

**THIS OPINION IS NOT A  
PRECEDENT OF  
THE T.T.A.B.**

Hearing: October 18, 2011      Mailed: April 11, 2012

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re Pittsburgh Glass Works, LLC

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Serial No. 77484850

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Jonathan C. Parks of Cohen & Grigsby, PC for Pittsburgh Glass Works, LLC.

Midge Butler, Trademark Examining Attorney, Law Office 107 (J. Leslie Bishop, Managing Attorney).

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Before Cataldo, Mermelstein and Lykos,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Pittsburgh Glass Works, LLC, filed an intent-to-use application to register on the Principal Register the mark PITTSBURGH GLASS WORKS (standard characters)<sup>1</sup> for "glass and laminate windshield and windows for vehicles excluding aircraft" in International Class 12.

The trademark examining attorney refused registration under Section 2(e)(2) of the Trademark Act, 15 U.S.C.

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<sup>1</sup> Application Serial No. 77484850 was filed May 28, 2008. Applicant disclaimed "PITTSBURGH GLASS" apart from the mark as shown.

§ 1052(e)(2), on the basis that applicant's mark is primarily geographically descriptive of its goods.

When the refusal was made final, applicant appealed. Applicant and the examining attorney filed briefs, including applicant's reply brief. In addition, applicant and the examining attorney presented arguments on the issue under appeal in an oral hearing held before this panel on October 18, 2011.

The test for determining whether a mark is primarily geographically descriptive is whether (1) the mark (or a portion thereof) is the name of a place known generally to the public, and (2) the public would make a goods/place association, that is, believe that the goods identified in the application originate in that place. See *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987); *In re Joint-Stock Co. "Baik"*, 80 USPQ2d 1305 (TTAB 2006); and *In re JT Tobacconists*, 59 USPQ2d 1080 (TTAB 2001). If the goods do in fact originate from the place named in the mark, the requisite goods/place association can be presumed. See *In re Handler Fenton Westerns, Inc.*, 214 USPQ 848 (TTAB 1982).

We find, first, that the word PITTSBURGH in applicant's mark is the name of a place known generally to the American public, *i.e.*, the city of Pittsburgh,

Pennsylvania. PITTSBURGH is defined as "city in western Pennsylvania and seat of Allegheny County."<sup>2</sup> "Pittsburgh was the nation's foremost industrial city of the 19<sup>th</sup> century and was famous for its steel production."<sup>3</sup> Pittsburgh was the nation's 53<sup>rd</sup> largest city in 2000.<sup>4</sup> In 2009, "Pittsburgh was named the most livable city in the United States and 29<sup>th</sup>-most-livable city worldwide by The Economist."<sup>5</sup> The primary significance of PITTSBURGH to the American purchasing public thus is a known geographic area. Further, there is nothing in the record to suggest that PITTSBURGH is either obscure or remote. *Cf. In re Societe Generale des Eaux Minerales de Vittel S.A.*, 3 USPQ2d 1450 (Fed. Cir. 1987).

Next, we find that the term GLASS WORKS in applicant's mark is highly descriptive of applicant's "glass and laminate windshield and windows for vehicles excluding aircraft." The term GLASS clearly is generic for applicant's goods. The term WORKS is defined as a "place for industrial production: a place where industrial work,

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<sup>2</sup> Encarta.msn.com; attached as an exhibit to the examining attorney's March 11, 2009 Office action.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Wikipedia.org, attached as an exhibit to the examining attorney's October 15, 2009 Office action. There is no issue as to the accuracy of the Wikipedia information relied on by the examining attorney, and so we have considered this evidence. See *In re IP Carrier Consulting Group*, 84 USPQ2d 1028, 1032 (TTAB 2007).

especially manufacturing, is done.”<sup>6</sup> We further take judicial notice of the following definition of GLASS WORKS - “a factory where glass is made.”<sup>7</sup> Thus, GLASS WORKS clearly describes a place where the industrial work of manufacturing glass is done, or simply a place where glass is made.

We next turn to the question of whether PITTSBURGH GLASS WORKS in applicant’s mark is primarily geographically descriptive. “Under the first prong of the test - whether the mark’s primary significance is a generally known geographic location - a composite mark such as applicant’s proposed mark must be evaluated as a whole ... It is not erroneous, however, for the examiner to consider the significance of each element within the composite mark in the course of evaluating the mark as a whole.” *In re Save Venice New York Inc.*, 259 F.3d 1346, 59 USPQ2d 1778, 1782 (Fed. Cir. 2001) [internal citations omitted]. In this connection, it is well settled that “the presence of generic or highly descriptive terms in a mark which also

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<sup>6</sup> *Id.*

<sup>7</sup> Dictionary.com Unabridged, Based on the Random House Dictionary, © Random House, Inc. 2012. The Board may take judicial notice of dictionary definitions, including online dictionaries which exist in printed format. See *In re CyberFinancial.Net Inc.*, 65 USPQ2d 1789, 1791 n.3 (TTAB 2002). See also *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

contains a primarily geographically descriptive term does not serve to detract from the primary significance of the mark as a whole." *In re JT Tobacconists*, 59 USPQ2d at 1082. See also *In re Bacardi & Co. Ltd.*, 49 USPQ2d 1301 (TTAB 1997).

For the reasons set forth above, we find that the word PITTSBURGH in applicant's mark is a reference to a well-known geographic place, and that the term GLASS WORKS is highly descriptive of applicant's goods. We further find that the presence of the highly descriptive term GLASS WORKS in applicant's mark does not detract from the primary geographical significance of the mark as a whole. See *In re Wine Society of America Inc.*, 12 USPQ2d 1139 (TTAB 1989); and *In re Cambridge Digital Systems*, 1 USPQ2d 1659 (TTAB 1986).

Applicant argues and has introduced evidence that PITTSBURGH is the most misspelled city in the United States.<sup>8</sup> Applicant further argues that there are several other municipalities in the United States named "Pittsburg" and "even a tiny town in North Dakota" named "Pittsburgh."<sup>9</sup> However, there is no evidence either of the size of any of the "Pittsburgs" or the extent to which any of these towns

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<sup>8</sup> Applicant's September 2, 2009 correspondence, Exhibit A.

<sup>9</sup> *Id.*

possess more than local or regional recognition. On the other hand, the examining attorney has introduced convincing evidence, discussed above, regarding the notoriety of Pittsburgh, Pennsylvania. Thus, on this record we find that the term PITTSBURGH is recognized by consumers in the United States as Pittsburgh, PA. There is no persuasive evidence of record of another widely recognized meaning.

In sum, we find under the first prong of the Section 2(e)(2) test that the primary significance of applicant's mark is that of a well-known geographic place, i.e., the city of Pittsburgh, PA.

We next turn to the second prong of the test, i.e., whether purchasers would make a goods/place association between applicant's goods and the place named in the mark. Applicant acknowledges that its headquarters are located in Pittsburgh. Applicant nonetheless asserts that its "goods are not manufactured, packaged or shipped from Pittsburgh. Rather, only Applicant's headquarters is located in Pittsburgh, Pennsylvania, and the term 'Pittsburgh' does not identify the place from which Applicant's goods 'originate.'"<sup>10</sup> Applicant is correct that the mere fact that its headquarters are located in Pittsburgh does

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<sup>10</sup> Applicant's brief, p. 7.

necessarily require a finding that PITTSBURGH GLASS WORKS is primarily geographically descriptive of its goods. See, e.g., *In re John Harvey & Sons Ltd.*, 32 USPQ2d 1451 (TTAB 1994). However, applicant's association with Pittsburgh extends beyond its headquarters.

Applicant's predecessor, Pittsburgh Plate Glass Company (PPG) was established in 1883 in Creighton, PA, 20 miles north of Pittsburgh.<sup>11</sup> In 2008, PPG sold its "automotive glass and services business" to applicant, which was formed by PPG and another entity.<sup>12</sup> A press release from PPG regarding the formation of applicant indicates "Pittsburgh is well known in the global automotive industry as a manufacturing and technology center."<sup>13</sup> The press release further indicates:

"The name 'Pittsburgh Glass works' captures the essence of our corporate culture," Archinaco added. "It builds on the image and heritage that Pittsburgh was the center of glassmaking - even before PPG's establishment in the industry. Keeping the word 'glass' and incorporating 'works' into our name not only conveys the desire to maintain a tradition within the glass industry, but also communicates to our customers our formidable work ethic, strong values and intent to deliver the solutions they need."<sup>14</sup>

Applicant manufactures and fabricates automotive glass products in nine plants in the United States including

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<sup>11</sup> Applicant's April 15, 2010 communication, Exhibit B.

<sup>12</sup> *Id.*, Exhibit C.

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

<sup>14</sup> *Id.*

plants located in Creighton, PA; Meadville, PA; and Tipton, PA, and two additional plants overseas.<sup>15</sup> As noted above, Creighton, PA is 20 miles north of Pittsburgh. Meadville, PA and Tipton, PA are respectively located 92 miles and 90 miles from Pittsburgh.<sup>16</sup> Meadville, PA "is generally considered part of the Pittsburgh Tri-State [area]..."<sup>17</sup>

On this record we find that applicant's headquarters are located in Pittsburgh; one of its manufacturing centers is located 20 miles from Pittsburgh; and two additional manufacturing centers are located within 100 miles of Pittsburgh. As a result, based upon the totality of the record we find that at least some of applicant's goods originate in Pittsburgh, PA. Further, because applicant's goods originate from the place named in the mark, namely, Pittsburgh, we may presume that purchasers would make a goods/place association between applicant's goods and "Pittsburgh," a geographic location that is neither obscure nor remote. *In re Chalk International Airlines Inc.*, 21 USPQ2d 1637 (TTAB 1991); and *In re California Pizza Kitchen Inc.*, 10 USPQ2d 1704 (TTAB 1988). In that regard, we note that applicant chose the name PITTSBURGH GLASS WORKS to associate itself with Pittsburgh, PA, which in the past was

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<sup>15</sup> *Id.*

<sup>16</sup> Maps.ask.com, attached to the examining attorney's October 15, 2009 Office action.

<sup>17</sup> Wikipedia.org, *Id.*



known as "the center of glassmaking," and with its own corporate historical association with Pittsburgh and the Pittsburgh area, thus reinforcing the association between its goods and the place named in the mark.

Further, applicant has not presented sufficient evidence to rebut the presumption of a goods/place association which arises from the fact that applicant is located in, and some of its goods originate from, the place named in the mark. Applicant argues that only 8.9% percent of its goods are manufactured in its three PA facilities. However, applicant cites to no authority for its apparent position that a mark may not be found geographically descriptive if only a portion of its goods originate from the named geographic location. In this case, the 3 of applicant's 11 manufacturing facilities that are located near Pittsburgh produce 8.9% of its goods, along with applicant's headquarters which are located in Pittsburgh. In addition, and as discussed above, applicant has introduced evidence that Pittsburgh is historically known as the center of glassmaking. Along with applicant's acknowledgement of own efforts to associate itself with this history, which predates that of its predecessor PPG, such evidence supports a finding of a goods/place association.

Moreover, the existence of other towns in the United States named Pittsburg(h) does not compel a different result. As discussed above, there is no evidence of record to support a finding that, unlike Pittsburgh, PA, the other towns named Pittsburg(h) are anything other than obscure and/or remote. Thus, there is no evidence that the term Pittsburgh suggests more than one geographic location to the majority of consumers in the United States. Nor does applicant provide evidence to support its assertion that the fact that Pittsburgh is commonly misspelled somehow lessens the association between applicant's goods and the place named in its mark. Similarly, applicant provides no evidence to support its contention that because consumers in its global market will be apprised of which of applicant's facilities produced the goods purchased thereby, such consumers will not associate Pittsburgh with applicant's goods.

Finally, applicant's reliance upon precedential decisions in which marks incorporating geographic terms, none of which incorporate or contain the term PITTSBURGH or GLASS WORKS, for goods or services wholly unrelated to those at issue herein, is of no probative value. As is often noted by the Board and the Courts, each case must be decided on its own merits. *See, for example, In re Nett*

*Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001).

We have considered all of the arguments and evidence made of record by applicant and the examining attorney, including any arguments and evidence not specifically discussed herein. We find that the wording PITTSBURGH GLASS WORKS in applicant's mark identifies a well-known geographic location, and that purchasers would make a goods/place association between applicant's goods and the place named in the mark. Because both elements of the Section 2(e)(2) refusal have been established, we find that the examining attorney has established, *prima facie*, that applicant's mark is primarily geographically descriptive of applicant's goods. Applicant's arguments to the contrary are not persuasive.

**Decision:** The refusal to register the mark PITTSBURGH GLASS WORKS on the ground that the mark is primarily geographically descriptive of the goods is affirmed.