

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

Mailed: October 8, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Conservative Institute, LLC
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Serial No. 87658084
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Richard Gora of Gora LLC
for Conservative Institute, LLC.

Steven W. Jackson, Trademark Examining Attorney, Law Office 107,
J. Leslie Bishop, Managing Attorney.

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Before Wellington, Kuczma, and Larkin,
Administrative Trademark Judges.

Opinion by Wellington, Administrative Trademark Judge:

Conservative Institute, LLC (“Applicant”) has filed an application to register the mark CONSERVATIVE INSTITUTE (in standard characters, with a disclaimer of INSTITUTE) on the Principal Register for the following services:¹

Providing on-line information in the field of politics via a global communications network, in International Class 35;

Providing on-line information relating to entertainment via a global communications network, International Class 41; and

¹ Applications Serial No. 87658084 was filed on October 24, 2017, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based on a claim of first use anywhere and in commerce on July 30, 2014, for all three classes of services.

Providing on-line information in the field of religion via a global communications network, in International Class 45.

The Trademark Examining Attorney refused registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that the proposed mark is merely descriptive of the identified services in each class.

Applicant appealed and requested reconsideration of the refusal. After the Examining Attorney denied the request for reconsideration, the appeal was resumed. Applicant and the Examining Attorney have filed briefs. We affirm the refusal to register.

Merely descriptive terms are unregistrable under Trademark Act Section 2(e)(1). A term is “merely descriptive” within the meaning of § 2(e)(1) “if it immediately conveys information concerning a feature, quality, or characteristic of the goods or services for which registration is sought.” *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1709 (Fed. Cir. 2017) (citing *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)). A term “need not immediately convey an idea of each and every specific feature of the goods [or services] in order to be considered merely descriptive; it is enough if it describes one significant attribute, function or property of the goods [or services].” *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1513 (TTAB 2016) (citing *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987)). The determination of whether a mark is merely descriptive must be made in relation to the goods or services for which registration is sought. *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217,

1219 (Fed. Cir. 2012); *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978) (determination of mere descriptiveness must be made not in the abstract, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services).

When each component word in a mark is descriptive of the services, we necessarily need to decide whether their combination “conveys any distinctive source-identifying impression contrary to the descriptiveness of the individual parts.” *Fat Boys*, 118 USPQ2d at 1515-16 (quoting *Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370, 1372 (Fed. Cir. 2004). On the other hand, if each word “retains its merely descriptive significance in relation to the [services], the combination results in a composite that is itself merely descriptive.” *Id.* at 1516 (citing *In re Tower Tech., Inc.*, 64 USPQ2d 1314, 1317-18 (TTAB 2002)).

“Evidence of the public’s understanding of [a] term . . . may be obtained from any competent source, such as purchaser testimony, consumer surveys, listing in dictionaries, trade journals, newspapers[,] and other publications.” *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1374 (Fed. Cir. 2018) (quoting *Royal Crown Co. v. The Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041, 1046 (Fed. Cir. 2018)). “These sources may include [w]ebsites, publications and use ‘in labels, packages, or in advertising material directed to the goods [or services].’” *N.C. Lottery*, 123 USPQ2d at 1710 (quoting *Abcor Dev.*, 200 USPQ at 218).

With the initial Office Action, the Examining Attorney attached definitions of the proposed mark's composite terms:²

CONSERVATIVE

“1. Favoring traditional views and values; tending to oppose change. ... 4. a. Of or belonging to the political philosophy of conservatism. b. Belonging to a conservative party, group or movement.”

INSTITUTE

“1. An organization founded to promote a cause ... 2. a. An educational institution, especially one for the instruction of technical subjects.”

We agree with the Examining Attorney that the mark CONSERVATIVE INSTITUTE is merely descriptive of Applicant's services -- providing on-line information via a global communications network in the fields of politics (Class 35), entertainment (Class 41) and religion (Class 45). Specifically, the mark describes both the source (an “institute” or organization),³ and the content (“conservative” or traditional values) of the information being provided.

The Examining Attorney attached printouts from Applicant's website (www.conservativeinstitute.com) demonstrating the plain meaning of each term in the proposed mark and the manner in which they combine to convey important information about Applicant's services, including the following excerpted images:⁴

² Office Action issued on February 9, 2018, TSDR 10-15; printouts from THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE website (www.ahdictionary.com).

³ Applicant acknowledges that “the term ‘INSTITUTE’ may have an arguably descriptive meaning when defined as ‘An organization founded to promote a cause,’” August 9, 2018 Response to Office Action at TSDR 7, and Applicant disclaimed the right to its exclusive use in connection with the identified services.

⁴ Id., TSDR 2-9.

About the Conservative Institute



The Conservative Institute is a project of Shaun Connell and is part of **The Strong Society's network of projects** to defend the basic institutions of Western civilization.

The organization was founded in April of 2017 to supply a severe demand in the political publishing world: **premium news and analysis from a conservative worldview.**

In a world of endless propaganda, misleading headlines, and shallow content, finding quality news sources is nearly impossible. This problem is *especially* severe for readers of the conservative persuasion.

CI prides itself in being fundamentally different in tone and substance from most political websites by providing high-quality research, sober-minded rhetoric, and principled defenses of conservatism with daily content both on the ConservativeInstitute.org website and our email newsletter.

Our Leadership Staff

The staff of *Conservative Institute* is comprised of experienced political publishers, writers, and marketers.

Our Purpose

There are countless websites that provide oversimplified headlines to get emotional reactions from readers. CI exists to take news and political content to the next level: to help organize the headlines in a comprehensive, well-researched, balanced worldview based on the principles of conservatism.

This means publishing long-form policy analysis articles, book reviews, movie reviews, and looking past populist reactionary content in order to craft premium conservative content.

Conservative institutions are under attack in most colleges, churches, and homes. We aim to defend those institutions.

Our Approach

One of the biggest problems in political activism is that a feedback loop exists between media organizations and the "base" of activists that make up the foundational readers. Because the readers want to read content that says a certain thing, the media organizations only say simplified versions of that certain thing – and a blind feedback loop is created.

CI is different. We believe in focusing on content distribution that is less short-term oriented and allows us to say what needs to be said regardless of who is offended – even if that means sometimes disagreeing with the base or Republican leadership

Our Beliefs

The fundamental value of CI is an open discussion. In other words, our goal is to help ensure that the political conversation in America isn't lopsided towards the politically correct or mindless populism. Right now, nearly all content created falls under those two categories.

Our political values can be summarized as the pillar principles of a strong society, **which is explained in our parent organization The Strong Society**. We believe in natural morality, slow and gradual conservative reform, maximizing prosperity, never compromising on security, and pursuing individual justice in every area of life.

As Applicant itself states, it is an “organization” that prides itself on providing “principled defenses of conservatism with daily content” on its website. In the context of the services recited in the application, consumers will immediately understand the proposed mark to convey information about the content of the services, namely, that the on-line information provided via a global communications network in the fields of politics, entertainment and religion will reflect conservative beliefs or a conservative perspective as part of Applicant’s effort to “help people understand the conservative narrative.” As Applicant puts it, it provides “news and analysis from a conservative worldview.”

Applicant points to the existence of two other registrations with the term CONSERVATIVE in the mark and argues that these “are probative evidence on the issue that the term CONSERVATIVE does not count as a specific attribute in relation to relevant services and does not further conservative ideologies.”⁵ However, in one registration (Reg. No. 5327743, CONSERVATIVE TRIBUNE), the term CONSERVATIVE is disclaimed, while the other registration (Reg. No. 4607560, CONSERVATIVE REVIEW), is on the Supplemental Register and thus is an acknowledgement that said mark is not inherently distinctive. *Quaker State Oil Refining Corp. v. Quaker Oil Corp.*, 453 F.2d 1296, 172 USPQ 361, 363 (CCPA 1972) (“when appellant sought registration of SUPER BLEND on the Supplemental Register, it admitted that the term was merely descriptive of its goods ... and acknowledged that it did not have an exclusive right therein at the that time.”); *Otter Prods. LLC v. BaseOneLabs LLC*, 105 USPQ2d 1252, 1255 (TTAB 2012) *citing Perma Ceram Enters. Inc. v. Preco Indus., Ltd.*, 23 USPQ2d 1134, 1137, n.11 (TTAB 1992) (mark registered on the Supplemental Register constitutes an implied admission that the term is descriptive, at least at the time of registration).

Applicant also argues that its mark “does not promote conservatism.”⁶ This contention misses the point. The sole question here is whether the mark is merely descriptive of the recited services. For the aforementioned reasons, we find the mark clearly is.

⁵ 7 TTABVUE 13

⁶ *Id.*

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