

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB 7/14/00

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re QuikPrint of Austin, Inc.

Serial No. 75/367,152

H. Dale Langley of Akin, Gump, Strauss, Hauer & Feld LLP
for QuikPrint of Austin, Inc.

Katherine Stoides, Trademark Examining Attorney, Law Office
109 (Ron Sussman, Managing Attorney).

Before Hanak, Quinn and Hairston, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

QuikPrint of Austin, Inc. (applicant) seeks to register PRINT POINTE for "photocopying services, namely copying of documents for others; and printing services." The intent-to-use application was filed on September 30, 1997. At the request of the Examining Attorney, applicant disclaimed the exclusive right to use PRINT apart from the mark in its entirety.

Ser No. 75367152

Citing Section 2(d) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's mark, as used in conjunction with applicant's services, is likely to cause confusion with the mark PRINT POINT, previously registered for "computer software for commercial printing estimating." Registration No. 1,821,132. This registration likewise contains a disclaimer of the word PRINT.

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 goods or services and the similarities of the marks. Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976).

In this case, the marks are essentially identical. Hence, the question is whether there is a sufficient relationship between applicant's services and registrant's goods such that the contemporaneous use of the marks is likely to result in confusion.

There is no dispute that applicant's services are directed to individuals and companies who wish to have

materials photocopied or printed. On the other hand, there is no dispute that registrant's computer software is directed solely to commercial printers for use in connection with the very specialized task of estimating the cost and specifications for particular printing projects. In this regard, applicant has made of record numerous pages from registrant's Web site. Applicant has done so not in an effort to limit the identification of goods set forth in the cited registration, but rather to clarify the nature of the goods set forth in the cited registration. In re Trackmobile Inc., 15 USPQ2d 1152, 1154 (TTAB 1990).

Registrant's Web site illustrates that registrant's highly specialized computer software for estimating commercial printing projects is fairly expensive. Moreover, the Examining Attorney has never disputed the fact that the purchasers of registrant's computer software (commercial printers) are sophisticated and knowledgeable. (Examining Attorney's brief page 6).

Given the fact that applicant's services and registrant's goods are directed to entirely different classes of purchasers; the fact that registrant's software is at least somewhat expensive; and the fact that purchasers of registrant's specialized software are sophisticated and knowledgeable, we find that there exists

Ser No. 75367152

no likelihood of confusion resulting from the contemporaneous use of the two marks. With regard to the latter point of purchaser sophistication, our primary reviewing Court has emphasized that purchaser "sophistication is important and often dispositive because sophisticated consumers may be expected to exercise greater care." Electronic Design & Sales v. Electronic Data Systems, 954 F.2d 713, 21 USPQ2d 1388, 1392 (Fed. Cir. 1992).

Decision: The refusal to register is reversed.

E. W. Hanak

T. J. Quinn

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