

Hearing:  
February 25, 1999

Paper No. 20  
SIMMS/md

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Reliance Insurance Company

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Serial No. 74/659,694

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David E. Dougherty for Reliance Insurance Company

Howard B. Levine, Trademark Examining Attorney, Law Office  
105 (Tom Howell, Managing Attorney)

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Before Simms, Quinn and Chapman, Administrative Trademark  
Judges.

Opinion by Simms, Administrative Trademark Judge:

Reliance Insurance Company (applicant), a Pennsylvania corporation, has appealed from the final refusal of the Trademark Examining Attorney to register the mark VIRTUAL RELIANCE for insurance underwriting services, namely, property and casualty insurance.<sup>1</sup> The Examining Attorney has refused registration under Section 2(d) of the Act, 15

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<sup>1</sup> Application Serial No. 74/659,694, filed April 12, 1995, based upon applicant's allegation of a bona fide intention to use the mark in commerce.

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USC §1052(d), on the basis of Registration No. 2,011,409, issued October 29, 1996, for the mark THE VIRTUAL INSURANCE COMPANY, "INSURANCE COMPANY" disclaimed, for underwriting and administering of property casualty insurance.

Applicant and the Examining Attorney have submitted briefs, and an oral hearing was held.

We reverse.

It is the Examining Attorney's position that, although the respective marks must be considered in their entirety, one feature of a mark may be recognized as more significant in creating a commercial impression. In this regard, the Examining Attorney argues that term "VIRTUAL" is the most significant part of the registered mark THE VIRTUAL INSURANCE COMPANY and that, according to the trademark register, registrant's mark is the only registered mark in the insurance field that contains the term "VIRTUAL." Concerning applicant's mark, the Examining Attorney argues that consumers will see the term "RELIANCE" as a house mark but will use the term "VIRTUAL" to call for applicant's services.

Here...consumers will see the RELIANCE portion of the applicant's mark as a housemark and will use the term VIRTUAL to call for the services. The term VIRTUAL will serve as an independent source indicator for the services. Thus, taking into account the fact that

the registrant's mark is the *only* registered mark in the insurance field using the term VIRTUAL, it is likely that consumers familiar with the registrant's services offered under the THE VIRTUAL INSURANCE COMPANY mark, upon encountering the applicant's proposed VIRTUAL RELIANCE mark, will mistakenly believe that the services come from the same source.

Examining Attorney's brief, 4-5. The Examining Attorney also argues that, in this case, the first part of applicant's mark may be likely to be impressed on the minds of potential purchasers. The Examining Attorney also asks us to resolve any doubt on the question of likelihood of confusion in favor of the registrant and prior user. The Examining Attorney has made of record a dictionary definition of the word "virtual."

Applicant, on the other hand, maintains that the two marks being compared are different in sound, appearance and meaning. In this regard, applicant argues that its mark VIRTUAL RELIANCE creates a very different commercial impression from the registered mark THE VIRTUAL INSURANCE COMPANY. Applicant argues that the term "RELIANCE" in applicant's mark provides a "recognizable difference" between its mark and registrant's mark. Applicant also argues that the Examining Attorney has no basis for saying that the term "VIRTUAL" is the dominant part of applicant's

mark, applicant contending that the term "RELIANCE" is at least as dominant and may in fact be the more dominant part of its mark. It is applicant's position that it is not possible to generalize that the first word is always more dominant than the second.

Applicant also argues that the term "VIRTUAL" is a "widely used descriptive adjective" which is used in closely related fields, as evidenced by various third-party registrations which it has submitted. Applicant argues that this term has recently come into relatively common use. Applicant has also submitted copies of what it has termed its "family" of RELIANCE registered marks, such as RELIANCE INSURANCE COMPANY, RELIANCE SURETY COMPANY, RELIANCE REINSURANCE COMPANY, RELIANCECARE, etc. It is applicant's position that, in the insurance field, "RELIANCE" is a well-known mark and that applicant's proposed mark is clearly associated with applicant's other RELIANCE marks.

With respect to the services, it is applicant's position that they are relatively expensive services offered to relatively discriminating customers such as business managers and executives, and that buyers who are selecting property and casualty insurance will exercise the necessary care in their purchasing decision.

Upon careful consideration of this record and the arguments of the attorneys, we agree with applicant that confusion is unlikely. The marks THE VIRTUAL INSURANCE COMPANY and VIRTUAL RELIANCE have obvious differences in sound and appearance. With respect to meaning or commercial impression, the registered mark THE VIRTUAL INSURANCE COMPANY would appear to signify that the registrant may appear to be in effect an insurance company although it may not actually be one. Applicant's mark, on the other hand, would appear to suggest, if one were to attempt to place a meaning on it, that applicant's services may be counted on to be reliable. In any event, these marks have obvious differences. See *Champagne Louis Roederer, S.A. v. Delicato Vineyards*, 148 F.3d 1373, 47 USPQ2d 1459 (Fed. Cir. 1998) (no likelihood of confusion between CRISTAL and CRISTAL CHAMPAGNE on the one hand and CRYSTAL CREEK on the other). Moreover, we do not believe that there is any basis for concluding that purchasers will use the term "VIRTUAL" in calling for applicant's services, rather than VIRTUAL RELIANCE, as the Examining Attorney contends.

With respect to the services, although they are almost identically described, we agree with applicant that some care would be used in the selecting and purchasing of

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insurance underwriting services and into discerning the source of those services. In conclusion, we do not believe it likely that purchasers of applicant's VIRTUAL RELIANCE services will believe that those services are provided by or emanate from registrant because both marks contain the word "VIRTUAL." That is not to say that, given a different record in an inter partes case, we may not reach a different result if there was evidence persuasive of a different outcome.

Decision: The refusal of registration is reversed.

R. L. Simms

T. J. Quinn

B. A. Chapman  
Administrative Trademark  
Judges, Trademark Trial  
and Appeal Board