a person’s or organization’s expertise and invite questions or discussion.

Evidence was not made of record regarding the meaning of the other terms in Applicant's proposed mark. We take judicial notice of the following dictionary definitions from MERRIAM-WEBSTER:⁶

- RISK – “the chance of loss or the perils to the subject matter of an insurance contract; also : the degree of probability of such loss; the chance that an investment (such as a stock or commodity) will lose value.”⁷
- TAX – “a charge usually of money imposed by authority on persons or property for public purposes.”⁸
- REGULATION – “an authoritative rule dealing with details or procedure; a rule or order issued by an executive authority or regulatory agency of a government and having the force of law.”⁹
- INFLATION – “a continuing rise in the general price level usually attributed to an increase in the volume of money and credit relative to available goods and services.”¹⁰
- DEPRECIATION – “to lower the price or estimated value of; to deduct from taxable income a portion of the original cost of (a business asset) over several years as the value of the asset decreases; to fall in value.”¹¹
- DOLLAR – “any of various basic monetary units (as in the U.S. and Canada); a coin, note, or token representing one dollar.”¹²

⁶ The Board may take judicial notice of dictionary definitions from online sources when the definitions themselves are derived from dictionaries that exist in printed form or have regular fixed editions. *See In re White Jasmine LLC*, 106 USPQ2d 1385, 1392 n.23 (TTAB 2013).

⁷ <https://www.merriam-webster.com/dictionary/risk>, last viewed, November 21, 2023.

⁸ <https://www.merriam-webster.com/dictionary/taxes>, last viewed, November 21, 2023. Of course, “tax” is the singular form of the plural noun “taxes.”

⁹ <https://www.merriam-webster.com/dictionary/regulation>, last viewed, November 21, 2023.

¹⁰ <https://www.merriam-webster.com/dictionary/inflation>, last viewed, November 21, 2023.

¹¹ <https://www.merriam-webster.com/dictionary/depreciation>, last viewed, November 21, 2023.

¹² <https://www.merriam-webster.com/dictionary/dollar>, last viewed, November 21, 2023.

From these dictionary definitions, we find that each of the terms following “ASK ME ABOUT ...” in Applicant’s proposed mark defines some quality, feature, function, or characteristic of the services or goods identified in the ’954 and ’972 Applications. Applicant¹³ and the Examining Attorney¹⁴ appear to agree on this point. We further note the addition of the preposition “OF” and the article “THE” between the terms “DEPRECIATION” and “DOLLAR” combine to simply refer to the lowered estimated value of the basic monetary unit of U.S. currency; and do not combine to form a source-identifying phrase.

For context, at least with respect to the services identified in the ’954 Application, below are the specimens Applicant filed with that Application:¹⁵

¹³ Applicant’s Brief, 4 TTABVUE 8, 11 (comparing Applicant’s proposed mark to similarly structured “marks that are in the form ‘Ask Me About’ + a generic or descriptive term, all of which were approved by the [US]PTO (either registered, or at least published for opposition ...”); *see also* Applicant’s Reply Brief, 9 TTABVUE 4.

¹⁴ Examining Attorney’s Brief, 8 TTABVUE 8-9 (“the applied-for mark consists of the informational phrase ‘ASK ME ABOUT’ combined with the list of topics ‘RISK TAXES REGULATION INFLATION DEPRECIATION OF THE DOLLAR’ that merely describe the focus or subjects involved in the identified financial, insurance, and estate planning services and educational goods and services in the same fields.”).

¹⁵ Specimens (and descriptions) for Classes 36 and 41 filed with the ’954 Application, at 2, 9-12.



“The specimen [for Class 36] consists of signage displayed in Applicant’s offices, wherein services are rendered.”

“The first specimen [for Class 41] consists of an e-mail advertisement for a webinar put on by Applicant. The second and third specimens [for Class 41] consist of screenshots taken during a webinar put on by Applicant.”

From our review of the specimens filed in the '954 Application, consumers will not perceive the proposed mark as identifying the source of Applicant's services; rather, as used on Applicant's specimens, the proposed mark conveys information about Applicant's expertise and invites questions or discussion about the services recited in Applicant's identification of services. Applicant's specimens, therefore, support the Examining Attorney's refusal to register the proposed mark on grounds of mere descriptiveness. *In re Omniome*, 2020 USPQ2d 3222, at *4.

As to both the '954 and '972 Applications, we find that Applicant's proposed mark readily and immediately describes several aspects of the nature of Applicant's various identified consultancy, training and education services, and the content of its downloadable webinars, inviting prospective consumers of these services and goods to inquire about them. No mature thought or multi-stage reasoning process is necessary in order to determine the characteristics of Applicant's identified services and downloadable webinars. Looking at the proposed mark as a whole, each component thereof retains its merely descriptive significance in relation to the identified services and goods. The combination of the terms in the proposed mark thus results in a composite that is itself merely descriptive. Of this we have no doubt.

III. Applicant's Evidence and Argument

Applicant made of record 20 third-party registrations and applications¹⁶ for marks it describes as being "in the form 'Ask Me About' + a generic or descriptive term, all

¹⁶ Third-party registrations and applications, Office Action Response of August 18, 2022, at 8-27.

of which were approved by the [US]PTO (either registered, or at least published for opposition ...).¹⁷ From this evidence, Applicant argues that “the [US]PTO has a history of registering such marks, and the trademark attorney’s objection is a novel one, not in keeping with [US]PTO practice.”¹⁸

As the Examining Attorney points out, “[e]ight of the ... [references] submitted are cancelled [registrations], and another eight ... [references] are abandoned applications that never registered.”¹⁹ Applicant responds “[i]t is true that many of the registrations/applications the Applicant cited in its appeal brief were abandoned or cancelled, but this is irrelevant.”²⁰ We disagree, and find the cancelled or abandoned third-party references have no probative value in our analysis. A cancelled or expired registration is not evidence of any presently existing rights in the mark shown or that the registrant ever used the mark. *See Action Temp. Servs. Inc. v. Labor Force Inc.*, 870 F.2d 1563, 10 USPQ2d 1307, 1309 (Fed. Cir. 1989). Abandoned applications have “no probative value other than as evidence that the application[s] [were] filed.” *Kemi Organics, LLC v. Gupta*, 126 USPQ2d 1601, 1606 (TTAB 2018).

This leaves us with four active, use-based, third-party registrations to consider:

Mark	Reg. No.	Goods/Services
ASK ME ABOUT MY WIENER	5551667	T-shirts, Cl. 25 Restaurant and bar services, Cl. 43

¹⁷ Applicant’s Brief, 4 TTABVUE 8; Applicant’s Reply Brief, 9 TTABVUE 3-4.

¹⁸ Applicant’s Brief, 4 TTABVUE 8.

¹⁹ Examining Attorney’s Brief, 8 TTABVUE 7, n.1.

²⁰ Applicant’s Reply Brief, 9 TTABVUE 3.

Mark	Reg. No.	Goods/Services
ASK ME ABOUT REALTY IN HOUSTON!	6074570	Classified real estate listings of apartment rentals and housing rentals; Providing a database of information about residential real estate listings in different neighborhoods and communities, Providing a database of residential real estate listings within neighborhoods and communities specifically identified by users; Providing real estate listings and real estate information via the Internet; Providing real estate listings via the Internet; Real estate listing, Real estate listing services for housing rentals and apartment rentals; Real estate multiple listing services; Residential real estate agency services, Cl. 36
ASK ME ABOUT SURROGACY	6429120	Matching prospective human egg donation recipients with prospective human egg donors; matching prospective parents with prospective gestational surrogates; facilitating administrative coordination among gestational surrogacy agencies, physicians, mental health professionals, allied health professionals, fertility clinics, laboratories, attorneys, and other necessary facilities, persons or organizations in the fields of human egg donation and gestational surrogacy services, Cl. 35
ASK ME MONEY THINGS	6677387	Providing online non-downloadable videos in the field of personal finance, Cl. 41

For a number of reasons, we do not find that any of these registration bears on the registrability question now before us. The ASK ME ABOUT MY WIENER, ASK ME ABOUT REALTY IN HOUSTON!, and ASK ME ABOUT SURROGACY marks involve different words than are within Applicant's mark, and are registered for goods and services far afield from Applicant's identified services and goods of interest. As noted, whether a particular term is merely descriptive is determined in relation to the goods or services for which registration is sought, not in the abstract or on the basis of guesswork. *In re Abcor Dev.*, 200 USPQ at 218; *In re Remacle*, 66 USPQ2d at 1224. The ASK ME MONEY THINGS mark is not in the same structural syntax as is Applicant's proposed mark, which begins with "ASK ME ABOUT" Even if we were not to distinguish these third-party registrations on their face, four registrations

do not evince a history, pattern or practice of the USPTO registering marks ““in the form ‘Ask Me About’ + a generic or descriptive term.”

Moreover, an applied-for mark that is merely descriptive does not become registrable simply because other seemingly similar marks appear on the register. *In re Consumer Prot. Firm PLLC*, 2021 USPQ2d 238, at *22 (TTAB 2021) (citing *In re Scholastic Testing Serv., Inc.*, 196 USPQ 517, 519 (TTAB 1977)). Each application must be decided on its own merits; we are not bound by prior decisions involving other registrations. *In re Nett Designs*, 57 USPQ2d at 1566. The question of whether a mark is registrable is determined based on the evidence of record at the time each registration is sought. *In re Consumer Prot. Firm*, 2021 USPQ2d 238, at *22 (citing *In re theDot Commc’ns Network LLC*, 101 USPQ2d 1062, 1064 (TTAB 2011)). The fact that other marks containing the wording “ASK ME ...” or “ASK ME ABOUT ...” combined with different matter registered in the past is not relevant to our determination of consumer perception of Applicant’s proposed mark on the evidence of record now before us. Consequently we afford these third-party registrations little weight in our analysis. *See In re Harris-Intertype Corp.*, 518 F.2d 629, 186 USPQ 238, 240 (CCPA 1975).

Decision

The refusal to register Applicant’s proposed mark ASK ME ABOUT RISK TAXES REGULATION INFLATION DEPRECIATION OF THE DOLLAR on the ground of

Serial Nos. 97248954 and 97248972

mere descriptiveness under Trademark Act Section 2(e)(1) is affirmed in both of Application Serial Nos. 97248954 and 97248972.²¹

²¹ As noted, because we affirm the refusals to register under Trademark Act Section 2(e)(1), we need not, and do not, analyze the failure to function refusals under Trademark Act Sections 1, 2, 3, and 45.