

# UNITED STATES TTAB Finds PORNO JESUS Disparaging

In a precedential decision, the Trademark Trial and Appeal Board (TTAB) upheld a refusal under Section 2(a) of the Lanham Act on the grounds that PORNO JESUS for DVDs and video recordings “featuring music videos, adult themed content, glamour photography, and adult entertainment” may disparage Christian-Americans. *In re Matthew Beck*, Serial No. 85/767,380 (TTAB Mar. 19, 2015).

The issues on appeal were refusals on grounds that the mark (a) consists of or comprises immoral or scandalous matter, and (b) may disparage or bring into contempt or disrepute persons, institutions, beliefs or national symbols. The TTAB did not reach the scandalous refusal as it found the applied-for mark disparaging under the applicable two-part test: (1) what is the likely meaning of the matter in question, and (2) if the meaning refers to an identifiable person, institution, beliefs or national symbols, may the meaning be “disparaging to a substantial composite of the referenced group.”

As to the first prong of the test, the Board noted there was “no dispute” that Jesus refers to Jesus of Nazareth upon whom the Christian faith is based, and “porno” refers to pornography. In light of the evidence of record, the Board found that PORNO JESUS as a whole

meant “Jesus of Nazareth partaking of acts related to pornographic or sexually explicit materials.” When the mark was considered in connection with the DVDs and video recordings listed in the application, the meaning was the same.

Turning to the second prong of the test, the Board found that the evidence showed that several Christian denominations oppose pornography and consider it “to be harmful and not in conformance with the tenets of Christianity.”

The applicant argued that Jesus is identified with other religions such as Islam and Judaism, and there was no evidence showing that Jesus pointed uniquely to Christians. The Board ruled that this is not a requirement: “the mere fact that Jesus plays a role in religions other than Christianity does not diminish the potential for the mark PORNO JESUS to be disparaging ... [and] it suggests that *additional* religious groups may be disparaged to some degree by the mark.”

In addition, the fact that there were third-party registrations incorporating the term JESUS for marks with some characteristics similar to the applicant’s mark does not bind the Board. Even if there were “administrative error ... [,

that] does not mean that the agency must forego applying the standard in all other cases.” Those earlier registrations also did not cover pornographic materials.

The TTAB acknowledged there was evidence of record showing a sub-genre of Christian-themed pornographic movies, but noted this sub-genre suggests that in general pornographic material does not reflect Christian beliefs. Moreover, the applicant’s goods were not restricted to Christian-themed pornography, and the examining attorney was not required to show that the entirety or even the majority of Christian-Americans may be disparaged by the mark. The TTAB held that the examining attorney met the burden required: a substantial composite of Christian-Americans may be disparaged by the mark PORNO JESUS.

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