

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB APRIL 4, 00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Gianfranco De Paoli Ambrosi

Serial No. 75/171,483

Jess M. Collen of Collen Law Associates for Gianfranco De Paoli
Ambrosi.

Judy Grundy, Trademark Examining Attorney, Law Office 106 (Mary
Sparrow, Managing Attorney).

Before Walters, Bucher and Bottorff, Administrative Trademark
Judges.

Opinion by Bucher, Administrative Trademark Judge:

Gianfranco De Paoli Ambrosi, an Italian citizen, has filed
an application for registration of the mark "SYNCHROLINE" for
"cosmetic skin creams, body creams, sun creams, facial creams,
cosmetic body and skin milks and cosmetic moisturizing facial
milks; body emulsions and facial emulsions; facial masks and
skin moisturizers; eye gels, styling gels, bath gels and facial
moisturizing gels."¹

¹ Serial No. 75/171,483, filed on September 20, 1996, based upon a
bona fide intention to use the mark in commerce, and pursuant to

The Trademark Examining Attorney issued a final refusal to register based upon Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, "SYNCHROLINE" when used on these items, so resembles the registered mark:

Synchro Serum

as applied to "toiletries; namely, perfumes, essential oils for personal use; cosmetics; namely, facial powder and facial moisturizer" in Int. Class 3, as to be likely to cause confusion, or to cause mistake, or to deceive.²

Applicant has appealed the final refusal to register. Briefs have been filed, but applicant did not request an oral hearing. We affirm the refusal to register.

In the course of rendering this decision, we have followed the guidance of *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1362, 177 USPQ 563, 567-68 (CCPA 1973), that sets forth the factors which should be considered, if relevant, in determining likelihood of confusion.

We turn first to the goods. The goods of the parties include identical cosmetic items and related toiletry items. For example, the applicant and registrant both market

Section 44(e) of the Lanham Act, based upon Italian Reg. No. 547,123, which registered on July 4, 1991.

² Registration No. 1,753,513, issued on February 23, 1993. The registration sets forth dates of first use of September 1990; §8 affidavit accepted and §15 affidavit received.

moisturizers for the face or skin. Hence, as to two other related and relevant du Pont factors, we assume that the goods of both parties will move in identical channels of trade, and will be sold to the same ordinary consumers. When marks would appear on virtually identical goods of this nature, the degree of similarity in the marks necessary to support a conclusion of likely confusion declines. Century 21 Real Estate Corp. v. Century Life of America, 970 F.2d 874, 23 USPQ2d 1698 (Fed. Cir. 1992).

Accordingly, we turn next to the marks. The Trademark Examining Attorney contends that the marks are similar in appearance and commercial impression, emphasizing that the first two syllables of the marks are identical. By contrast, applicant contends that the marks are quite dissimilar as to appearance, sound and meaning. Applicant argues that the difference between a single word and two words is visually significant. Furthermore, applicant contends that prospective purchasers might well parse applicant's mark as "Syn•chroline" or "Synch•roline," rather than as "Synchro•line." Furthermore, as to registrant's mark, applicant contends that the word "Serum" within the mark **Synchro Serum** creates a visual impression

and commercial connotation quite different from applicant's "SYNCHROLINE."

Applicant has argued there are a number of ways to pronounce its mark, and we agree that under trademark law, there is no "correct" pronunciation of a coined mark like this one. See Barton Mfg. Co. v. Hercules Powder Co., 88 F.2d 708, 710, 33 USPQ 105, 107 (CCPA 1937). However, because the first two syllables comprise a known prefix, it is more likely that prospective purchasers would parse between "synchro" and "line" rather than after "syn-" or "synch-," as suggested by applicant. Furthermore, "synchro-" as a prefix, means "synchronized" or "synchronous, and "synchro," as a word, is the shortened form of the word "synchronous."³ Accordingly, in the context of the mark "SYNCHROLINE," the designation "synchro" would appear to be an arbitrary term for these goods. It is also quite prominent as the first portion of both of these marks. The Trademark Examining Attorney argues that to the extent a consumer is acquainted with registrant's "SYNCHRO SERUM," she will later, upon seeing applicant's "SYNCHROLINE," mistakenly assume this is yet another "line" of products from registrant. Given the

³ **syn·chro** syn·chro (sîng¹kro, sîn¹-) *noun plural* **syn·chros**
A selsyn. [Short for synchronous.];
synchro- **synchro-** *prefix* Synchronized; synchronous: *synchrotron*.
[*The American Heritage® Dictionary of the English Language, Third Edition* ©1992 by Houghton Mifflin Company.]

arbitrary nature of the leading term, "synchro," for these goods, we find that this is a compelling argument as to the similarity of the marks in appearance and connotation, and supports the conclusion that the use of the mark "SYNCHROLINE" on applicant's goods could well lead to a likelihood of confusion.

We turn next to another relevant du Pont factor - the number and nature of similar marks in use on similar goods. Registrant has submitted a long listing from Trademarkscan of applications - pending as well as abandoned, and registrations - alive, cancelled, and expired.⁴

However, applicant acknowledges that pending applications and subsisting registrations are entitled to little weight because this is not evidence of what actually happens in the market place. Furthermore, to the extent the Trademark Examining Attorney accepts this listing as properly made of record, she also points out that only a very few of these two-hundred marks are in the field of cosmetics and toiletries. We agree that most of the third-party marks pointed to by applicant are for goods or services in totally unrelated fields. Hence they are largely irrelevant to applicant's suggestion that the

⁴ In order to make third-party registrations properly of record, soft copies of the registrations or photocopies of the appropriate U.S. Patent and Trademark Office electronic printouts must be submitted. See Weyerhaeuser Co. v. Katz, 24 USPQ2d 1230 (TTAB 1992).

prefix "SYNCHRO" is weak in the field of toiletries and cosmetics. Such third-party registrations are least troublesome when the other marks cover unrelated products or services.⁵

Finally, of the one or two marks having the two syllables "-syn·chro-" somewhere within the mark (where the marks are used on cosmetics or toiletries), these marks are different from applicant's mark and from registrant's mark in overall appearance and connotation.

Decision: The refusal to register is affirmed.

C. E. Walters

D. E. Bucher

C. M. Bottorff

Administrative Trademark Judges,
Trademark Trial and Appeal

⁵ In fact, this designation appears in the majority of the listed composite marks to be used in a suggestive manner for computer programs, business management programs, etc.