

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

Mailed: June 10, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Olympia Development of Michigan, LLC
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Serial No. 86333108
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Josh A. Partington and David R. Haarz of Harness Dickey & Pierce PLC,
for Olympia Development of Michigan, LLC

Paul Fahrenkopf, Trademark Examining Attorney, Law Office 101,
Ronald R. Sussman, Managing Attorney.

—

Before Cataldo, Greenbaum and Heasley,
Administrative Trademark Judges.

Opinion by Greenbaum, Administrative Trademark Judge:

Olympia Development of Michigan, LLC (“Applicant”) seeks registration on the
Principal Register of the mark CASS PARK VILLAGE (in standard characters) for

Real estate management services; leasing of real estate in International
Class 36;

Real estate development in International Class 37;

Entertainment services in the nature of sports exhibitions;
entertainment services, namely, the presentation and production of live
music concerts and theatrical performances; entertainment services,
namely, night clubs; providing mixed-use entertainment facilities,
namely, providing entertainment facilities for various purposes such as
night clubs, karaoke clubs, comedy clubs, motion picture theaters,

dinner theaters, amusement arcades, virtual reality entertainment facilities, family recreation facilities, museums, health club facilities and casinos; operating motion picture theaters; entertainment in the nature of theater productions, namely, live performance theaters; dinner theaters; amusement arcades; providing virtual reality entertainment facilities; providing family recreation facilities; museums; neighborhood association services, namely, organizing and conducting cultural and educational gatherings, meetings and events in the field of neighborhood issues, and organizing and conducting gathering, meetings, and events in the field of neighborhood issues for social entertainment purposes in International Class 41; and

Bar and restaurant services in International Class 43.¹

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 services.

After the Examining Attorney made the refusal final, Applicant appealed to this Board. We reverse the refusal to register.

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 Newbridge Cutlery Co.*, 776 F.3d 854, 113 USPQ2d 1445, 1448-9 (Fed. Cir. 2015). When the geographic significance of a term is its

¹ Application Serial No. 86333108 was filed on July 10, 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.

primary significance and the geographic place is neither obscure nor remote, for purposes of Section 2(e)(2), the goods/place or services/place association may ordinarily be presumed from the fact that the goods or services originate in or near the place named in the mark. *In re Spirits of New Merced, LLC*, 85 USPQ2d 1614, 1621 (TTAB 2007) (“Since the goods originate at or near [Yosemite National Park], we can presume an association of applicant’s beer with the park.”).

The Examining Attorney argues that

CASS PARK identifies a federally recognized historic district in Detroit. Applicant intends to build a development in that area. Thus, CASS PARK is geographically descriptive thereof. VILLAGE is defined as “a self-contained district or community within a town or city, regarded as having features characteristic of village life” or as “a self-contained city area having its own shops, etc.” Either definition would seem to apply to applicant’s services. The combination, CASS PARK VILLAGE, merely describes the fact that applicant will have a real estate development near CASS PARK that will include a self-contained city area having its own shops, etc. And that is exactly what applicant is planning to do.²

As evidence of the geographic significance of the term “Cass Park,” the Examining Attorney submitted with the October 24, 2014 Office Action a Wikipedia entry and a printout from the Curbed Detroit blog. The Wikipedia entry describes “The Cass Park Historic District [as] a historic district in Midtown Detroit, Michigan, comprising the streets of Temple, Ledyard, and 2nd, surrounding Cass Park. It was listed on the National Register of Historic Places in 2005.” The printout from Curbed Detroit comments on Applicant’s plans to develop “historic Cass Park”:

More details of the ultra-secret new arena plan have surfaced. Like most news related to this project, it involves acres of city-owned land being transferred to Olympia Entertainment in return for millions in vague

² 8 TTABVUE 12.

“development” promises. This time, however, it’s not just vacant land, but historic Cass Park. According to the Detroit News, the city plans to “hand over” the park to Olympia, which agreed to maintain it as park space. Wow.

That’s not necessarily a bad thing for the park itself, and the plan hasn’t yet been approved by City Council. Campus Martius isn’t publicly owned, and it’s still a highly functional public space. Plus, Cass Park is in miserable shape and the city of Detroit is unwilling to maintain it. But simply gifting this giant park to Ilitch seems like an unnecessary concession. Cass Park was once among the city’s best, most beautiful public squares. At the very least, let’s hope Ilitch brings it back.

This record does not support a finding that the term “Cass Park” is a generally known geographic location. The evidence detailed above consists solely of an excerpt from one Wikipedia entry, and a printout from the Detroit Curbed blog showing comments from a few visitors who use the term “Cass Park” ostensibly to refer to the public square. While both pieces of evidence have some probative value, absent other evidence to support the proposition that consumers have been exposed to the term “Cass Park” and are aware of its geographic significance, we cannot find that it is a generally known geographic location. *Newbridge Cutlery*, 113 USPQ2d at 1450-51 (“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 *Spirits of New Merced*, 85 USPQ2d 1614, 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, we need not address the services/place association. In view thereof, we find on this record that CASS PARK VILLAGE is not primarily geographically descriptive of Applicant’s services.

In making this determination, we are aware that sections of many inner cities in the United States have been, and continue to be, the focus of urban renewal efforts involving an anchor such as a large multi-purpose arena and surrounding residences, retail shops, restaurant, bars, and theaters featuring movies and live entertainment.

However, even if such efforts are (or will be) underway in Detroit, perhaps as the result of Applicant's intended activities, on this record, it is not readily apparent how the term CASS PARK is primarily geographically descriptive of the services identified in the application. This is not to say that we might not reach a different result on a different record, such as one that might be adduced in an inter partes proceeding or when Applicant files a Statement of Use.

With that in mind, we would be remiss if we did not address Applicant's sole argument: that the addition of the word VILLAGE to CASS PARK results in an incongruous whole that is not primarily geographically descriptive. Applicant's position is best summed up in its own words:

Detroit is well known as a large industrial city and as the home of the American auto industry. A place nicknamed the 'Motor City' is not likely to be described as rural and the word VILLAGE is a stark contrast to the normal connotations associated with Detroit. Imagining a village oasis in the midst of a large city requires thought on the part of a consumer. While it may suggest certain things, CASS PARK VILLAGE does not describe any particular service offered by Applicant.³

Applicant further posits: "The incongruous combination of a park and a village in Detroit does not give a consumer a direct idea of any goods or services. One is left to wonder what is going on at a village in the middle of a park, which is itself nestled inside the urban sprawl of Detroit."⁴

We find these arguments unpersuasive. The word "village" is defined as "a self-contained district or community within a town or city, regarded as having features

³ 6 TTABVUE 6.

⁴ 6 TTABVUE 7.

characteristic of village life.”⁵ The identification of services in the application makes it clear that Applicant intends to create a community within the city of Detroit that has the features of a village, such as residential homes, restaurants and bars, theaters, and recreational facilities.⁶ The word “village” therefore is highly descriptive of a community of the type Applicant plans. “[T]he presence of generic or highly descriptive terms in a mark which also contains a primarily geographically descriptive term does not serve to detract from the primary geographical significance of the mark as a whole.” In re *JT Tobacconists*, 59 USPQ2d 1080, 1082 (TTAB 2001) (MINNESOTA CIGAR COMPANY primarily geographically descriptive of cigars from Minnesota).

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

⁵ http://www.oxforddictionaries.com/us/definition/american_english/village attached to May 7, 2015 Final Office Action.

⁶ We find nothing incongruous about the presence of a park or village located in a large urban setting, such as Greenwich Village located in the sprawling city of New York.