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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Plazer IP, LLC

Serial No. 98092061

Joseph S. Heino of Amundsen Davis, LLC,
for Plazer IP, LLC.

Chioma Oputa, Trademark Examining Attorney, Law Office 103,
Stacy Wahlberg, Managing Attorney.

Before Allard, Lavache, and O'Connor,
Administrative Trademark Judges.

Opinion by Lavache, Administrative Trademark Judge:

Applicant Plazer IP, LLC seeks registration on the Principal Register of the standard character mark PLAZER for, as amended:

> Sustainable plasma products produced by non-thermal plasma reaction and having superior properties following the plasma reaction, those superior properties being one or more of a longer useful lifetime, an improved germicidal reactivity, an improved chemical reactivity, an improved thermal stability, an improved mechanical strength, an improved efficacy, an improved potency, an improved corrosion resistance, an improved density, an

improved hardness, an improved durability, or an improved flexibility, in International Class 3.[1]

The Trademark Examining Attorney refused registration of Applicant's mark under Trademark Act Section 1(b)(2), 15 U.S.C. § 1051(b)(2), and Trademark Rule 2.32(a)(6), 37 C.F.R. § 2.32(a)(6), on the ground that the application's identification of goods is indefinite because it does not clearly specify the nature of Applicant's goods. In response to the Examining Attorney's initial requirement for an acceptable identification, Applicant submitted a proposed amendment. Finding the amended identification was also indefinite, the Examining Attorney issued a final requirement. Applicant then appealed and filed a request for reconsideration containing a new proposed amendment to the identification. Again, the Examining Attorney found this new proposed identification unacceptable, and denied the request for reconsideration. The appeal then resumed and was fully briefed. For the reasons explained below, we **affirm** the refusal.

[1] Application Serial No. 98092061, filed July 19, 2023, based on an allegation of a bona fide intention to use the mark in commerce under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b). The application originally also identified services in International Class 40, but those services were deleted during prosecution. *See* April 24, 2025 Request for Reconsideration at TSDR 1.

The Trademark Status and Document Retrieval (TSDR) and TTABVUE citations in this opinion refer respectively to the electronic application file and to entries in the Board's electronic docket. For TTABVUE citations, the number preceding the TTABVUE designation is the docket entry number and any numbers following indicate the relevant page numbers within the docket entry.

I. Requirement for an Acceptable Identification of Goods

A. Relevant Law

An application filed under Trademark Act Section 1(b) must "include specification of . . . the goods in connection with which the applicant has a bona fide intention to use the mark." 15 U.S.C. § 1051(b)(2).[2] Accordingly, Trademark Rule 2.32(a)(6) requires an application to include "[a] list of the particular goods or services on or in connection with which the applicant uses or intends to use the mark." 37 C.F.R. § 2.32(a)(6). "To specify the particular goods means to identify them in an explicit manner." *In re Carlton Cellars, LLC*, No. 87438739, 2020 TTAB LEXIS 14, at *9; *see also* TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMEP) § 1402.01 (Nov. 2025). Thus, the identification of goods must be "specific, definite, clear, accurate, and concise." *Carlton Cellars*, 2020 TTAB LEXIS 14, at *9.

TMEP § 1402.01 further instructs that:

> The language used to describe goods and/or services should be understandable to the average person and should not require an in-depth knowledge of the relevant field. An identification may include terms of art in a particular field or industry that are definite and limited to a single class, but, if these terms are not widely understood by the general population, the identification should include an explanation of the specialized terminology.

The requirement for clarity and specificity is intended "to provide the public with notice as to the scope of goods . . . for which applicant is seeking registration and to enable the USPTO to reach informed judgments concerning likelihood of confusion."

[2] The same requirement applies to applications filed under Trademark Act Section 1(a). *See* 15 U.S.C. § 1051(a)(2) ("The application shall include specification of . . . the goods in connection with which the mark is used . . . .").

In re Fiat Grp. Mktg. & Corp. Commc'ns S.p.A., No. 79099154, 2014 TTAB LEXIS 29, at *6; *see also In re SICPA Holding SA*, No. 88488405, 2021 TTAB LEXIS 202, at *4. Thus, an identification may be found indefinite "either because the nature of the goods . . . is not clear or because the wording is so broad that it may include goods . . . in more than one class." *Carlton Cellars*, 2020 TTAB LEXIS 14, at *10-11 (emphasis deleted) (quoting TMEP § 1402.01 (Oct. 2018));[3] *see also In re Omega SA*, 494 F.3d 1362, 1365 (Fed. Cir. 2007) (finding the "scope of the term 'chronographs' is ambiguous for registration purposes, for it includes both watches and time recording devices").

"It is within the discretion of the [USPTO] to require that one's goods be identified with particularity." *Omega*, 494 F.3d at 1365. An applicant's failure to comply with a legitimate requirement to provide an acceptable identification of goods is a sufficient basis to refuse registration. *See, e.g.*, *Carlton Cellars*, 2020 TTAB LEXIS 14, at *13-14; *Fiat Grp.* 2014 TTAB LEXIS 29, at *2-3, *21 (affirming examining attorney's refusal based on applicant's failure to comply with a requirement for an acceptable identification of services).

B. Analysis

Applicant originally identified its goods as "Sustainable plasma products produced by non-thermal plasma reaction, namely, gases, liquids, solids, or combinations thereof," in International Class 3.[4]

[3] The current version of TMEP § 1402.01 now quotes *Carlton Cellars*.

[4] July 19, 2023 Application at TSDR 1.

Applicant then proposed to amend the identification to "Sustainable plasma products in the form of gases, liquids, solids or combinations thereof produced by non-thermal plasma reaction," in International Class 3.[5]

Applicant's last, and current, proposed amendment to the identification lists the goods as:

> Sustainable plasma products produced by non-thermal plasma reaction and having superior properties following the plasma reaction, those superior properties being one or more of a longer useful lifetime, an improved germicidal reactivity, an improved chemical reactivity, an improved thermal stability, an improved mechanical strength, an improved efficacy, an improved potency, an improved corrosion resistance, an improved density, an improved hardness, an improved durability, or an improved flexibility, in International Class 3.[6]

Thus, the first two versions of the identification, which consist of nearly identical words arranged in a different order, indicate that the "sustainable plasma products" are "produced by non-thermal plasma reaction" and consist of "gases, liquids, solids, or combinations thereof." The latest version of the identification drops the reference to the "form" of the "sustainable plasma products," but retains the manner of production ("non-thermal plasma reaction"), and adds a description of the various "properties" of the "sustainable plasma products."[7]

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[5] September 24, 2024 Response to Nonfinal Office Action at TSDR 1.

[6] April 24, 2025 Request for Reconsideration After Final Action at TSDR 1.

[7] Applicant's deletion of the wording "in the form of gases, liquids, solids or combinations thereof" from the identification may be an impermissible broadening of the scope of the identification. *See* Trademark Rule 2.71(a), 37 C.F.R. § 2.71(a) ("The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services . . . ."). However, the Examining Attorney's brief does not raise this issue and, given the general indefiniteness of all versions of the identification, we find it unnecessary to further address the issue in this opinion.

The Examining Attorney rejected all three versions of the identification, determining that they are indefinite because they fail to specify the nature of the goods and could identify goods in multiple classes.[8] We agree.

In explaining the indefiniteness of the identification, the Examining Attorney rightly focuses on the term "sustainable plasma products," noting that this terminology does not "explicitly name what applicant's [products] actually are."[9] As a general matter, the term "products" by itself encompasses so many different goods that it is essentially useless in providing public notice as to the nature of the goods, determining classification, or informing a likelihood-of-confusion analysis. *See* TMEP § 1402.03(a) ("[T]he terms 'including,' 'such as,' 'and similar goods,' 'and related goods,' '**products**,' 'concepts,' 'like services' and other indefinite terms and phrases are almost always unacceptable." (emphasis added)). For this reason, the USPTO will deny a filing date to any application that identifies the goods only as "products," on the ground that it does not "identify any recognizable goods." TMEP § 1402.02.

Applicant's identification sets forth a bit more than just the term "products," indicating that they are "sustainable plasma products." But this wording does not provide any additional clarity. It merely indicates the general field, and perhaps the overarching type, of the goods, but does not specify the nature of the goods to identify a particular recognizable item. And Applicant has not provided any evidence that

[8] *See* March 25, 2024 Nonfinal Office Action at TSDR 2; October 25, 2024 Final Office Action at TSDR 2; June 10, 2025 Denial of Request for Reconsideration at 1.

[9] Examining Attorney's Brief, 9 TTABVUE 4.

"sustainable plasma products" is widely understood by the general population to identify particular goods. *See* TMEP § 1402.01.

Similarly, the phrases "produced by non-thermal plasma reaction" and "gases, liquids, solids, or combinations thereof" generally indicate, respectively, how the "products" are created and what physical form the goods may take, but provide no further specification as to the nature of the goods. As to the description of the "properties" of the "sustainable plasma products" in the latest iteration of the identification, it serves only to identify the potential benefits of the products, leaving one to wonder what those products are and what they are used for.

Thus, Applicant's identification, in its various forms, could identify a variety of goods in different international classes. *See* TMEP § 1401.02(a) (indicating that goods may be classified according to, inter alia, their function or purpose). For example, the identification could identify "sustainable plasma products produced by non-thermal plasma reaction, namely, gases, liquids, solids, or combinations thereof, for use as catalysts for chemical and biochemical processes," in International Class 1. Or it could identify "sustainable plasma products produced by non-thermal plasma reaction, namely, gases, liquids, solids, or combinations thereof, for use in the augmentation of bone and tissue for medical purposes," in International Class 5.

We are therefore not persuaded by Applicant's argument that the wording in the identification "meets the test that the [identification] be 'specific, definite, clear, accurate, and concise,' . . . without going into much more specificity."[10] And we

[10] Applicant's Appeal Brief, 6 TTABVUE 14 (emphasis deleted).

disagree with Applicant's contention that the Examining Attorney has adopted "an extremist view" that would "result in an exhaustive list of specific solids, liquids, gases, and combinations thereof."[11] Again, indicating the physical form of the "products," without specifying what the goods consist of, or are used for, is simply insufficient to identify the nature of the goods.

For the same reasons, we are unmoved by Applicant's argument that it "has submitted the most understandable version of goods identifier which uses the 'common commercial name' for the goods."[12] A "common commercial name" can indeed form the basis of a sufficiently definite identification of goods. *See In re Locus Link USA*, Expungement No. 2022-100138E, 2024 TTAB LEXIS 225, at *13 ("The purpose of the identification of goods is to provide an understandable description of the goods, which an applicant accomplishes by using the common commercial name for the goods."). But Applicant has not convinced us that "sustainable plasma products," or any other wording in the identification, can be accurately characterized as a common commercial name, considering that it fails to adequately specify the nature of the goods for which Applicant seeks registration.[13]

[11] *Id.* at 14-15

[12] *Id.* at 12.

[13] Applicant asserts that, when identifying goods, there is a difference between the "type" of goods and the "nature" of the goods, and that, here, the identification "specifically identifies the nature and inherent characteristics of products being produced." *Id.* at 14. We agree that there is a difference between "type" and "nature," but disagree that any version of Applicant's identification adequately specifies the nature of Applicant's goods. And, for the reasons already stated above, we disagree with Applicant's argument that the various "properties" listed in the latest iteration of Applicant's identification is, in effect, a "litany of 'natures' of the product[s]." *See* Applicant's Reply Brief, 10 TTABVUE 6.

Next, Applicant argues that the USPTO's ACCEPTABLE IDENTIFICATION OF GOODS AND SERVICES MANUAL (ID Manual) provides no guidance as to the appropriate identification of goods and points to the manual's lack of an entry that specifically covers Applicant's goods.[14] But, as the TMEP's description of the ID Manual notes, "[n]o listing could include all possible identifications for the multitude of goods and services for which marks may be registered." TMEP § 1402.04. "Thus, a primary use of the ID Manual's listings, in addition to indicating precise identifications that will be accepted, is to indicate by analogy and example the kinds of identifications that will be acceptable for goods and services not covered by the existing listings." *Id.* Because Applicant is in the best position to know the nature of its own goods, it was Applicant's responsibility to review the ID Manual to determine if any of the manual's existing entries accurately identify its goods, and, if not, devise its own specific identification based on the instructions and examples provided in the ID Manual, as well as the guidance set forth in Chapter 1400 of the TMEP. We add that the Examining Attorney's Office actions included specific guidance as to the deficiencies of Applicant's identification, and suggestions for amending the identification, which should have aided Applicant in drafting an acceptable amended identification.[15]

Lastly, Applicant asserts that the Examining Attorney's rejection of its identification of goods contradicts the TMEP's guidance that "[d]eference should be

[14] Applicant's Appeal Brief, 6 TTABVUE 10-11.

[15] *See* March 25, 2024 Nonfinal Office Action at TSDR 2; October 25, 2024 Final Office Action at TSDR 2-3.

given to the language set forth by the applicant in the original application."[16] TMEP § 1402.01(a). We note first that, while the TMEP "sets forth the guidelines and procedures followed by the examining attorneys at the USPTO," it does not have the force of law. *See In re Int'l Flavors & Fragrances, Inc.*, 183 F.3d 1361, 1366 (Fed. Cir. 1999). In any event, the maxim that Applicant quotes from TMEP § 1402.01(a) must be considered in the context of the wording that precedes it, which indicates, inter alia, that "an identification of goods and services will be considered acceptable if it . . . [d]escribes the goods and/or services so that an English speaker could understand what the goods and/or services are," and "[m]eets the standards . . . set forth in the [ID Manual]." TMEP § 1402.01(a). Or, as the Examining Attorney puts it, "'deference' does not mean full acceptance of language that is obviously misaligned with the standards set forth in the [ID Manual]."[17]

II. Conclusion

Having reviewed the record and considered all arguments,[18] we find that Applicant has failed to comply with the requirement to provide an acceptable

[16] Applicant's Appeal Brief, 6 TTABVUE 11.

[17] Examining Attorney's Brief, 9 TTABVUE 4.

[18] Applicant mentions for the first time in its appeal brief other trademark applications it has filed in connection with its PLAZER mark, but did not submit copies of the applications during prosecution. *See* 6 TTABVUE 8. Because the record must be complete prior to appeal, we have not considered this evidence. 37 C.F.R. § 2.142(d); TBMP § 1207.01.

In addition, Applicant's reply brief references a patent application it filed with the World Intellectual Property Organization, with an abstract describing "improved plasma products," which Applicant had previously referred to during prosecution. *See* 10 TTABVUE 8; September 24, 2024 Response to Nonfinal Office Action at TSDR 2-3. The record does not contain a copy of this patent application, and the Examining Attorney did not address it during prosecution or advise Applicant that a copy of the patent application was required to

identification of goods and therefore registration must be refused. *See* 15 U.S.C. § 1051(b)(2); 37 C.F.R. § 2.32(a)(6); *Carlton Cellars*, 2020 TTAB LEXIS 14, at *13-14; *Fiat Grp.* 2014 TTAB LEXIS 29, at *2-3, *21.

At this point Applicant has no further opportunity to address the insufficiency of its identification of goods. Once an application has been considered and decided on appeal, it will not be reopened except for the entry of a disclaimer or upon order of the Director, situations not applicable here. Trademark Rule 2.142(g), 37 C.F.R. § 2.142(g); *Carlton Cellars*, 2020 TTAB LEXIS 14, at *4; TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 1218 (2025); TMEP § 1501.06.

Decision: We **affirm** the Examining Attorney's refusal to register Applicant's mark based on Applicant's failure to provide an acceptably definite identification of goods.

properly make it of record. Because Applicant was not so advised, and thus did not have an opportunity to correct the deficiency, we have considered Applicant's arguments pertaining to the patent application. *Cf.*, *In re City of Houston*, No. 77660948, 2012 TTAB LEXIS 1, at *5 (considering list of third-party registrations where examining attorney neither discussed the registrations nor informed applicant that a mere list was insufficient to make the registrations of record). Nonetheless, we find that the patent application does not support a finding that the identification of goods here is sufficiently definite. Whatever additional specificity that the patent application abstract might provide as to the nature of Applicant's goods, that specificity is not reflected in any version of the identification.