

Applicant asserts that the mark “ZERO LIP” is not merely descriptive but suggestive. A mark is suggestive if it requires imagination, thought or perception to reach a conclusion as to the nature of the services in connection with which it is used. West & Co. v. Arica Inst., Inc. 557 F.2d 338, 195 USPQ 466 (2d Cir. 1977). Applicant argues that there is no immediate and direct thought process from the mark to the particular service which Applicant provides. AMF, Inc. v. Sleekcraft Boats, 599 F.2d 341, 204 USPQ 808 (9th Cir. 1979). A mental pause is needed to determine what goods Applicant is providing as the mark does not immediately tell customers what the goods are or how they function. In re Shutts, 217 USPQ 3636, 363-65 (TTAB 1983). The mark does not convey an immediate idea of the ingredients, qualities or characteristics of the services set forth in the application and therefore, is not merely descriptive. Electropix, Inc. v. Liberty Livewire Corp., 60 USPQ 2d (BNA) 1346, 2001 WL 1286982 (C.D. Cal 2001).

Further, the ZERO LIP mark is not merely descriptive as it functions as an indication of origin. It tells potential consumers that all goods bearing the mark come from the same producer, which is Wheel Pros, LLC parent company of the Rotiform brand of wheels which is the brand most closely associated to the ZERO LIP trademark. There are no other U.S. Applications or Registrations containing the terms ZERO LIP. The ZERO LIP mark will be viewed by the public as an indication of origin and is not merely a self-serving description of the goods. Carter-Wallace, Inc. v. Procter & Gamble Co., 434 F.2d 794, 167 U.S.P.Q. 713 (9th Cir. 1970). The total lack of third party applications / registrations also show that consumers have been taught to view the ZERO LIP related mark as an indication of origin rather than as a description.