

THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

*In re Lance King*

Serial No. 87660124

Paulo A. de Almeida, Alex D. Patel, and Andrew Rissler of Patel & Almeida, P.C.,  
for Lance King.

Gidette Cuello, Trademark Examining Attorney, Law Office 125,  
Heather Biddulph, Managing Attorney.

Before Zervas, Wellington and Lebow,  
Administrative Trademark Judges.

Opinion by Lebow, Administrative Trademark Judge:

Applicant, Lance King, applied to register the standard character mark ECOMANSION on the Principal Register for “House building and repair; Housing services, namely, development of real property, namely, repair, improvement, and new construction,” in International Class 37.<sup>1</sup>

<sup>1</sup> Application Serial No. 87660124 was filed on October 25, 2017 based on Applicant’s allegation of an intention to use the mark in commerce under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b). Applicant subsequently filed an Amendment to Allege Use under Section 1051(c) of the Trademark Act, 15 U.S.C. § 1051(c), along with specimens of use, alleging November 15, 2017 as the date of first use of the mark anywhere and in commerce.

The Trademark Examining Attorney initially 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. After the Examining Attorney made the refusal final and Applicant filed an acceptable amendment to allege use, Applicant amended the application to seek registration on the Supplemental Register.<sup>2</sup> The Examining Attorney then issued a new refusal under Sections 23(c) and 45 of the Trademark Act, 15 U.S.C. §§ 1091(c) and 1127, on the ground that the proposed mark is generic and therefore incapable of indicating source. After the Examining Attorney issued a final Office Action on the genericness refusal, Applicant filed a notice of appeal to this Board and a further request for reconsideration, which the Examining Attorney denied. The appeal then resumed and is now fully briefed.

We affirm the refusal.

### **I. Genericness - Applicable Law**

The sole issue before us is whether the term ECOMANSION is capable of distinguishing Applicant's services from those of others. "Generic terms do not so qualify." *In re Emergency Alert Sols. Grp., LLC*, 122 USPQ2d 1088, 1089 (TTAB 2017); *see also In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1810 (Fed. Cir. 2001) (generic terms "are by definition incapable of indicating

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<sup>2</sup> The effective filing date of this application became March 8, 2019, the date Applicant amended to the Supplemental Register after filing an acceptable amendment to allege use. See TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMPEP) § 816.02 (October 2018). In addition, Applicant's amendment to the Supplemental Register was a concession that the mark is merely descriptive, thereby mooting this ground for refusal. *Plus Products v. Star-Kist Foods, Inc.*, 220 USPQ 541, 543 (TTAB 1983); *Evans Products Co. v. Boise Cascade Corp.*, 218 USPQ 160, 162 (TTAB 1983); *In re Amerace Corp.*, 196 USPQ 193, 195 (TTAB 1977).

a particular source of the goods or services”).

A generic term “is the common descriptive name of a class of goods or services” and is unregistrable on either the Principal or the Supplemental Register. *Princeton Vanguard, LLC v. Frito-Lay N. Am., Inc.*, 786 F.3d 960, 114 USPQ2d 1827, 1830 (Fed. Cir. 2015) (citing *H. Marvin Ginn Corp. v. Int’l Ass’n of Fire Chiefs, Inc.*, 782 F.2d 987, 228 USPQ 528, 530 (Fed. Cir. 1986)). A term also can be considered generic if the public “understands the term to refer to a key aspect of that genus,” or part of the genus, “even if the public does not understand the term to refer to the broad genus as a whole.” *In re Cordua Rests., Inc.*, 823 F.3d 594, 118 USPQ2d 1632, 1637-38 (Fed. Cir. 2016).

The Examining Attorney must establish that a proposed mark is generic. *In re Hotels.com, L.P.*, 573 F.3d 1300, 91 USPQ2d 1532, 1533 (Fed. Cir. 2009); *In re Merrill Lynch, Pierce, Fenner, & Smith, Inc.*, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987). There is a two-part test used to determine whether a designation is generic: (1) what is the genus (class or category) of the goods or services at issue? and (2) does the relevant public understand the designation primarily to refer to that genus of goods or services? *Princeton Vanguard*, 114 USPQ2d at 1830 (citing *Marvin Ginn*, 228 USPQ at 530); *Couch/Braunsdorf Affinity, Inc. v. 12 Interactive, LLC*, 110 USPQ2d 1458, 1462 (TTAB 2014).

## **II. The Genus of Applicant’s Services**

Our first task is to determine the proper genus of the services at issue. In defining the genus, we commonly look to the identification of goods in the application. *In re*

*Reed Elsevier Prop. Inc.*, 482 F.3d 1376, 82 USPQ2d 1378, 1380 (Fed. Cir. 2007); *Magic Wand Inc. v. RDB Inc.*, 940 F.2d 638, 19 USPQ2d 1551, 1552 (Fed. Cir. 1991) (a proper genericness inquiry focuses on the identification set forth in the application or certificate of registration); *In re Serial Podcast, LLC*, 126 USPQ2d 1061, 1063 (TTAB 2018) (proper genus is generally “set forth by the recitation of services in [the] subject application.”).

The Examining Attorney and Applicant agree that the identification of services in the application appropriately sets forth the genus of services at issue, and we concur. Accordingly, the ultimate inquiry is whether the relevant public understands ECOMANSION to refer to any of the following: “House building and repair; Housing services, namely, development of real property, namely, repair, improvement, and new construction.” *Cordua Rests.*, 118 USPQ2d at 1638 (“A registration is properly refused if the word is the generic name of any of the goods or services for which registration is sought.” (quoting 2 J. Thomas McCarthy, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 12:57)).

### **III. Relevant Public Understanding of ECOMANSION**

The second part of the *Marvin Ginn* test considers whether the term sought to be registered is understood by the relevant public primarily to refer to the genus of services under consideration. “The relevant public for a genericness determination is the purchasing or consuming public for the identified [services].” *Frito-Lay N. Am., Inc. v. Pinceton Vanguard, LLC*, 124 USPQ2d 1184, 1187 (citing *Magic Wand*, 19 USPQ2d at 1553). See also *Sheetz of Del., Inc. v. Doctor’s Assocs. Inc.*, 108 USPQ2d

1341, 1351 (TTAB 2013). We agree with the Examining Attorney, and Applicant does not dispute, that “because there are no restrictions or limitations to the channels of trade or classes of consumers, the relevant public comprises ... ordinary consumers who purchase the applicant’s services.”<sup>3</sup>

#### **A. Evidence and Argument**

“Evidence of the public’s understanding of the term may be obtained from any competent source, such as purchaser testimony, consumer surveys, listings in dictionaries, trade journals, newspapers and other publications.” *Merrill Lynch*, 4 USPQ2d at 1143; *see also Cordua Rests.*, 118 USPQ2d at 1634. In some cases, dictionary definitions and an applicant’s own description of its goods [or services] may suffice to show genericness. *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1112 (Fed. Cir. 1987); *see also In re Am. Fertility Soc’y*, 188 F.3d 1341, 51 USPQ2d 1832, 1836 (Fed. Cir. 1999).

The Examining Attorney argues that the evidence of record shows that “[t]he term ECOMANSION refers to a genus of home building and repair type services because the name of a key aspect, a central focus or feature, or a main characteristic of services may be generic for those services. ... Specifically, third parties use the term ECOMANSION as identifying a key feature of their building services.”<sup>4</sup> As such, she argues, “consumers are likely to view the wording “ecomansion” as a field of applicant’s services (i.e., applicant offers building construction and building repair of

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<sup>3</sup> 8 TTABVUE 6 (Examining Attorney’s Brief).

<sup>4</sup> *Id.* at 9.

ecomansions.).”<sup>5</sup>

The evidence of record includes dictionary definitions for the prefix “ECO-” showing it to mean “habitat or environment” and “ecological or environments,” and the term “MANSION” as meaning a “manor house; a large imposing residence,” “a large and impressive house: the large house of a wealthy person,” and “a large fine house.”<sup>6</sup> In addition, the record includes articles, blog posts, and home listings made of record by the Examining Attorney, obtained from LexisNexis and third-party Internet websites, to show that “the relevant public understands the term ECOMANSION primarily refers to a genus of house building and repair type services,”<sup>7</sup> including the following examples:

- Article from PricyPads.com showing a listing of a “Santa Monica Eco-Mansion” priced at \$11,888,000.<sup>8</sup>
- Several articles about an “Eco-Mansion” built by Tom Brady and Gisele Bündchen, including
  - Article from ecorazzi.com, titled “Peek Inside Tom Brady and Gisele Bündchen’s Eco-Mansion,” describing how their home, which took five years and \$20 million to complete, while large, is a great example of how a person can make any home eco-friendly.”<sup>9</sup>
  - Article from International New York Times, dated August 6, 2015, describing how the couple built their “eco-mansion in Los

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<sup>5</sup> *Id.*

<sup>6</sup> February 13, 2018 Office Action, TSDR 5-12.

<sup>7</sup> 8 TTABVUE 6 (Examining Attorney’s Brief).

<sup>8</sup> February 13, 2018 Office Action, TSDR 24.

<sup>9</sup> *Id.* at 25.

Angeles featured in Architectural Digest, then sold it for a reported \$40 million to Dr. Dre.”<sup>10</sup>

-- Article from Chicago Daily Herald, dated December 27, 2014, also describing the couple’s “eco-mansion,” which was “custom-made with sustainable elements such as gray-water irrigation system, solar paneling and reclaimed cobblestones.”<sup>11</sup>

- Article from Reuters, dated March 20, 2009, noting Google co-founder Larry Page’s building of an “eco-mansion.”<sup>12</sup>
- Article from 27East.com, titled “Why the eco mansion spells the end of the green building,” dated May 20, 2009, explaining that “[w]ith green building products being used at all socioeconomic levels, the almost certain outcome of the chain of events would be the end of what we call ‘green building.’ Why? Because everything we call ‘green building would simply become known as ‘building.’ ... So the Eco-Mansion is not only a good thing, it’s a great thing. Hooray to the era of the Eco-Mansion!”<sup>13</sup>
- Article from Live Luxury Life, titled “Environment Friendly Luxury Home – An Eco Mansion,” dated April 28, 2018, which explains that “some architects in the world have succeeded in making such Eco-Mansions. Such environment friendly eco-mansions have inspired a lot of people,” and provides an examples of one particular eco-mansion in Acqua Liana, Florida.<sup>14</sup>
- Article from Prime Resi Journal of Luxury Property, titled “Sheppard’s greenbelt eco-mansion project back on the market,” dated November 22, 2017, referring to an “eco-mansion” construction project.<sup>15</sup>
- Article from Design Build Network, titled “The eco-mansion: seeing the green light,” dated September 13, 2007, discussing how one particular real estate developer, known for developing mega-mansions, transformed his approach “to make his newest project, and all future

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<sup>10</sup> June 8, 2020 Reconsideration Letter, TSDR 3-5.

<sup>11</sup> *Id.* at 17-18.

<sup>12</sup> February 13, 2018 Office Action, TSDR 26.

<sup>13</sup> September 11, 2018 Office Action, TSDR 5-7.

<sup>14</sup> *Id.* at 12-15.

<sup>15</sup> *Id.* at 16.

mansions, environmentally friendly.”<sup>16</sup>

- Rental listing from VRBO for a “Modern Eco Mansion with infinity pool, hot tub, sauna and sea view,”<sup>17</sup>
- Article from EcoFriend, titled “Eco Architecture: ‘Eco Mansion’ in Florida is only for the Eco-Rich,” describing “a new house in urban Florida for people with enormous pockets and a passion for the environment.”<sup>18</sup>
- Blog post from Nancy Girl (nancyfashionfancy.com), titled “Wed Wonder ♥ Naomi’s Eco-Mansion,” dated September 28, 2011, reporting that “THE Naomi Campbell is building an Eco-mansion that’s the shape of the EYE OF HORUS (Egypt Egypt!) on an island far away,” which “will have 25 bedrooms...and it will be energy and water self-sufficient (green).”<sup>19</sup>
- New York Times article, titled “Leave Your Wings at the Door,” dated October 2, 2014, in which the author tells the story of how a bank turned him down for a home mortgage of a “five-story eco-mansion” that had been constructed “out of all sustainable materials.”<sup>20</sup>
- Article from Popular Mechanics, titled “The Self-Reliance issue: The New Homesteaders; ... But are seeds and solar panels enough to lead us into a new, sustainable future?” dated October 1, 2009, describing a home “where a lap pool with 10,000 gallons of solar-heated water acts as a thermal reservoir to help stabilize the home’s temperature,” “an eco-mansion [that] took copious amounts of natural resources to construct.”<sup>21</sup>
- Article from Mail Online, titled “Making them green with envy! Emily Blunt and John Krasinski splash put on \$2.15m eco-mansion,” dated October 3, 2012, describing the couple’s “eco-mansion” as “[a] stunning property in the foothills of Ojai rich in history, easy trail access, Eco

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<sup>16</sup> March 26, 2019 Office Action, TSDR 5-13.

<sup>17</sup> *Id.* at 14-21.

<sup>18</sup> November 8, 2019 Final Office Action, TSDR 5-8.

<sup>19</sup> *Id.* at 14-23.

<sup>20</sup> June 8, 2020 Reconsideration Letter, TSDR 6-10.

<sup>21</sup> *Id.* at 11-16.



friendly and adorned with modern amenities.”<sup>22</sup>

- Article from Curbed, titled “Architectural Crazyness: This Messi-Inspired Mansion Looks Like a Giant Soccer Ball,” dated October 7, 2013, describing a football-shaped eco-mansion.<sup>23</sup>
- Article from CNET, titled “Acqua Liana ‘eco-mansion’ thinks big, very big,” dated March 5, 2009, describing a developer’s “green creation.”<sup>24</sup>

In addition, the Examining Attorney provided several articles from other websites (Triple Pundit, Energy.gov, and Takepart)<sup>25</sup> to show “that the formative ‘ECO’ in connection with a type of home is often used by third parties to refer to a genus of Applicant’s services,” and “‘eco-home’ in connection with building construction projects.”<sup>26</sup>

Applicant traverses the refusal, asserting that “the Examining Attorney has not provided clear evidence that the relevant public understands that ECOMANSION primarily refers to” Applicant’s house building, development, repair, improvement and constructions services.<sup>27</sup> Applicant concedes that “[t]he evidence confirms that ECOMANSION is merely descriptive of the ecologically-friendly quality of the types of houses Applicant builds,” but disputes that it is “generic for home building services which may involve homes with such ecologically-friendly features.”<sup>28</sup>

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<sup>22</sup> *Id.* at 19-20.

<sup>23</sup> *Id.* at 21-23.

<sup>24</sup> *Id.* at 24.

<sup>25</sup> February 13, 2018 Office Action, TSDR 13-23.

<sup>26</sup> 8 TTABVUE 8-9 (Examining Attorney’s Brief).

<sup>27</sup> 6 TTABVUE 4 (Applicant’s Brief).

<sup>28</sup> *Id.* at 7.

Applicant characterizes the Examining Attorney's evidence as "a small handful of obscure Internet articles, mostly containing mixed-use references to "Eco-Home," "Eco-Houses," "eco-mansion" (hyphenated) or "eco mansion" (with a space) to describe the ecologically-friendly qualities of certain celebrity homes."<sup>29</sup> According to Applicant, "[m]any of the articles discuss speculative architectural plans for homes which do not yet exist, including homes outside the United States," and that "this small number of speculative, mixed-use references in obscure Internet articles - without readership evidence - is insufficient to establish ECOMANSION is generic."<sup>30</sup>

Applicant emphasizes that

[T]he evidence specifically shows use of [those terms as] referring to a finished dwelling **and not house building or construction services**. House building or construction services are not the same thing as a finished, fully constructed home. Nor does the incidental inclusion of an environmentally-friendly feature in one of Applicant's homes render its housebuilding services trademark generic. Some of the screenshots do not even show use of the term "ECOMANSION" at all.<sup>31</sup>

## **B. Discussion**

Applicant's attempt to discount the evidence of use of "ECO-MANSION" (with a hyphen) and "ECO MANSION" (with a space) is not convincing, as minor variations in a display of a generic term are typically legally insignificant and do not avoid a finding of genericness. *See In re Empire Tech. Dev. LLC*, 123 USPQ2d 1544, 1559 (TTAB 2017) (evidence that displayed the term "coffee flour" in compressed form as "CoffeeFlour" irrelevant to genericness analysis); *In re Noon Hour Food Prods. Inc.*,

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<sup>29</sup> *Id.* at 3.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 7 (bold emphasis added, italics omitted).

88 USPQ2d 1172, 1173 n.2 (TTAB 2008) (“Certainly an upper-case letter or the addition of a hyphen (or a space) cannot obviate the statutory bar to registration of a generic designation any more than can a slight misspelling of such a term.”); *Weiss Noodle Co. v. Golden Cracknel and Specialty Co.*, 290 F.2d 845, 129 USPQ 411, 414 (CCPA 1961) (Term “HA-LUSH-KA” held to be the generic equivalent of the Hungarian word “haluska”).

In addition, Applicant’s reliance on *Merrill Lynch*, 4 USPQ2d 1141, is misplaced. Applicant correctly notes that in *Merrill Lynch*, “the [Court] found that evidence relied upon to show CASH MANAGEMENT ACCOUNT was generic for brokerage services did not satisfy the USPTO’s burden to prove genericness by clear evidence because the evidence reflected a ‘mixture of usages,’ with some publications showing third-party recognition of the applicant [Merrill Lynch] as the source of the services and some showing generic use.”<sup>32</sup> *See id.* at 1143. However, Applicant confuses *Merrill Lynch*’s “mixture of usages”—which referred to a mixture of consumer recognition of the term as used by the applicant and as a generic reference—with the use of a hyphen or addition of a space, which is not the type of mixed usage referred to in *Merrill Lynch*.

Applicant’s reliance on *In re Tennis Indus. Assn.*, 102 USPQ2d 1671 (TTAB 2012), is also not apt. The Board in that case noted that because the designation TENNIS INDUSTRY ASSOCIATION was a phrase, the Board could not “simply cite definitions and generic uses of the constituent terms of a mark,” but instead needed

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<sup>32</sup> *Id.* at 6.

to “conduct an inquiry into the meaning of the disputed phrase as a whole.” *Id.* at 1674 (quoting *Am. Fertility Soc’y*, 51 USPQ2d at 1836 (Fed. Cir. 1999) (internal quotation and citation omitted). Here, the term ECOMANSION is not a phrase, but rather a compound term, and there is ample evidence of generic use of the entire term. Accordingly, *Tennis Indus. Assn.* is not apt. Moreover, the Board in *Tennis Indus. Assn.* found that “a mere three unambiguous examples of generic usage of TENNIS INDUSTRY ASSOCIATION” insufficient to support the genericness refusal,” which is not the case here. *Id.* at 1681.

Also unpersuasive is Applicant’s contention that the purported “speculative, and in some cases foreign use of ‘eco-mansion’ in a small handful of obscure internet articles -- with no readership evidence -- is not probative of U.S. consumers’ understanding of the term ECOMANSION” and thus “should not be considered or assigned very little probative weight.”<sup>33</sup> We do not consider the evidence “speculative.” Most of the Examining Attorney’s Internet references refer to existing properties, those in the process of being constructed, or discussions about the importance, impact, or relevance of those properties targeting wealthy, eco-conscious buyers.

We also do not find the Internet evidence, overall, to be obscure or derived from foreign sources. The evidence comes from a variety of publications and sources, some of which are well-known (i.e., New York Times, Chicago Daily Herald, Reuters, CNET, and Popular Mechanics), others perhaps lesser known, which, taken as a

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<sup>33</sup> *Id.* at 9 (emphasis omitted).

whole, consistently shows ECOMANSION, ECO-MANSION, or ECO MANSION being used to describe ecologically-friendly mansions. The Examining Attorney points out that “while the publication Mail Online is a publication based in the United Kingdom, the publication features a section on the US and may be accessed by consumers in the US.”<sup>34</sup> We note that the article discusses Hollywood celebrities and their homes in California, and refers to sums in dollars,<sup>35</sup> thus making it relevant and of interest to the U.S. general public. As she further observes, “that the evidence may reference dwellings outside of the United States does not preclude a finding that US consumers are familiar with the term,” particularly in light of other “evidence of such homes being built in the United States.”<sup>36</sup>

Applicant’s contention that “[t]here is no readership evidence or any suggestion that any person in the U.S. has viewed these websites ... to describe construction services of the type Applicant provides”<sup>37</sup> is unavailing. Because some of the websites provided by the Examining Attorney are indeed well-known (i.e., New York Times, Reuters, Popular Mechanics) and the generic usage of ECOMANSION therein is consistent with the usage shown in the lesser-known sources, the lesser-known

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<sup>34</sup> 8 TTABVUE 8-9 (Examining Attorney’s Brief) (internal citation omitted). “Various factors may inform the probative value of a foreign website in any given case, such as whether the website is in English (or has an optional English language version), and whether the nature of the goods or services makes it more or less likely that U.S. consumers will encounter foreign websites in the field of question.” *In re Well Living Lab Inc.*, 122 USPQ2d 1777, 1781 n.10 (TTAB 2017). *See also In re King Koil*, 79 USPQ2d 1048, 1050 (TTAB 2006) (assigning some probative value to information of foreign origin).

<sup>35</sup> June 8, 2020 Reconsideration Letter, TSDR 19-20.

<sup>36</sup> 8 TTABVUE 12 (Examining Attorney’s Brief).

<sup>37</sup> 6 TTABVUE 9 (Applicant’s Brief).

sources are also probative. In assessing the evidence, we bear in mind the practicalities of the somewhat limited resources available to USPTO examining attorneys. *See, e.g., In re Pacer Tech.*, 338 F.3d 1348, 67 USPQ2d 1629, 1632 (Fed. Cir. 2003). Notably, Applicant has not presented any evidence showing limited readership of the websites relied upon by the Examining Attorney.

Also unavailing is Applicant's argument that the evidence shows use of the ECOMANSION (without or without a hyphen or space) for finished dwellings, not house building or construction services, since the evidence shows the construction of "ecomansions" as a key aspect of those services. The Federal Circuit has considered the generic name of a "key aspect" of a service as generic also for the service itself. In *Cordua Rests.*, 118 USPQ2d at 1637-8 (citations omitted), the Court recounted:

In *1800Mattress.com*, we affirmed the Board's determination that MATTRESS.COM is generic for "online retail store services in the field of mattresses, beds, and bedding" because the term "mattress" identified a key aspect of such services. In *Hotels.com*, we affirmed the Board's determination that HOTELS.COM is generic for "providing information for others about temporary lodging" and "travel agency services" because the term "hotels" "names a key aspect" of such services. And in *Reed Elsevier*, we affirmed the Board's determination that LAWYERS.COM is generic for "information exchange concerning the law, legal news, and legal services," because "an integral, if not the paramount, aspect of information exchange about legal services as Reed defines it concerns identifying and helping people to select lawyers."

Contrary to Applicant's contention, most of the third-party Internet references relied on by the Examining Attorney discuss not only the environmentally friendly homes themselves, but also the building and construction of them. For example, one of the articles referring to Tom Brady's eco-mansion explains that it took five years to build, and everyone involved in the design and construction was asked, "[H]ow can

we make it as sustainable as possible?”<sup>38</sup> the 27east.com article details the pros and cons of building Eco-mansions;<sup>39</sup> and the Design Build article discusses the “massive gamble” taken by a real estate developer to transform his approach from developing mega-mansions to eco-mansions, and the details that go into their construction.<sup>40</sup> Moreover, as the Examining Attorney observes, Applicant’s assertion that “the evidence consists of speculative architectural plans for homes which do not exist”<sup>41</sup> appears to be a recognition that the evidence does indeed discuss the building of homes.<sup>42</sup>

That the Examining Attorney provided evidence showing that the terms “eco-home” and “eco-house” are also often used by third parties to refer to a genus of Applicant’s services does not detract from genericness of the term “ecomansion.” The Examining Attorney need not establish that ECOMANSION is the sole or most frequently used generic term for Applicant’s services; she need only show that such term is a generic term. It is settled in this regard that “a product [or service] may have more than one generically descriptive name. ... All of the generic names for a product [or service] belong in the public domain.” *In re Sun Oil Co.*, 426 F.2d 401, 165 USPQ 718, 719 (CCPA 1970) (Rich, J., concurring). *See also In re Eddie Z's Blinds & Drapery Inc.*, 74 USPQ2d 1037, 1042 (TTAB 2005) (“that there may be other generic

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<sup>38</sup> February 13, 2018 Office Action, TSDR 25.

<sup>39</sup> September 11, 2018 Office Action, TSDR 5-7.

<sup>40</sup> March 26, 2019 Office Action, 5-10.

<sup>41</sup> 6 TTABVUE 3 (Applicant’s Brief) (emphasis omitted).

<sup>42</sup> 8 TTABVUE 11 (Examining Attorney’s Brief).

terms that are functionally equivalent to [the term at issue] ... does not make that term any less generic”); *Cont'l Airlines Inc. v. United Air Lines Inc.*, 53 USPQ2d 1385, 1394 (TTAB 1999) (“[I]t is important to note that there is usually no one, single and exclusive generic name for a product or service. Any product or service may have many generic designations”).

#### **IV. Conclusion**

After carefully considering the arguments and evidence of record, we find that the relevant public would understand that the term ECOMANSION primarily refers to a key aspect of “house building and repair; housing services, namely, development of real property, namely, repair, improvement, and new construction.” Accordingly, the term is generic and should be freely available for use by competitors.” *In re Cent. Sprinkler Co.*, 49 USPQ2d 1194, 1199 (TTAB 1998). *See generally Cordua*, 118 USPQ2d at 1635; *Marvin Ginn*, 228 USPQ at 530; *In re 1800Mattress.com*, 92 USPQ2d 1682, 1685 (Fed. Cir. 2009).

**Decision:** The refusal to register ECOMANSION on the Supplemental Register is affirmed.