

Central District Finds SnapChat's Spectacles Mark is Not Generic for Smart Glasses

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by Connor J. Hansen



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- Connor J. Hansen

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In *Snap, Inc. v. Vidal*, the Central District of California found the Trademark Trial and Appeal Board (“TTAB”) was wrong in finding that SnapChat’s SPECTACLES mark is generic for smart glasses. The district court’s opinion highlights the advantages of seeking de novo review of TTAB decisions in a district court and delves into the complexities of determining whether a mark is generic.

In 2016, Snap Inc., the owner of SnapChat, began selling smart glasses under the name SPECTACLES. Snap’s SPECTACLES glasses contain cameras allowing the user to

capture images or videos and newer versions contain augmented reality displays powered by software to display images on the lenses of the smart glasses. Snap filed two applications to register the mark SPECTACLES in both plain text and stylized form for various hardware and software related goods including “wearable computer hardware” and “computer software for accessing and transmitting data and content among consumer electronic devices and displays.”

The United States Patent and Trademark Office (“USPTO”) refused registration of the SPECTACLES marks and that refusal was affirmed by TTAB. In its decision, the TTAB found that “spectacles” is a generic product name for “smart glasses” and therefore is not registrable. Undeterred, Snap sought review of the TTAB’s decision in the U.S. District Court for the Central District of California. On September 27, 2024, nearly eight years after Snap filed its applications, the Court issued an Opinion and Order, in which it found that “spectacles” is not generic and that Snap is entitled to registration of the marks on the Supplemental Register.

There are generally two steps to determining whether a mark is generic: (1) determining and defining the genus of goods sought to be registered; and (2) determining whether the relevant public primarily uses or understands the mark to refer to the genus. The TTAB and Central District came to different conclusions at each step.

The TTAB found that the relevant genus was “hardware and peripherals that are wearable as glasses.” This determination was tied to the language in Snap’s applications. At the TTAB, the record consisted primarily of dictionary definitions for terms like “spectacles” and “eyeglasses,” examples of Snap’s use of the Spectacles mark, and examples of third-party use of the term spectacles from publicly available articles and technical publications. When examining this evidence, the TTAB noted that several articles and publications referred to augmented reality glasses marketed by Apple, Google, and other third parties as spectacles. It also noted that the media often refers to glasses and sunglasses as spectacles. Accordingly, it found the term “spectacles” is generic for hardware and peripherals that are wearable as glasses.

The Central District’s analysis differed from the TTAB’s at both steps of the test. First, the parties stipulated that the relevant genus is “smart glasses.” The Court accepted this stipulation but clarified that it encompasses both the “*smart* computing elements and its *glasses* form factor.” Second, the Court analyzed several expert reports submitted by both parties that were not considered at the TTAB. Snap submitted opinions from a linguistics experts and a consumer survey expert, both of which opined that based on their expertise and research, spectacles is not generic for smart glasses.

Ultimately, the Court found that the dictionary definition, media, and publications considered by the TTAB only showed that “spectacles” is descriptive of the glasses aspect of “smart glasses.” This is because nearly all of the references use another descriptor for the “smart” portion of the genus—such as “AR spectacles” or “smart spectacles”—rather than relying on “spectacles” alone to convey the products are smart glasses. The Court also relied on Snap’s linguistic expert who opined that English-language speakers understand “spectacles” to mean “eyewear,” which the Court found

credible in part, because it is “unsurprisingly unremarkable.”

This case highlights the importance of choosing the proper avenue for review of a TTAB decision. Parties have two options when dissatisfied by a TTAB decision: (1) an appeal to the Court of Appeals for the Federal Circuit; or (2) de novo review in a U.S. District Court. In an appeal to the Federal Circuit, the record is closed and the parties may not introduce any new evidence. At the district court, parties may supplement the record with additional evidence and the Court reviews the case anew in view of the new evidence.

In this case, Snap correctly chose de novo review in the District Court. The opportunity to present new evidence allowed Snap to present its expert reports and stipulate that “smart glasses” is the proper genus. Snap may not have fared so well in an appeal to the Federal Circuit.