

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

Mailed: June 29, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Institute on Aging
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Application Serial No. 90238722
Application Serial No. 90238736
Application Serial No. 90238740
Application Serial No. 90238742
Application Serial No. 90238749
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Catherine E. Maxson of Davis Wright Tremaine LLP,
for Institute on Aging.

Jacob Vigil, Trademark Examining Attorney, Law Office 103,
Stacy Wahlberg, Managing Attorney.

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Before Bergsman, Lykos, and Johnson,
Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Institute on Aging (“Applicant”) seeks registration of five separate applications on the Principal Register of the mark INSTITUTE ON AGING and design, reproduced below, all filed on October 6, 2020, for the services listed below under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), claiming September 2013, as Applicant’s date of first use of the mark anywhere and in commerce:

Referrals in the field of suicide intervention, elder abuse counseling, grief support, emotional assistance and reassurance; referrals in the field of providers of goods and services to enable the elderly to live independently, in International Class 35 (Serial No. 90238722);

Bill payment and financial management assistance for elderly and disabled adults, in International Class 36 (Serial No. 90238736);

Day care centers for the elderly, in International Class 43 (Serial No. 90238740);

Home health care services; health care services, in International Class 44 (Serial No. 90238742); and

Emotional counseling and emotional support services for the elderly and disabled in the fields of suicide intervention, elder abuse counseling, grief support, and emotional assistance and reassurance; providing emotional support services for the elderly by engaging in outreach activities in the nature of regularly calling and conversing with lonely older adults; in-home support services to senior persons, namely, geriatric care management services in the nature of the coordination of necessary services and personal care for older individuals; social services for the elderly and disabled, namely, companionship, and personal care assistance of activities of daily living, such as bathing, grooming, and personal mobility, in International Class 45 (Serial No. 90238749).



In its applications, Applicant describes the mark as follows:

The mark consists of four squares stacked with one inside the other; the innermost being white then alternating black, white, black, with the outermost black square having a break on the bottom edge to the right side as a continuation of the interior white square. To the right of

the squares are the word “INSTITUTE” above the words “ON AGING” in stylized font.

The Examining Attorney refused to register Applicant’s marks on the ground that Applicant refused to comply with the final requirement to disclaim the exclusive right to use the term “Institute on Aging.” Section 6(a) of the Trademark Act, 15 U.S.C. §1056(a). According to the Examining Attorney, the term “Institute on Aging” is generic, Sections 1, 2, 3 and 45 of the Trademark Act, 15 U.S.C. §§ 1051-53 and 1127, or, in the alternative, because the term “Institute on Aging” is merely descriptive under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), and the proffered evidence is not sufficient to show acquired distinctiveness under Section 2(f) of the Trademark Act, 15 U.S.C. §1052(f).

On appeal, by decision issued June 28, 2023, the Board found that “Institute on Aging” is generic and, in the alternative, merely descriptive and without acquired distinctiveness and affirmed the requirement to disclaim the exclusive right to use the term “Institute on Aging.” Section 6(a) of the Trademark Act of 1946, 15 U.S.C. § 1056(a), and Trademark Rule 2.142(g) (“An application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under Section 6 of the Act of 1946”). Accordingly, the Board affirmed the refusal to register Applicant’s mark subject to allowing Applicant time to file a disclaimer.

On June 28, 2023, Applicant timely filed a disclaimer of the exclusive right to use the term “Institute on Aging” apart for the mark as shown for the services set forth in the applications.

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In view of the foregoing, the Board's June 18, 2023 decision refusing registration is set aside. The applications for registration will be forwarded for publication for possible opposition with a disclaimer to the exclusive right to use the term "Institute on Aging."