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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Societe de Conception et de Management
D'Applicatifs-S.C.M.A.

Serial No. 75/303,256

Lawrence E. Abelman of Abelman Frayne & Schwab for Societe de Conception et de Management D'Applicatifs-S.C.M.A.

Kathleen M. Vanston, Trademark Examining Attorney, Law Office 103 (Michael A. Szoke, Managing Attorney).

Before Simms, Hairston and Wendel, Administrative Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

This is an appeal from the Trademark Examining Attorney's final refusal to register the mark LOGISTAR for goods which were subsequently described as: "computer software for database management operations, inventory management, sales forecasting, product planning and management, financial accounting, tracking transportation of merchandise and purchasing orders; computers; data

processors; optical discs; optical scanners; computer terminals; barcode readers; computer monitors; laser printers; modems."¹

Registration has been refused under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, if used in connection with the identified goods, would so resemble the registered mark LOGI-STAR for "leasing access time to an on-line computer database featuring information regarding business operations, business management, and business news," as to be likely to cause confusion.²

Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested.

With respect to the similarity of the marks, we note that applicant's brief is silent on this factor. We find that this amounts to a tacit concession that the marks are essentially identical, as the Examining Attorney maintains. The fact that the registered mark contains a hyphen between "LOGI" and "STAR" is virtually of no consequence.

¹ Serial No. 75/303,256 filed June 4, 1997, which alleges a bona fide intention to use the mark in commerce, and under Section 44(e), based on French Registration No. 92435622 expiring September 21, 2002.

² Registration No. 2,044,526 issued March 11, 1997.

We turn our attention, as have applicant and the Examining Attorney, to the relationship between applicant's goods and registrant's services. Applicant, in urging reversal of the refusal to register, argues that its computer software and related computer products are different in nature from registrant's services, and that the goods and services travel in different channels of trade to different purchasers. Further, applicant argues that the involved goods and services are bought by careful purchasers.

The Examining Attorney, on the other hand, maintains that applicant's computer software for database operations, inventory management, sales forecasting, product planning and management, financial accounting, tracking transportation of merchandise and purchasing orders, and registrant's services of leasing access time to an on-line computer database featuring information regarding business operations, business management, and business news are related because the goods and services may be used in the context of business operations and business management. In support of her position that the involved goods and services are related, the Examining Attorney submitted eight third-party registrations for marks which cover computer software in a specific business field and the

services of leasing access time to an on-line computer database in the same field.

As has been frequently stated, it is not necessary that the goods and services of parties be similar or competitive, or even that they move in the same channels of trade to support a likelihood of confusion. It is sufficient that the respective goods and services of the parties are related in some manner, and/or that the conditions and activities surrounding the marketing of the goods and services are such that they would or could be encountered by the same persons under circumstances that could, because of the similarity of the marks, give rise to the mistaken belief that they originate from the same producer. In re International Telephone & Telegraph Corp., 197 USPQ 910, 911 (TTAB 1978). Further, the Board has stated in the past that "[i]f the marks are the same or almost so, it is only necessary that there be a viable relationship between the goods or services in order to support a likelihood of confusion." In re Concordia International Forwarding Corp., 222 USPQ 355, 356 (TTAB 1983).

In this case, we find that there is a viable relationship between applicant's computer software for database management operations, inventory management, sales

forecasting, product planning and management, financial accounting, and tracking transportation of merchandise and purchasing orders and registrant's services of leasing access time to an on-line computer database featuring information regarding business operations, business management, and business news. Both are specifically designed to aid businesses in their operations and management. Although applicant maintains that there is no overlap among purchasers because its computer software is targeted to businesses involved in the distribution of goods, we note that the recitation of services in the cited registration contains no restrictions as to the purchasers. In the absence of any restrictions, we must assume that registrant's services of leasing access time to an on-line computer database may also be purchased by business owners who are involved in the distribution of goods. Such business owners may well believe that registrant has expanded from computer software designed to aid businesses in their operations and management to the services of leasing access time to an on-line computer database featuring information regarding business operations and business management.

The third-party registrations submitted by the Examining Attorney are additional evidence of the

relatedness of the involved goods and services because they show that computer software in a specific business field and the services of leasing access time to an on-line computer database in the same field may emanate from the same source under the same mark. In re Mucky Duck Mustard Co., Inc., 6 USPQ2d 1467 (TTAB 1988).

With respect to applicant's argument that the goods and services involved herein are bought by sophisticated purchasers, we would point out that purchasers of these goods and services are not immune to source confusion, especially in cases like the present one, where related goods and services would be marketed under virtually identical marks.

In view of the foregoing, we conclude that purchasers familiar with registrant's services of leasing access time to an on-line computer database featuring information regarding business operations, business management, and business news offered under the mark LOGI-STAR are likely to believe, upon encountering applicant's mark LOGISTAR for computer software for database management operations, inventory management, sales forecasting, product planning and management, financial accounting, tracking transportation of merchandise and purchasing orders, that

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the goods and services originated with or were somehow associated with the same source.

Decision: The refusal to register under Section 2(d) of the Trademark Act is affirmed.

R. L. Simms

H. R. Wendel

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