

VETEMENTS ou Non? The Foreign Equivalents Doctrine

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A recent [petition for a writ of certiorari](#) filed with the United States Supreme Court brings into question the application of the doctrine of foreign equivalents. Under the doctrine of foreign equivalents, a trademark consisting of a foreign word with a merely descriptive

English translation can be denied registration on the basis of descriptiveness. Similarly, a foreign word can be viewed as confusingly similar to its English equivalent. The Trademark Manual of Examining Procedure (TMEP) clarifies that the doctrine is a guideline more than an absolute rule and the guideline applies “when the ‘ordinary American purchaser’ would ‘stop and translate’ the foreign wording in a mark into its English equivalent.” TMEP §§ 1209.03(g), 1207.01(b)(vi)(A). The foreign word must have a literal and direct translation into the English equivalency and must also be from a common and modern foreign language. The Trademark Trial and Appeal Board (TTAB) as well as federal courts have held that Spanish, French, and Russian are all common and modern languages for this purpose. See, *Ricardo Media Inc. v. Inventive Software, LLC*, 2019 USPQ2d 311355, (TTAB 2019); *In re Joint Stock Co. “Baik,”* 80 USPQ2d 1305, 1310 (TTAB 2006); *In re Thomas*, 79 USPQ2d 1021, 1024-25 (TTAB 2006).

However, simply because the foreign word comes from a common, modern foreign language in the United States does not mean the doctrine automatically applies, as the ordinary American consumer must still be likely to stop and translate the word. For example, French is spoken by approximately one million people in the US, but the Federal Circuit found that the marks VEUVÉ ROYAL, the French equivalent of “Royal Widow,” and THE WIDOW are not likely to cause confusion as American consumers are unlikely to stop and translate the phrase. *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1377, 73 USPQ2d 1689, 1696 (Fed. Cir. 2005).

The VETEMENTS Applications

In June of 2020, Vetements Group AG filed two applications for the word mark and a stylized version of VETEMENTS covering various goods. The following goods were refused by the examining attorney for being merely descriptive, and later for being generic: “*Shirts, skirts, sweaters, coats, jackets, suits, caps being headwear, headwear, hats, hoods, visors being headwear, scarves, gloves, shoes, boots, waist belts, T-shirts, pants, blouses, dresses*” in Class 25 and “*Online retail store services for shirts; skirts; sweaters; coats; jackets; suits; caps; headwear; hats; hoods; visors; scarves; gloves; shoes; boots; waist belts; T-shirts; pants blouses; dresses*” in Class 35. “Clothing” is the direct and literal translation of the French word “vetements.” Vetements argued in its office action responses and appeal briefs that its marks were unlikely to be translated by the average American consumer, and that its marks garner much “media buzz” and press due to their recognition in the fashion world. The TTAB affirmed the refusal on the basis that the marks are generic and stated, “The question is not the manner of Applicant’s use, but rather whether consumers will recognize the proposed marks as denoting the generic term ‘clothing.’” Vetements appealed the decision to the Federal Circuit, which also affirmed the refusal. Vetements subsequently filed its petition for a writ of certiorari with the Supreme Court on August 19, 2025.



In re Vetements Group AG, Ser. Nos 88944198 and 88946135

Vetements' Petition

Vetements primarily relies on two Supreme Court decisions to support its petition: the 2020 *Booking.com* decision (*United States Pat. & Trademark Off. v. Booking.com B. V.*, 591 U.S. 560 (2020)), in which the Court found that the mark BOOKING.COM was not generic for hotel booking services, and the 1888 *Menendez* decision (*Menendez v. Holt*, 128 U.S. 514, 520 (1888)), in which the Court found LA FAVORITA, meaning “the favorite” in Spanish, was not descriptive of flour because it was a “fancy name, and in a foreign language.” In *Booking.com*, the Court stated, “Whether a term is generic depends on its meaning to consumers. That bedrock principle of the Lanham Act is incompatible with an unyielding legal rule that entirely disregards consumer perception.”

Relying on this consumer perception test from *Booking.com*, Vetements argues that “the court below failed to give consideration of how the consuming public would understand Petitioner’s marks at face value...” *Petition for Writ of Certiorari, Vetements Group AG v. Stewart*, No. 25-, (U.S. Aug. 19, 2025). Vetements also highlights the differences in the application of the doctrine of foreign equivalents by lower courts, as discussed below.

Fourth Circuit

The Fourth Circuit applies the consumer perception test as set out in *Menedez*. *Vetements* also cites to a Fourth Circuit decision where the Italian term UNO (meaning “one” or “a”), in PIZZERIA UNO was not descriptive of the owner’s pizza restaurant services. *Pizzaria Uno Corp. v. Temple*, 747 F.2d 1522 (4th Cir.1984). The court therefore reversed the lower court’s decision that there was no likelihood of confusion between the marks PIZZERIA UNO and TACO UNO where PIZZERIA and TACO were both disclaimed.

Second and Fifth Circuits

The Second Circuit automatically translates a foreign term into the English equivalent without taking into regard the consumer perception of the term. When analyzing the mark BELLA DI CERIGNOLA for olives, the court found the mark to be generic for olives from the region of Cerignola and therefore denied registration of the mark. The Second Circuit stated that nothing “suggests that evidence under the ‘foreign equivalents doctrine,’ as it is known, must be consumer-based. Rather, the relevant inquiry is, more generally, the meaning of the term or phrase in its country of origin.” *Orto Conserviera Cameranesa Di Giacchetti Marino & C., S.N.C. v. Biconserve S.R.L.*, 205 F.3d 1324, 2000 WL 232108 (2d Cir. 2000).

The Fifth Circuit similarly views the doctrine of foreign equivalents to require the automatic translation of foreign terms into English ones to “test them for genericness or descriptiveness.” *Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210 F.3d 439, 443 (5th Cir. 2000)(finding that the Spanish term CHUPA is generic for lollipops).

Federal Circuit and TTAB

The Federal Circuit issued the *Palm Bay* decision which ruled that the ordinary American consumer would not stop and translate “VEUVE” into “widow.” However, in the *Vetements* opinion, the Federal Circuit looked at the number of Americans who can speak French to assess whether it would be translated.

While the TTAB does use the test of the ordinary American consumer laid out in *Palm Bay*, it also has considered the ordinary American consumer to refer to the average consumer who is knowledgeable in the relevant language. *In Re Rise River Asset Co., Ltd.*, No. 97229735, 2024 WL4052749, at *9 (T.T.A.B. Aug. 14, 2024). This test was applied in *Vetements*’ Notice of Appeal, but the TTAB ultimately found that consumers familiar with French would stop and translate the word VETEMENTS when encountering *Vetements*’ goods.

Conclusion

Although there may be some variances in the application of the doctrine of foreign equivalents, it remains a relevant piece of USPTO examining procedure, and applicants should take the doctrine into account when filing trademark applications at the USPTO that contain non-English words.