

**This Opinion is Not a
Precedent of the TTAB**

Mailed: July 14, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Vili Group Inc.
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Serial No. 86285733
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Sevag Demirjian of Demirjian Law Offices,
for Vili Group Inc.

Sara Benjamin, Trademark Examining Attorney, Law Office 110,
Chris A. F. Pedersen, Managing Attorney.

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Before Zervas, Greenbaum and Masiello,
Administrative Trademark Judges.

Opinion by Greenbaum, Administrative Trademark Judge:

Vili Group Inc. (“Applicant”) seeks registration on the Principal Register of the

mark  for “mineral and carbonated waters” in International Class 32.¹

¹ Application Serial No. 86285733 was filed on May 14, 2014, based upon Applicant’s allegation of a *bona fide* intention to use the mark in commerce under Section 1(b) of the Trademark Act. The application includes the following description of the mark: “The mark consists of the wording ‘Bjni’ in red stylized lettering with a white border outline. The mark sits on top of a blue background.” The application claims the colors red, white, and blue as a feature of the mark.

The Trademark Examining Attorney has refused registration of Applicant's mark under Section 2(e)(2) of the Trademark Act, 15 U.S.C. § 1052(e)(2), on the ground that Applicant's mark is primarily geographically descriptive of its goods.

After the Examining Attorney made the refusal final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal was resumed. We reverse the refusal to register.

I. Applicable Law

The test for determining whether a term is primarily geographically descriptive is whether (1) the primary significance of the term in the mark sought to be registered is the name of a place generally known to the public, (2) the public would make an association between the goods or services and the place named in the mark, that is, believe that the goods or services for which the mark is sought to be registered originate in that place, and (3) the source of the goods or services is the geographic region named in the mark. *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450, 1452 (Fed. Cir. 1987); *In re Brouwerij Nacional Balashi NV*, 80 USPQ2d 1820, 1821 (TTAB 2006).

The Examining Attorney argues that the primary significance of the term "Bjni" is a generally known geographic place, i.e., Bjni, Armenia, the goods originate in Bjni, and there is a goods/place association because the goods are from Bjni and because it is common for mineral and sparkling waters to be named after their geographic source (e.g., Evian). Applicant has never disputed that Bjni is a geographic location and that the goods will come from there, and its brief is silent on these points. It is

Applicant's position, however, that the village of Bjni is "not 'generally known' nor famous by any stretch of the term(s)[,]" and that Bjni is so small and obscure that purchasers of mineral and sparkling waters in the United States "would not recognize it as indicating the geographical source of the actual water products to be sold under the BJNI name."²

As evidence that Bjni is a generally known geographic place or location, the Examining Attorney submitted³ a short Wikipedia entry describing Bjni as "a village in the Kotayk Province of Armenia" with a population in 2008 of just over 3000 people. The Wikipedia entry discusses the history of Bjni and the ruins of a medieval fortress and a church located there, but it does not mention mineral water. In addition, the Examining Attorney submitted screenshots from a number of websites for tour companies based in Europe or Armenia, and a screenshot from the Armenian Embassy website. Most of the websites discuss or mention the fortress and church in Bjni (e.g., garnigeghard.com, traveltoarmenia.am, welcomearmenia.com), and several also advertise or mention mineral water springs in Bjni (e.g., simatours.com), usually in a list naming other villages in Armenia (e.g., armeniaemb.org, barevarmenia.com, newarmenia.travel/en, investinarmenia.am). Only Applicant's own website, bjni.am, focuses on Bjni as a village known for its mineral water spring, with no reference to the fortress or the church.

² 14 TTABVUE 3.

³ With the exception of screenshots from the welcomearmenia.com and bjni.am websites, which the Examining Attorney submitted only with the September 3, 2014 Office Action, the Examining Attorney submitted all of this evidence with the April 8, 2015 Final Office Action.

The Examining Attorney also submitted a 2009 Human Rights Report on Armenia published by the United States State Department (“State Department Report”).⁴ Applicant aptly describes this 26 page document as “a lengthy and detailed description of the Country of Armenia and its human rights record. Not exactly common reading material for the average American consumer. In this 26 page government document, there is one paragraph on page 10 which references the Bjni mineral water company as being involved in a dispute with the government.”⁵ In addition, the Examining Attorney submitted three articles from 2009 discussing this dispute.⁶

We begin by finding that the relevant purchasing public for the goods at issue consists of the general public interested in purchasing mineral and sparkling waters.

As noted above, Applicant does not dispute that “Bjni” is a geographic location; however, the record does not support a finding that “Bjni” is a generally known geographic location. Virtually all of the evidence detailed above is from obscure sources outside the United States (e.g., newarmenia.travel/en, investinarmenia.am, eurasianet.org), and therefore is not probative of whether consumers in the United States have ever heard the term “Bjni,” let alone understand that Bjni is a small village in Armenia. As for the State Department Report, we agree with Applicant that

⁴ Attached to the November 3, 2015 Denial of Request for Reconsideration.

⁵ 14 TTABVUE 7.

⁶ www.eurasianet.org, armenianow.com (originally posted February 20, 2009, updated April 7, 2015), and en.a1plus.am, all attached to the April 8, 2015 Final Office Action.

this is not the type of material to which the relevant purchasing public likely has been exposed.

The remaining evidence consists solely of the short Wikipedia entry. While this entry has some probative value, absent other evidence to support the proposition that consumers have been exposed to the term “Bjni” and are aware of its geographic significance, we cannot find that it is a generally known geographic location. *In re Newbridge Cutlery Co.*, 776 F.3d 854, 113 USPQ2d 1445, 1450-51 (Fed. Cir. 2015) (“The internet (and websites such as Wikipedia) contains enormous amounts of information: some of it is generally known, and some of it is not. ... [T]he mere entry in a gazetteer or the fact that a location is described on the internet does not necessarily evidence that a place is known generally to the relevant public.”); *See also In re IP Carrier Consulting Grp.*, 84 USPQ2d 1028, 1032-33 (TTAB 2007) (“The better practice with respect to Wikipedia evidence is to corroborate the information with other reliable sources, including Wikipedia’s sources.”).

The facts of this case are distinct from those presented in *In re MCO Properties Inc.*, 38 USPQ2d 1154 (TTAB 1995), in which the Board found the term “Fountain Hills” primarily geographically descriptive of the real estate development services identified in the application. In that case, the applicant listed Fountain Hills, Arizona as its address, and the evidence of record, which included “excerpts of articles retrieved from the Nexis computer database of publications; excerpts from the HAMMOND GOLD MEDALLION WORLD ATLAS; and brochures provided by the Chamber of Commerce of Fountain Hills, Arizona,” as well as applicant’s own

specimens, which promoted the numerous benefits of living in the town of Fountain Hills, established that “Fountain Hills” is “the name of the place where the services are rendered” rather than “an indication of the source of applicant’s real estate services.” *Id.* at 1155-56. Similarly, we distinguish *In re Spirits of New Merced LLC*, 85 USPQ2d 1614 (TTAB 2007), in which the evidence of record, consisting of entries from multiple websites and reference works, established that Yosemite is the name of a well-known geographic region that clearly is not obscure or remote.

Inasmuch as the evidence does not support the first factor of the applicable test, we need not address the goods/place association. In view thereof, we find on this record that BJNI is not primarily geographically descriptive of Applicant’s goods. *See Newbridge Cutlery*, 113 USPQ2d at 1450 (the record must include substantial evidence to support a conclusion that the mark identifies a place “known generally to the relevant American public.”).

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