

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB AUG. 20 ,99

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re *Industrias AS, S.A. de C.V.*

Serial No. 75/114,705

Stephen J. Nataupsky of *Knobbe, Martens, Olson & Bear, LLP*
for *Industrias AS, S.A. de C.V.*

Martha Santomartino, Trademark Examining Attorney, Law
Office 112 (*Janice O'Lear*, Managing Attorney).

Before *Simms, Hanak* and *Hairston*, Administrative Trademark
Judges.

Opinion by *Hairston*, Administrative Trademark Judge:

Industrias AS, S.A. de C.V. has filed an application
to register the mark LOGIC for "non-metal folding doors" in
class 19; and "window coverings, namely, horizontal blinds
and parts therefor, modular cabinets and shelves and parts
therefor" in class 20.¹

Registration has been finally refused under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, when applied to modular cabinets and shelves and parts therefor², so resembles each of the following marks, which are registered to different entities, as to be likely to cause confusion, mistake or deception:

LOGIC SEATING (SEATING is disclaimed) for "furniture; namely, chairs for residential, commercial, and industrial use";³

CASE LOGIC (CASE is disclaimed) for, in relevant part, "furniture; namely, non-metal cabinets and shelves";⁴ and

LOGIX for "modular seating; namely, seats".⁵

¹ Application Serial No. 75/114,705 filed June 5, 1996, based upon applicant's bona fide intention to use the mark in commerce.

² We note that the Examining Attorney did not make a refusal with respect to the goods in class 19, i.e., non-metal folding doors. Thus, at the very least, the application will issue for the goods in class 19.

³ Registration No. 1,665,473 issued November 19, 1991; Section 8 affidavit filed.

⁴ Registration No. 1,988,078 issued July 23, 1996. While this registration covers other items such as cases for audio and video cassettes, the Examining Attorney's refusal to register is based on a likelihood of confusion with the identified goods.

⁵ Registration No. 2,010,658 issued October 22, 1996.

Applicant has appealed. Briefs have been filed⁶, but an oral hearing was not requested.

We turn first to the question of likelihood of confusion vis-à-vis the registration for LOGIC SEATING, since this is the most pertinent of the cited registrations.

Turning first to the marks, we agree with the Examining Attorney that, when compared in their entireties, applicant's and registrant's marks are very similar. In considering the marks, we recognize that the disclaimed portion of registrant's mark cannot be ignored. *Giant Food, Inc. v. National Food Service, Inc.*, 710 F.2d 1565, 218 USPQ 390 (Fed. Cir. 1983). However, there is nothing improper in giving more weight, for rational reasons, to a particular feature of a mark. Here, we have given more weight to the LOGIC portion of registrant's mark because of

⁶ We note that applicant, in its brief, listed several third-party registrations for marks which include the word "Logic." As correctly noted by the Examining Attorney, the submission of a mere list of third-party registrations is insufficient to make them properly of record. Copies of the third-party registrations themselves, or the electronic equivalent thereof, that is, printouts of the registrations from the electronic records of the PTO's trademark automated search system, must be furnished. Also, evidence submitted for the first time with a brief on appeal is generally considered by the Board to be untimely and will be given no consideration. Thus, in reaching our decision herein, we have given no consideration to the third-party registrations listed in applicant's brief.

the descriptive (if not generic) nature of the word SEATING in registrant's mark. In re National Data Corp., 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). It is the LOGIC portion of registrant's mark that purchasers are most likely to remember.

Turning next to the goods, it is essentially applicant's position that the goods are dissimilar and that purchasers would not confuse chairs, on the one hand, with cabinets and shelves, on the other hand. The inquiry is not whether purchasers would confuse cabinets and shelves with chairs, but rather whether these kinds of goods might be assumed to originate from a single source. We note that it is not necessary that goods be identical or even competitive in nature in order to support a finding of likelihood of confusion. It is sufficient that the goods are related in some manner and/or that the circumstances surrounding their marketing are such that they would be likely to be encountered by the same persons under circumstances that would give rise, because of the marks used in connection therewith, to the mistaken belief that the goods originated from or are in some way associated with the same source. In re International Telephone & Telegraph Corp., 197 USPQ 910 (TTAB 1978).

In this case, in the absence of any limitations in applicant's application, we must presume that applicant's modular cabinets and shelves travel in the same channels of trade as registrant's chairs for residential use, e.g., furniture stores and the like, to the same class of purchasers, namely, ordinary consumers. Further, these kinds of home furnishings may be displayed together in model room settings. Because such goods are purchased not only for functional, but decorative purposes, they are often coordinated for a particular look.

We find, therefore, that the respective goods are sufficiently related that purchasers familiar with registrant's chairs for residential use, in particular, offered under the mark LOGIC SEATING, would be likely to believe, upon encountering LOGIC modular cabinets and shelves, that the goods originated from the same source. See e.g., *Drexel Enterprises, Inc. v H. J. Scheirich Company*, 167 USPQ 125 (TTAB 1970) [Use of identical mark HERMITAGE for kitchen cabinets and furniture is likely to cause confusion]. In this case, purchasers may well assume that registrant has extended its line to include modular cabinets and shelves.

In reaching our decision, we have not overlooked applicant's argument that the existence of the three cited

registrations for marks which include the term LOGIC or a variation thereof for various furniture items indicates that consumers will be able to differentiate between the sources. Third-party registrations by themselves are entitled to little weight on the question of likelihood of confusion. See *In re Hub Distributing, Inc.*, 218 USPQ 284, 285 (TTAB 1983). This is because third-party registrations are not evidence of what happens in the marketplace or that the public is familiar with the marks which are the subject of the registrations. See *National Aeronautics & Space Administration v. Record Chemical Co., Inc.*, 185 USPQ 562, 567 (TTAB 1975).

In view of our decision herein, we need not reach the question of likelihood of confusion vis-à-vis applicant's LOGIC mark and the other two cited marks.

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Decision: The refusal to register the goods in class 20 with respect to Registration No. 1,665,473 is affirmed. As previously indicated, the application will issue for the goods in class 19.

R. L. Simms

E. W. Hanak

P. T. Hairston
Administrative Trademark
Judges, Trademark Trial and
Appeal Board

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