

Supreme Court Upholds Registrability of BOOKING.COM Trademark and Rejects Per Se Rule for Generic.Com Trademarks

June 30, 2020 – The TMCA

by Cathy Dahl



The Supreme Court handed down its decision today, affirming that BOOKING.COM is a protectable and registrable trademark for “hotel reservation services,” and rejecting the premise that a generic.com term is ineligible for trademark protection. The Court held that the USPTO’s attempted advancement of a *per se* rule that a “generic.com” results only in a generic combination “is not borne out by the PTO’s own past practice and lacks support in trademark law or policy.” Such a rule would be “an unyielding legal rule that entirely disregards

consumer perception [and] is incompatible with a bedrock principle of the Lanham Act: The generic (or nongeneric) character of a particular term depends on its meaning to consumers, *i.e.*, do consumers in fact perceive the term as the name of a class or, instead, as a term capable of distinguishing among members of the class.” In short, the Court found that “[b]ecause ‘Booking.com’ is not a generic name to consumers, it is not generic.”

We at the TMCA.com have blogged about this case for many years as it weaved its way from the Trademark Office up to the Trademark Trial and Appeal Board, to the Eastern District of Virginia, through the Fourth Circuit and finally to the Supreme Court. And with the Court’s decision today, the story will come to an end with a registration certificate.

Related People

- Cathy Dahl

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation