

## **MARK IS AT LEAST SUGGESTIVE, NOT MERELY DESCRIPTIVE**

The Board previously ruled that a mark is merely descriptive if it “forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods.” *Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 189 USPQ 759, 765 (2nd Cir. 1976). See also *In re Abcor Development Corp.*, 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, in order to be merely descriptive, the mark must convey such information with a “degree of particularity.” *Plus Products v. Medical Modalities Associates, Inc.*, 211 USPQ 1199, 1204-05 (TTAB 1981). Furthermore, a mark must be examined always in consideration to the perspective of the consumers or the general public.

Applicant’s “ROSE” mark is too vague and indefinite to immediately describe a significant feature or characteristic of the identified classes 3, 14 and 25 goods and services with the required degree of particularity. Rather, when an average consumer encounters the Applicant’s ROSE mark in connection with said goods, they are left to wonder what, if anything, might be/have “ROSE” about Applicant’s goods. The general public will most likely wonder in this manner because calcium, as a mineral, is commonly known by the general public to be used as dietary supplement or commonly perceived as associated in the field of health and nutrition. Therefore, applicant’s brand will leave the consumers to employ a multi-stage reasoning process, rather than finding an instantaneous understanding from the mark of an attribute of the product, making the mark at least suggestive with respect to the aforesaid goods and services, rather than merely descriptive.

Applicant has amended the goods and services in order to avoid the descriptive/deceptive refusal.

Applicant believes and intends to use the term “ROSE” as an arbitrary mark; hence, Applicant has amended and further specified its identifications showing that rose is not a subject matter of Applicant’s goods and services. Consequently, since the mark is at least suggestive, if not arbitrary, Applicant believes that submission of additional information about Applicant’s goods and services is no longer needed.

Accordingly, Applicant respectfully requests that the Examining Attorney withdraw the descriptive refusal.