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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re East Coast Towing & Storage, LLC

Serial No. 76696173

John S. Hale of Gipple & Hale for East Coast Towing & Storage, LLC.

Kelley L. Wells, Trademark Examining Attorney, Law Office 105 (Thomas G. Howell, Managing Attorney).

Before Walters, Cataldo and Wellington, Administrative Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

East Coast Towing & Storage, LLC seeks registration on the Principal Register of the standard character mark EAST COAST for "vehicle towing services," in International Class 39.¹

¹ Serial No. 76696173, filed March 6, 2009. The application is based on use of the mark in commerce under Trademark Act Section 1(a), 15 U.S.C. §1051(a), alleging first use and use in commerce as of June, 2007.

At issue in this appeal is the Trademark Examining Attorney's final refusal to register applicant's mark on the ground that it is primarily geographically descriptive in connection with the identified services. See Trademark Act Section 2(e)(2), 15 U.S.C. §1052(e)(2). The appeal is fully briefed.

The examining attorney contends that, regardless of the context, "East Coast" means the eastern most part of the United States and the term is used to describe the generally known geographic region consisting of the states running along the Atlantic Ocean, including Virginia and Washington, D.C.; that this is the primary meaning of the term and the meaning that the public will ascribe to the term in connection with applicant's services; that the services do, in fact, originate on the East Coast; and that the public will believe the services originate on the East Coast.

The following are a representative sample of the dictionary definitions of "East Coast" submitted by the examining attorney:

www.encarta.msn.com - "East Coast" - "The eastern most part of the United States, consisting of the states along its eastern seaboard from Maine to Florida, especially the oldest, most urban part of this area; New England, New York, New Jersey, Pennsylvania, Maryland, Virginia and Washington, D.C."

www.Dictionary.com -
Random House Dictionary (2009) - "East Coast" -
"The region of the U.S. bordering on the Atlantic
Ocean."

*The American Heritage Dictionary of the English
Language* (4th ed. 2009) - "East Coast" - "A region
of the eastern United States along the Atlantic
coastline, especially the urban corridor from
Boston to Washington, D.C."

The examining attorney also submitted numerous
excerpts from Internet websites that use the term "East
Coast," and the following is a representative sample:

www.HershaHotels.com - "From the vibrant avenues
of New York City to the tranquil suburbs of
Williamsburg, Virginia, to the historic Boston
Waterfront in the heart of New England, Hersha
Hotels delivers unforgettable vacation and
business experiences on the **East Coast**."

www.Esva.com - (Eastern Shore of Virginia)
"United States **East Coast** Bed and Breakfasts"
(listings include NC, SC, and Delmarva area - VA,
MD, DL).

www.Google.com/hosted news/ap/article -
Associated Press - "**East Coast** seeks respite as
temps soar above 100" - 7/6/10 New York - "The
East Coast roasted under an unrelenting sun
Tuesday as record-setting temperatures soared pat
100 from Virginia to Massachusetts..."

www.WashingtonExaminer.com - 7/13/10 - "Northrup
Grumman chooses Falls Church for new home" - "...
Northrup announced in January it would relocate
its corporate headquarters and roughly 300 high-
paying jobs from Los Angeles to the Washington
area.... Northrup officials in April announced
Virginia Northrup officials have said they
planned to complete their move to the East Coast
...."

www.DallasBusinessJournal.com - "7-Eleven acquires 14 Virginia gas stations" - "Dallas-based 7-Eleven Inc. has acquired 14 gas stations in Virginia to grow the retailer's brand in the **East Coast** market.

www.Cnn.com - "Record snow continues to fall as deadly East Coast storm lingers" - 12/19/09 - "A major snowstorm slammed the **East Coast** and snarled the busy holiday travel season Saturday ..."

The examining attorney also submitted excerpts from several websites showing that applicant's business is located in Falls Church, Virginia; and that Falls Church is located near, and is a suburb of, Washington, D.C.

Applicant's principal contention is that EAST COAST is not a known identifiable geographic location, noting that "it could be the eastern portion of any country bounded by waters, the east coast of Puerto Rico or any of the islands of Hawaii ... Simply because a state has a border on the Atlantic Ocean it does not make the services performed in that state the east coast. A person located in the western part of Virginia would never refer to that locality as the "east coast." (brief, p. 3-4).

Applicant submitted copies of third-party registrations for marks containing the term EAST COAST for a variety of goods and services. As the examining attorney points out, a number of these registrations are cancelled and a number of these registrations are registered with a

claim of acquired distinctiveness, under to Section 2(f) of the Act. Moreover, third-party registrations are not conclusive on the question of geographic descriptiveness. Each case must be considered on its own merits. A mark that is primarily geographically descriptive does not become registrable simply because other similar marks appear on the register. *See In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564 (Fed. Cir. 2001); *In re Scholastic Testing Service, Inc.*, 196 USPQ 517 (TTAB 1977).

A mark is primarily geographically descriptive in connection with an applicant's goods if the examining attorney establishes (i) that the primary significance of the mark is that of the name of a place generally known to the public and (ii) that the public would make a goods/place association, that is, believe that the goods for which the mark is sought to be registered originate in that place. *See, e.g., In re Brouwerij Nacional Balashi NV*, 80 USPQ2d 1820 (TTAB 2006); *In re JT Tobacconists*, 59 USPQ2d 1080, 1081-82 (TTAB 2001); *University Book Store v. University of Wisconsin Board of Regents*, 33 USPQ2d 1385, 1402 (TTAB 1994); and *In re California Pizza Kitchen Inc.*, 10 USPQ2d 1704, 1705 (TTAB 1988), *citing In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987).

Where there is no genuine issue that the geographical significance of a term is its primary significance, and where the geographical place named by the term is neither obscure nor remote, a public association of the goods with the place may ordinarily be presumed from the fact that the applicant's goods come from the geographical place named by or in the mark. See, e.g., *In re Brouwerij Nacional Balashi NV*, 80 USPQ2d at 1821; *In re JT Tobacconists*, 59 USPQ2d at 1082; *In re Carolina Apparel*, 48 USPQ2d 1542, 1543 (TTAB 1998); *In re California Pizza Kitchen Inc.*, *supra*; and *In re Handler Fenton Westerns, Inc.*, 214 USPQ 848, 850 (TTAB 1982).

The record clearly establishes that the term EAST COAST conveys a readily recognizable geographic significance. That it is a regional location does not detract from its geographic significance. See, *In re Pan-O-Gold Baking Co.*, 20 USPQ2d 1761 (TTAB 1991) (NEW ENGLAND for baked goods from Minnesota and North Dakota is primarily geographically deceptively misdescriptive); and *In re Southland Corporation of Dallas, Texas*, 162 USPQ 465 (TTAB 1969) (MIDWEST FARMS). The primary significance of EAST COAST is a geographic place which is not obscure or remote but, rather, is generally known to the public.

Applicant argues that EAST COAST may refer to the eastern coastal portion of any country, such as Australia and New Zealand. However, EAST COAST does not lose its requisite particularity simply because it is the name of those specific areas as well. The fact that EAST COAST may identify more than one geographic location does not necessarily detract from the term's primary geographic significance. See, e.g., *In re Loew's Theatres, Inc.*, 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985) (DURANGO is geographically descriptive despite evidence of more than one place named Durango).

There is no question, given applicant's address in its application, that applicant, located in Falls Church, Virginia, is located on the East Coast. While several of the definitions of record indicate that reference to the East Coast is often focused on the urban corridor from Washington, D.C. to Boston, MA, this is immaterial because applicant is located within this corridor. The evidence establishes that Falls Church is a Northern Virginia suburb of Washington, D.C.

Therefore, because applicant's services originate in the area named in the mark, we can presume an association of applicant's mark with towing services. See, e.g., *In re Joint-Stock Company "Baik,"* 80 USPQ2d 1309, 1310 (TTAB

2006) ("we presume a goods/place association [of vodka with BAIKALSKAYA meaning "from Baikal"] because applicant is located near Lake Baikal, in the city of Irkutsk"). See also, e.g., *Warwood v. Hubbard*, 228 USPQ 702, 702 (Mont. 1985) (YELLOWSTONE OUTFITTERS primarily geographically descriptive of outfitting services offered "near Yellowstone Park"). The relevant consumers of applicant's services are the general public in need of towing services within a reasonable distance from applicant's location who will likely be evaluating the use of towing services at least in part based on the location of the towing company. As such, relevant consumers are likely to believe that applicant's mark indicates the place where the services originate. See *In re Chalk's Int'l Airline Inc.*, 21 USPQ2d 1637 (TTAB 1991) (PARADISE ISLAND AIRLINES is primarily geographically descriptive of air transportation services of passengers and/or goods that are performed at least in part on Paradise Island).

In view of the evidence of record and having considered all of applicant's arguments, including those not discussed herein, we find that EAST COAST is primarily a generally known geographic location; that applicant is located in, and its services originate from, the region known as the East Coast; and that relevant consumers are

likely to believe that applicant's vehicle towing services, when marketed under the mark EAST COAST, come from or originate in the part of the United States known as the East Coast. Therefore, we conclude that the mark is primarily geographically descriptive in connection with applicant's services.

Decision: The refusal to register is affirmed.