

THIS DISPOSITION IS NOT  
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10/18/99

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Bill Collins Ford, Inc.

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Serial No. 75/139,991

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**Sandra B. Hammond** of Borowitz & Goldsmith, PLC for Bill Collins Ford, Inc.

**Mitchell Front**, Trademark Examining Attorney, Law Office 101 (Jerry Price, Managing Attorney).

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Before Seeherman, Hanak and Hairston, Administrative Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

Bill Collins Ford, Inc. (applicant) seeks to register CARSOURCE and design in the form shown below for "used motor vehicle dealerships." The application was filed on

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July 8, 1996 with a claimed first use date of April 25, 1996.

The Examining Attorney refused registration pursuant to Section 2(d) of the Trademark Act on the basis that applicant's mark, as applied to applicant's services, is likely to cause confusion with the mark CARSOURCE, previously registered in typed drawing form for "consulting services related to the purchase or leasing of vehicles by consumers." Registration No. 2,028,905.

When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

In any likelihood of confusion analysis, two key considerations are the similarities of the marks and the similarities of the goods or services. Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24,

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29 (CCPA 1976) ("The fundamental inquiry mandated by Section 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.")

Marks are compared in terms of the visual appearance, pronunciation and connotation. In appropriate cases, sufficient similarity as to one factor may be adequate to support a finding of likelihood of confusion. Krim-Ko, Corp. v. Coca-Cola Co., 390 F.2d 728, 156 USPQ 523, 526 (CCPA 1968).

In this case, the two marks are absolutely identical in terms of pronunciation and connotation. Obviously, both marks will be pronounced as simply CARSOURCE. Applicant's mark would certainly not be pronounced as "CARSOURCE and design."

We recognize that applicant's mark contains a rather prominent design feature which, in terms of visual appearance, makes applicant's mark only somewhat similar to registrant's mark. However, when applicant's services are recommended by an individual to a friend or when applicant's services are advertised on radio, the design featured in applicant's mark will simply not be articulated. In short, we find that applicant's mark and registrant's mark, while not identical, are nevertheless

extremely similar given the fact that they are identical in terms of pronunciation and connotation.

Turning to a consideration of the services, it should be noted at the outset that as the similarity of the marks increases, a lesser degree of similarity in the services (or goods) is required for a finding of likelihood of confusion. Century 21 Real Estate v. Century Life, 970 F.2d 873, 23 USPQ 2d 1698, 1700 (Fed. Cir. 1992). As set forth in the registration, registrant's services are the following: "Consulting services related to the purchase or leasing of vehicles by consumers." At page four of its reply brief, applicant characterizes registrant's services "as a consulting service for the purpose of assisting a consumer in the purchase or lease of the vehicle." In the next sentence, applicant goes on to note that "applicant's purpose [service] is to provide specific, used car inventory for a consumer to view and purchase."

Obviously, the services are not identical. However, we believe that a consumer who has gone to registrant CARSOURCE seeking assistance in the purchase or lease of a vehicle, would, if he or she later saw applicant's mark CARSOURCE and design at a used motor vehicle dealership, assume that both services emanate from a common source or

that there were some form of affiliation between the two services.

Moreover, applicant's own literature describing its used car dealership strongly suggests that many used car dealerships are evolving to offer a greater of array of services than in the past. Indeed, some of these services begin to approach the giving of advice, as opposed to the high pressure sales practices of the past. For example, in one of applicant's advertisements there appears a box containing the following heading: "The Unique CarSource Buying Experience." Thereafter, there appears the following text: "No-haggle pricing posted right on the vehicle. Computer-assisted shopping at your own pace. No sales pressure. ... just great values!" (emphasis added).

We are taking into account applicant's argument that in purchasing expensive items such automobiles, consumers exercise a greater degree of care. This is a valid argument. It is because of this argument that we find that the question of likelihood of confusion is a close one. Nevertheless, given the fact that the marks are identical in terms of pronunciation and connotation and the additional fact that the services are closely related, we find that there exists a likelihood of confusion. Moreover, it is to be remembered that "any doubts about

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likelihood of confusion ... under Section 2(d) must be resolved against applicant as the newcomer." In re Hyper Shoppes, 837 F.2d 463, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Decision: The refusal to register is affirmed.

E. J. Seeherman

E. W. Hanak

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