

This Opinion is not a
Precedent of the TTAB

Mailed: July 11, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Ghostwritten LLC

Serial No. 98199104

Peter J. Vranum of Gordon, Herlands & Randolph LLP
for Ghostwritten LLC

Lillianna Baczski, Trademark Examining Attorney, Law Office 131,
Nicholas Coleman, Managing Attorney.

Before Heasley, Dunn, and Myles,
Administrative Trademark Judges.

Opinion by Heasley, Administrative Trademark Judge:

Applicant, Ghostwritten LLC, seeks registration on the Principal Register of GHOSTWRITTEN INC. (in standard characters) for services in International Class 41, set forth below.¹ The Trademark Examining Attorney has refused registration of

¹ Application Serial No. 98199104 was filed on September 27, 2023, based on a declared intention to use the mark in commerce under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b).

Citations to the prosecution file refer to the USPTO's Trademark Status & Document Retrieval ("TSDR") system and identify the documents by title, date, and page in the downloadable .pdf version. References to the briefs and other materials in the appeal record refer to the Board's TTABVue online docketing system.

the applied-for mark as to certain of those services under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that GHOSTWRITTEN INC. is merely descriptive of those services, underlined in boldface:

Educational and entertainment services, namely, a continuing program about daily life, comedy, pop culture, current events, memes, internet videos and music accessible by means of audio, web-based applications, and computer networks; **Providing a website featuring blogs, non-downloadable podcasts and non-downloadable videos in the field of daily life, comedy, pop culture, current events, memes, internet videos and music; Providing a website featuring blogs and non-downloadable publications in the nature of articles and blog posts in the fields of entertainment, social issues, music, movies and celebrity news, art and philosophy; providing information in the fields of entertainment and current events involving social issues, music, movies and celebrity news; on-line journals, namely, blogs featuring information in the fields of fields of entertainment, social issues, music, movies, celebrity news, art and philosophy; Digital video, audio, and multimedia publishing services; Publishing of e-books and electronic publications; Providing online non-downloadable electronic books in the field of entertainment, social issues, music, movies, celebrity news, art and philosophy; Entertainment, namely, live performances by a musical band; Entertainment services, namely personal appearances by a musical artist; entertainment services in the nature of presenting live musical performances; production of sound and video recordings; music publishing services; providing on-line music, not downloadable; arranging of concerts; music production services; entertainment services in the nature of an ongoing reality based web series; entertainment services, namely, providing webcasts in the fields of entertainment, social issues, music, movies and celebrity news; Online digital video, audio and multimedia entertainment publishing services; providing an online database via a communication network featuring music; Entertainment services, namely, conducting art exhibitions in the field of NFT art; electronic publishing services, namely, publication of text and graphic works of others on the world-wide web featuring virtual art exhibitions; entertainment**

services, namely, virtual musical performances, custom art drawing for others, custom art sketching for others, and art exhibitions, provided by art galleries; film production; multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; museum services; online electronic publishing of books and periodicals; open-access publishing services, namely, publication of electronic articles or magazines; organization of exhibitions for cultural or educational purposes; providing virtual museum services via the internet; publishing of electronic publications; entertainment services, namely, providing on-line, non-downloadable virtual clothing, headwear, footwear, eyewear, fashion bags, games, toys, CDs, and DVDs for use in virtual environments created for entertainment purposes.

The Examining Attorney's mere descriptiveness refusal is limited to those designated services.²

² Examining Attorney's brief, 8 TTABVue 2-3. The Examining Attorney's listing of pertinent services does not entirely correspond with the phrasing and order of the Application's recitation of services. To be clear, the Examining Attorney contends that the applied-for mark is merely descriptive of the following services:

Providing a website featuring blogs, non-downloadable podcasts and non-downloadable videos in the field of daily life, comedy, pop culture, current events, memes, internet videos and music; Providing a website featuring blogs and non-downloadable publications in the nature of articles and blog posts in the fields of lifestyle, entertainment, social issues, music, movies and celebrity news, art and philosophy; providing information in the fields of entertainment and current events involving social issues, music, movies and celebrity news; on-line journals, namely, blogs featuring information in the fields of fields of lifestyle, entertainment, social issues, music, movies, celebrity news, art and philosophy; Digital video, audio, and multimedia publishing services; Publishing of e-books and electronic publications; Providing online non-downloadable electronic books in the field of lifestyle, entertainment, social issues, music, movies, celebrity news, art and philosophy; Entertainment, namely, live performances by a musical band; entertainment services in the nature of presenting live musical performances; production of sound and video recordings; music publishing services; providing on-line music, not downloadable; Online digital video, audio and multimedia entertainment publishing services; electronic publishing services, namely, publication of text and graphic works of others on the world-wide web featuring virtual art exhibitions; entertainment services, namely, virtual musical performances, custom art drawing for others, custom art sketching for others, and art exhibitions, provided by art galleries; multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; online electronic publishing of books and periodicals; open-access publishing services, namely, publication of electronic articles or magazines; publishing of electronic

I. Procedural Background

In her initial Office Action, the Examining Attorney refused registration to Applicant's Application for GHOSTWRITTEN INC. on two grounds. The first ground was likelihood of confusion with four registered marks:

- GHOSTWRITER for "Video recordings, DVDs, and recordings of television programs all featuring educational themes and entertainment directed to children and young adults," in Class 9, Reg. No. 3887713;
- GHOSTWRYTER for "Music artist services, namely, music production services and live performances by a musical artist," in Class 41, Reg. No. 6111860;
- GHOSTWRITER for "Audio and video recordings featuring children's education and entertainment; downloadable electronic publications in the nature of books in the field of children's education and entertainment; downloadable multimedia content, namely, images and music files in the field of children's education and entertainment; downloadable audio and video recordings in the field of children's education and entertainment" in Class 9, Reg. No. 7068809; and
- GHOSTWRITER for "Printed materials, namely, books featuring educational themes and entertainment for children" in Class 16 and "Ongoing television program featuring educational themes and entertainment for children; ongoing multimedia programs featuring educational themes and entertainment for children distributed via various platforms across multiple forms of transmission media; providing online information in the field of children's education and entertainment" in Class 41, Reg. No. 6222129.³

publications; providing an online database via a communication network featuring music; music production services. *Id.*

³ Jan. 5, 2024 Office Action at 2-9, 27-32.

The second ground for refusal was mere descriptiveness. The Examining Attorney reasoned that GHOSTWRITTEN, meaning “to write (a speech, a book, etc.) for another who is the presumed or credited author,” coupled with the nondistinctive “INC.” would be merely descriptive “because applicant provides services related to creative content that could be produced for another who is the presumed or credited creator.”⁴

The Examining Attorney attached Internet evidence from sources such as Forbes, Star Book Writing, and The Reviews Are In to show that “the term GHOSTWRITTEN is used commonly in the creative industries to refer to creative products that were written for another who is the presumed or credited author.”⁵ Additionally, the Examining Attorney requested information about Applicant’s intended services, asking, in pertinent part, “Are any of the services listed in the identification created for another who is the presumed or credited creator or author? If so, please explain which services are offered in this way.”⁶

Applicant traversed both refusals, stating that GHOSTWRITTEN INC. “suggests a corporation which has been created in the past by an anonymous author...”; that “Applicant’s mark does not describe the services of the Applicant any more than the [four registered] cited marks describe the goods/services to which they pertain. It’s undeniable that there is nothing in the description of Applicant’s mark or the services

⁴ *Id.* at 10, 33, 39 (citing Merriam Webster Dictionary and the American Heritage Dictionary).

⁵ *Id.* at 10, 121-42.

⁶ *Id.* at 11.

that suggests any of the services will be ghostwritten. ... The fact that some books may be ghostwritten or that ghostwriting services may be offered on line has nothing to do with the Applicant or the Applicant's services.”⁷ In response to the request for information, Applicant responded that, “[t]he instant application is filed on the basis of an intent to use. Applicant does not yet have responsive materials, but can state that none of the services listed in the identification of services are intended to be created for another who is the presumed or credited creator or author.”⁸

In the final Office Action, the Examining Attorney withdrew the likelihood of confusion refusal, but maintained the mere descriptiveness refusal for the services specified. The Examining Attorney attached additional evidence “illustrating it is common for blog posts, website content, e-books and written information to be ghostwritten. Thus, based on this evidence, the terms GHOSTWRITTEN and INC. merely describe a feature or characteristic of applicant's goods and/or services.”⁹

When the refusal was made final, Applicant appealed and requested reconsideration, arguing in pertinent part that “Each of the 4 previously cited GHOSTWRITER marks were registered without overcoming any Section 2(e)(1) refusal. ... In fact, in general, services are not described as ghostwritten, and here none of Applicant's applied-for services are the type of services that one would

⁷ March 27, 2024 Response to Office Action at 2.

⁸ *Id.* at 3.

⁹ May 9, 2024 Office Action at 5, 31-210, citing additional evidence from BBC, iMusician, Rockcontent, Compose.ly, Raven Tools, Entrepreneur, Good Reads, Prestige, The Guardian, ET Online, Content Powered, Blog.hubspot.com, Crowd Content, Ghost Blog Writers, Clear Voice, and Fiverr.

describe as ghostwritten. For example, providing a website, publishing of e-books, entertainment or educational services, live musical performances, personal appearances, music publishing services, conducting art exhibitions, etc. None of such services are commonly described as ghostwritten. ... The fact that some books may be ghostwritten or that ghostwriting services may be offered on line has nothing to do with the Applicant or the Applicant's services. ... However, there is nothing to suggest the Applicant will use ghostwriters to provide such items or will provide such items to others as a ghostwriter.”¹⁰

The Examining Attorney denied the request for reconsideration “because applicant's services feature creative works that are commonly ghostwritten, for example, ‘blogs and non-downloadable publications in the nature of articles and blog posts’ and ‘online non-downloadable electronic books’, the word GHOSTWRITTEN is descriptive of a feature or characteristic of applicant's services,” as evidenced by such sources as GothamGhostwriters, LinkedIn, LauraSherman, KA-Writing, reedsyblog, WriterAccess, RubyPeru, Forbes, WrightBookAssociates, VocalMediaBeat, BusinessInsider, and Vice.¹¹

This appeal then proceeded.

II. Applicable Law

“One basis for refusing a trademark registration is when ‘a mark which ... when used on or in connection with the goods [or services] of the applicant is merely

¹⁰ Nov. 8, 2024 Response to Office Action/request for reconsideration at 1-2.

¹¹ Dec. 11, 2024 Office Action/denial of request for reconsideration at 19-27, 46-164; 4 TTABVUE.

descriptive or deceptively misdescriptive of them.’ 15 U.S.C. § 1052(e)(1).” *Curtin v. United Trademark Holdings, Inc.*, 137 F.4th 1359, 1361 (Fed. Cir. 2025).¹²

“A mark 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.” *Brooklyn Brewery Corp. v. Brooklyn Brew Shop, LLC*, 17 F.4th 129, 146 (Fed. Cir. 2021) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1378 (Fed. Cir. 2012) and *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963 (Fed. Cir. 2007)) (internal punctuation omitted). “A term “need not immediately convey an idea of each and every specific feature of the [services] in order to be considered merely descriptive; it is enough if it describes one significant attribute, function or property of the [services].” *In re Korn Ferry*, 2024 WL 3219482, *2 (TTAB 2024) (quoting *In re Zuma Array Ltd.*, 2022 WL 3282655, *3 (TTAB 2022)). “[T]he ‘merely descriptive’ (or ‘descriptiveness’) refusal is based on Section 2(e)(1) of the Act and involves a mark that merely describes a key feature, ingredient or quality of the application’s recited goods or services.” *In re Accelerate S.a.l.*, 2012 WL 684459, *6 (TTAB 2012). *See In re Gilbert Eiseman, P.C.*, 1983 WL 51874, *2 (TTAB 1983) (“It is well established that descriptiveness can inhere in a trademark or service mark designation if it describes a key feature, characteristic, aspect or ingredient of the goods or services with which used rather than the total service or product.”). *See, e.g., In re Gyulay*, 820 F.2d 1216,

¹² For decisions of the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Customs and Patent Appeals, this opinion cites to the Federal Reporter (e.g., F.2d, F.3d, or F.4th). This opinion cites to Westlaw (WL) for precedential decisions of the Board. Practitioners should also adhere to the practice set forth in the TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (“TBMP”) § 101.03 (2025).

1218 (Fed. Cir. 1987) (APPLE PIE is merely descriptive of potpourri because it conveys the key characteristic of the product, its scent).

“Descriptiveness is not evaluated “in the abstract,” or broadly as to the class of goods [or services] that the applicant sells ..., but rather it must be evaluated “in relation to the particular goods [or services] for which registration is sought. A descriptive mark . . . is one that conjure[s] up the image of the precise good [or service] with which it is associated.” *Brooklyn Brewery*, 17 F.4th at 147 (internal punctuation and citation omitted).

“The determination of whether a mark is merely descriptive is a question of fact.” *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1252 (Fed. Cir. 2012). It is the Examining Attorney’s burden to show, *prima facie*, that a mark is merely descriptive of an applicant’s goods or services. If such a showing is made, the burden of rebuttal shifts to the applicant. The Board resolves doubts as to the descriptiveness of a mark in favor of the applicant. *In re Fallon*, 2020 WL 6255423, *10 (TTAB 2020).

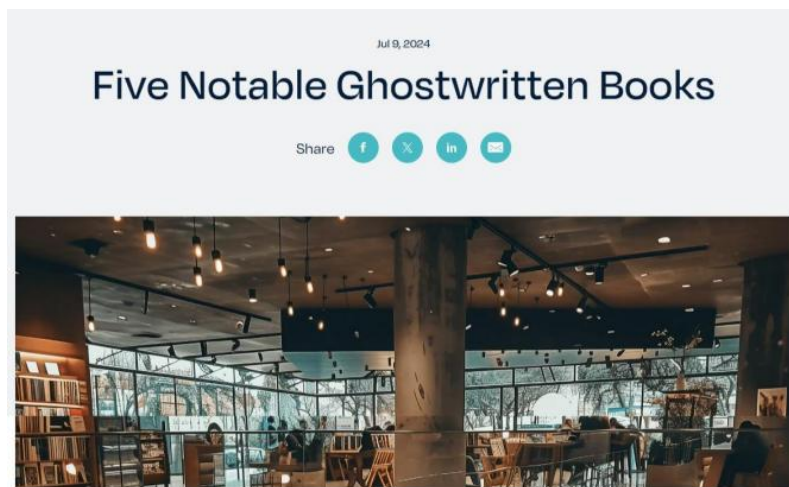
III. Discussion and Analysis

The issue presented is whether the Examining Attorney has carried her burden of proving that GHOSTWRITTEN INC. immediately conveys knowledge about a significant feature of Applicant’s services, as required by Section 2(e)(1).

As we have seen, the Examining Attorney contends that “applicant’s services feature creative works that are commonly ghostwritten, including, ‘blogs and non-downloadable publications in the nature of articles and blog posts’ and ‘online non-

downloadable electronic books’. *See* applicant’s identification. Thus, the word GHOSTWRITTEN is descriptive of a feature or characteristic of applicant’s services.”¹³ “The additional services to which the refusal applies feature various creative works that the evidence of record illustrates are commonly ghostwritten.”¹⁴

The Examining Attorney’s evidence, as adumbrated above, consists of dictionary definitions showing that “GHOSTWRITTEN” is the past participle of “ghostwrite,” meaning “to write a book or article, etc. for another person to publish under his or her own name,”¹⁵ as well as online articles about the common use of ghostwriting. For example:



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¹³ Examining Attorney’s brief, 8 TTABVUE 4.

¹⁴ *Id.* at 5.

¹⁵ Dictionary.cambridge.org, Decl. 11, 2024 Office Action at 7.

¹⁶ KA-Writing.com, Dec. 11, 2024 Office Action at 58.

Blog • Understanding Publishing Posted on Mar 28, 2018

7 Books You Never Knew Were Ghostwritten

Written by the [Reedsy Editorial Team](#)

Ghostwriters. You might read 'em, but you don't see 'em — and you often don't even know that they're right there.

So just who are these shadowy figures lurking beyond our reach? Sure, we know that they're authors who are paid to write under someone else's name. But that's often not enough to satisfy our curiosities. In this post, we're pulling back the curtain to take a closer look at seven surprising ghostwritten books.

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PUBLISHING PROGRAMS

Ghostwriting Services

Use our dedicated ghostwriting content services to tell your story. Forbes-vetted ghostwriters use your words and a proven structural framework to help you complete the work efficiently, with the superior quality you expect.



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¹⁷ [Blog.reedsy.com](#), *id.* at 66.

¹⁸ [Books.Forbes.com](#), *id.* at 90.

5 Hit Rap Songs and Their Ghostwriters

songwriting services

DR

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19

15 millionaire musicians who have ghostwritten chart-topping hits

Edith Hancock Oct 24, 2016, 6:59 AM EDT

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Did you know that the Bee Gees wrote for Diana Ross? Ron Frehm/Press Association Images

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¹⁹ Vocal.Media/beat, *id.* at 116.

²⁰ BusinessInsider.com, *id.* at 122.



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The secret ghostwriters of Hip Hop

6 August 2014



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²¹ Vice.com, *id.* at 146.

²² BCC.com, May 9, 2024 Office Action at 31.

The power of ghostwriting in music

Martina • 15 July 2023, Tuesday

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Ghostwriting has been a common practice in nearly any creative field, from literary and journalistic works, through visual arts, to, of course, music.

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'Does it really matter who wrote it?': the rise of ghostwritten celebrity fiction

Readers might expect celebrities to hire professionals to help them with their memoirs. But when it comes to fiction, things get more complicated ...



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²³ iMusician.pro, *id.* at 40.

²⁴ TheGuardian.com, *id.* at 142.

Publishing

Books You May Not Know Were Ghostwritten

Kristin Hackler, Director of Book Planning
September 10, 2022 | 3 min



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ENTERTAINMENT

How to Become a Ghostwriter in The Music Industry

Read Time 5 mins

the reviews are in

November 16, 2019

No Comments



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Based on this Internet evidence, the Examining Attorney concludes that Applicant's services could include kinds of creative works that are commonly

²⁵ Books.Forbes.com, Jan. 5, 2024 Office Action at 121.

²⁶ TheReviewsAreIn.com, *id.* at 139.

ghostwritten.²⁷ The Examining Attorney concludes that “[t]he evidence presented in the record herein establishes that the average purchaser would understand the term GHOSTWRITTEN as describing applicant’s services featuring books, blogs, articles, and music.”²⁸

The addition of “INC.” does not change this outcome, the Examining Attorney posits, because “INC.” is a business designation that generally has no source-indicating capacity.²⁹ Thus, she maintains, the combination GHOSTWRITTEN INC. retains the descriptiveness of its constituent terms, and the applied-for mark, taken as a whole, is merely descriptive.³⁰

We agree with the general points made by the Examining Attorney that “GHOSTWRITTEN” is the past participle of “ghostwrite,” meaning “to write a book or article, etc. for another person to publish under his or her own name,”³¹ *see In re Boulevard Entm’t Inc.*, 334 F.3d 1336, 1340 (Fed. Cir. 2003) (approving use of dictionary definitions), and that “INC.” usually does not add trademark significance to an applied-for mark, taken as a whole. *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173 (Fed. Cir. 2004).³²

²⁷ Examining Attorney’s brief, 8 TTABVUE 5, 7.

²⁸ Examining Attorney’s brief, 8 TTABVUE 8.

²⁹ Examining Attorney’s brief, 8 TTABVUE 3 (citing TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMEP) § 1213.03(d)).

³⁰ Examining Attorney’s brief, 8 TTABVUE 4 (citing *inter alia In re Fat Boys Water Sports LLC*, 2016 WL 3915986 (TTAB 2016); TMEP §1209.03(d)).

³¹ Dictionary.cambridge.org, Dec. 11, 2024 Office Action at 7.

³² *See also In re Pencils, Inc.*, 1988 WL 252324, *2 (TTAB 1988) (“The fact that a mark may be the same as or an adaptation of the applicant’s corporate name does not remove the mark from the proscriptions of Section 2(e)(1).”).

On the other hand, we agree with Applicant that the Examining Attorney has not carried her burden of proving that GHOSTWRITTEN INC. would be perceived by relevant consumers as merely descriptive of Applicant's recited services. "The commercial impression that a mark conveys must be viewed through the eyes of a consumer." *DuoProSS*, 695 F.3d at 1253. Accordingly, "[w]hether a mark is merely descriptive or not is determined from the viewpoint of the relevant purchasing public." *In re Sheet Pile, LLC*, 2024 WL 1175785, *3 (TTAB 2024).

Here, the term GHOSTWRITTEN INC. is too amorphous, nebulous and vague for consumers to immediately understand it as describing a significant feature of Applicant's recited services. "If the mental leap between the word and the product's [or services'] attributes is not almost instantaneous, this strongly indicates suggestiveness, not direct descriptiveness." *Brooklyn Brewery*, 17 F.4th at 146 (citing 2 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 11:67 (5th ed.)). The recited services here include providing such general fare as "blogs," "podcasts," "videos," "publishing services," "electronic books," "live performances by a musical band," and "music production services." The online articles in the record may show that ghostwriting occurs in these broad creative fields, but they do not show that it is so prevalent and so publicized that the consuming public, encountering Applicant's mark, would almost instantaneously take it as describing a key attribute of Applicant's services. *Id.*

Applicant does not offer ghostwriting services, and avers, in response to the Examining Attorney's request for information, that "none of the services listed in the

identification of services are intended to be created for another who is the presumed or credited creator or author.”³³ This can be confirmed when Applicant files its Statement of Use, supported by specimens. On the present record before us, though, the off-chance that some of these works or performances might conceivably be ghostwritten “does not immediately come to mind.” *Brooklyn Brewery*, 17 F.4th at 147. The remote, speculative contingency that some works might be ghostwritten is not a key feature of Applicant’s services, but only a bare possibility, incidental to those services. *Cf. In re The Registry Hotel Corp.*, 1983 WL 51821 (TTAB 1983) (LA CHAMPAGNE not descriptive of applicant’s restaurant services, as the serving of Champagne was incidental to the rendering of those services; the mark was suggestive of French cuisine).

While third-party registrations are not conclusive on the question of mere descriptiveness, the four registrations cited by the Examining Attorney show how an application for “GHOSTWRITE” or variations thereof may not be refused registration on the Principal Register based on the mere supposition that a work furnished under its mark may potentially be ghostwritten:

| Mark | Pertinent Goods or Services |
|--|--|
| GHOSTWRITER (Reg. No. 3887713) | Video recordings, DVDs, and recordings of television programs all featuring educational themes and entertainment directed to children and young adults |
| GHOSTWRYTER (Reg. No. 6111860) | Music production services and live performances by a musical artist |
| GHOSTWRITER (Reg. No. 7068809) | Audio and video recordings, downloadable books, images, and music files, and audio and video recordings in the field of children's education and entertainment |

³³ March 27, 2024 Response to Office Action at 3.

| | |
|--|---|
| GHOSTWRITER (Reg. No. 6222129) | Books featuring educational themes and entertainment for children; television program, multimedia programs, and online information in the field of children's education and entertainment ³⁴ |
|--|---|

There, as here, each registration is for a variation of “GHOSTWRITE,” and there, as here, each identification of goods and services recites creative works; yet none was refused registration, and none was required to show acquired distinctiveness. “While superficially it may be easy to dismiss these [similar third-party] registrations, as we often do, on the basis that the records of these registrations are not before us and that each case must be decided on its own merits, it certainly does appear that the Office has in the past taken a different position with respect to marks of the nature of applicant’s.” *In re Waverly Inc.*, 1993 WL 311934, *5 (TTAB 1993).

As with the third-party registrations, consumers cannot be expected to immediately understand the significance of GHOSTWRITTEN INC. in connection with the recited services. On this record, without evidence indicating that Applicant intends to present ghostwritten creative works of others, the Examining Attorney’s interpretation that consumers would take the mark that way is speculative, at best. Thus, the mark is, at worst, “merely suggestive of the services in connection with which it is used.” *In re Sottile*, 1968 WL 8080, *2 (TTAB 1968). “The line between descriptive and suggestive marks can be difficult to draw,” *Nautilus Grp., Inc. v. ICON Health & Fitness, Inc.*, 372 F.3d 1330, 1340 (Fed. Cir. 2004), and the evidence here does not push Applicant’s mark across that line. While our decision is not

³⁴ Jan. 5, 2024 Office Action at 2-9, 27-32.

entirely without doubt, we consider it appropriate to resolve this doubt in favor of Applicant. *In re Fallon*, 2020 WL 6255423, at *10. The Examining Attorney has the burden of establishing mere descriptiveness, and that burden has not been met. *Id.*

IV. Conclusion

For the foregoing reasons, we find that Applicant's mark, GHOSTWRITTEN INC., has not been proven merely descriptive of the services recited in its Application. 15 U.S.C. § 1052(e)(1).

Decision: The refusal to register Applicant's mark is reversed.