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'Dashboard' mark merely descriptive of automotive information services **Examination/opposition**
United States - McDermott Will & Emery UK LLP **National procedures**

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In *Dalton v Honda Motor Co Ltd* (Case 11-1077, June 13 2011), in a non-precedential disposition, the US Court of Appeals for the Federal Circuit has affirmed a [Trademark Trial and Appeal Board](#) (TTAB) decision sustaining an opposition against a party's attempted registration of the service mark DEALERDASHBOARD, on the basis that the mark was merely descriptive.

Michael Dalton applied to register the service mark DEALERDASHBOARD in Class 35 of the [Nice Classification](#) for information services provided to auto dealerships. Dalton operated the website 'DealerDashboard.com'. Dalton sent a cease and desist letter to [American Honda Motor Co](#) when he learned that the company was using the DEALERDASHBOARD mark on its internal network in offering similar information to authorised Honda dealers.

American Honda's parent company, Honda Motor Co Ltd, responded by filing a notice of opposition to Dalton's pending application to register DEALERDASHBOARD. Honda alleged that the mark was generic or, at best, merely descriptive, because 'dashboard' is a term of art to reference a "user interface for organising and displaying key information" on the internet. In response, Dalton argued that the mark had achieved secondary meaning and fame in the automotive industry. Dalton also asserted that Honda lacked standing to bring the opposition as a foreign corporation organised under Japanese law.

While the TTAB agreed that Honda had failed to prove that the mark was generic, it sustained the opposition on the basis that the mark was merely descriptive of "internet-based business information tracking and presentation". Further, the TTAB concluded that the Japanese parent corporation possessed standing to oppose Dalton's application on behalf of its wholly-owned subsidiary, American Honda. Dalton appealed.

The Federal Circuit affirmed. First, the court acknowledged that descriptiveness was properly found in light of the dictionary definitions of 'dashboard' on record, as well as evidence of third parties using 'dealer dashboard' to describe services similar to Dalton's applied-for services. The court agreed that Dalton failed to submit any evidence to support acquired secondary meaning. In addition, the court rejected Dalton's argument that several existing third-party registrations include the terms 'dealer' and 'dashboard', citing the "well-established" principle that third-party registrations are not conclusive evidence on the question of descriptiveness.

Finally, the court dismissed Dalton's challenge to Honda's standing to bring the opposition, stating that a parent company may file an opposition on behalf of a wholly-owned subsidiary because it can "reasonably believe that damage to the subsidiary will naturally lead to financial injury to itself".

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