

7/3/02

**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Bobbie J. Cox

Serial Nos. 75/960,141 and 75/960,145

Daniel V. Thompson for Bobbie J. Cox.

Janice L. McMorrow, Trademark Examining Attorney, Law
Office 104 (Sidney Moskowitz, Managing Attorney).

Before Cissel, Hanak and Chapman, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

Bobbie J. Cox (applicant) seeks to register in typed
drawing form POSTAL VAULT (Serial No. 75/960,141) and
DELIVERY VAULT (Serial No. 75/960,145) for "sheet metal
boxes." Both intent-to-use applications were filed on
March 14, 2000. Applicant has disclaimed exclusive rights
to the terms POSTAL and DELIVERY. Because the records and
briefs in each case are similar, they will be decided in
this one decision.

Citing Section 2(e)(1) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's marks are merely descriptive of sheet Serial Nos. 75/960,141 and 75/960,145

metal boxes. At page 2 of her briefs, the Examining Attorney states as follows: "The sole issue on appeal is: Whether the proposed mark [POSTAL VAULT or DELIVERY VAULT] merely describes the applicant's goods, i.e., 'sheet metal boxes.'" When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request an oral hearing.

As has been stated repeatedly, "a term is merely descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods." In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978) (emphasis added). Moreover, the immediate idea must be conveyed forthwith with a "degree of particularity." In re TMS Corp. of the Americas, 200 USPQ 57, 59 (TTAB 1978); In re Entenmann's Inc., 15 USPQ 57, 751 (TTAB 1990), aff'd 90-1495 (Fed. Cir. February 13, 1991).

At page 3 of her briefs, the Examining Attorney states that "the term VAULT is clearly generic. The term is

defined, in part, as 'a room or compartment, often built of steel, for the safekeeping of valuables.' The American Heritage Dictionary of the English Language, Third Edition Serial Nos. 75/960,141 and 75/960,145

(1992)." (emphasis added). In the application seeking registration of DELIVERY VAULT, the Examining Attorney made of record no evidence. However, in the application seeking registration of POSTAL VAULT, the Examining Attorney made of record seven news articles. One such article is from the July 10, 1998 edition of The Washington Post and it reads, in part, as follows: "Billions of non-denominated rate-change stamps, which will carry the letter H and a big Uncle Sam hat, have been waiting in postal vaults for several years." In an article from the June 3, 1994 edition of The Washington Post there appears the following sentence: "The 250 million recalled stamps - the ones with the wrong portrait of Wild West star Bill Pickett - are locked in postal vaults in Kansas City, Missouri."

It is applicant's position that its goods (sheet metal boxes) are simply not vaults. Applicant argues that when used in connection with sheet metal boxes, the word "vault" merely suggests a higher level of security.

We agree with applicant's position. The Examining Attorney's own dictionary definition and newspaper stories clearly indicate that vaults are very large compartments the size of a room. In this regard, the Board has Serial Nos. 75/960,141 and 75/960,145

consulted yet another dictionary which defines the word "vault" as "a room for the safekeeping of valuables and commonly built of steel." Webster's Third New International Dictionary Unabridged (1993). The very first story relied upon by the Examining Attorney talks about billions of stamps being stored in postal vaults. Obviously, one would not store billions of stamps in a box.

In addition, applicant has properly made of record copies of third-party registrations of marks on the Principal Register which contain the word VAULT (not disclaimed) and which were not obtained pursuant to the provisions of Section 2(f). For example, Registration No. 1,647,192 is for the mark TOOL VAULT in typed drawing form for "metallic goods; namely, portable tool boxes." While this registration has a disclaimer of the word "tool," there is no disclaimer of the word "vault." Registration No. 1,608,263 is for the mark TRAVEL VAULT in typed drawing form for a "general purpose carrying case." Once again,

there is no disclaimer of the word "vault" and this registration was not obtained pursuant to the provisions of Section 2(f).

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We are fully aware that Examining Attorneys and especially this Board are not bound by the actions of other Examining Attorneys. However, third-party registrations are competent evidence to supplement dictionaries to show the meanings of words. Sams, "Third Party Registrations in T.T.A.B. Proceedings," 72 Trademark Reporter 297 (1982). In any event, we would have reached the result that we did regardless of the presence of these third-party registrations in the record.

Decision: Both refusals to register are reversed.