

12/19/00

**THIS DISPOSITION
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Paper No. 10
EJS

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Anchor Distributors

Serial No. 75/500,144

Arnold B. Silverman of Eckert Seamans Cherin & Mellott, LLC
for Anchor Distributors.

Heather D. Thompson, Trademark Examining Attorney, Law
Office 103 (Michael A. Szoke, Managing Attorney).

Before Simms, Seeherman and Holtzman, Administrative
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Anchor Distributors has appealed from the final
refusal of the Trademark Examining Attorney to register
ANCHOR DISTRIBUTORS and design (with the word DISTRIBUTORS
disclaimed), shown below, for "wholesale distributorship
services featuring books and bookstore products."¹

¹ Application Serial No. 75/500,144, filed June 11, 1998, and
asserting first use and first use in commerce on June 3, 1998.

Registration has been refused pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. 1052(d), on the ground that applicant's mark so resembles the mark ANCHOR BOOKS and design, shown below, and registered (with the word BOOKS disclaimed) for "fiction and non-fiction books on a variety of subjects,"² that, as used in connection with applicant's services, it is likely to cause confusion or mistake or to deceive.

The appeal has been fully briefed; an oral hearing was not requested.

We affirm the refusal of registration.

In determining whether there is a likelihood of confusion between two marks, we must consider all relevant factors as set forth in **In re E.I. du Pont de Nemours & Co.**, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any

² Registration No. 1,646,828, issued June 4, 1991; Section 8 affidavit accepted; Section 15 affidavit received.

likelihood of confusion analysis under Section 2(d), two of the most important considerations are the similarities or dissimilarities between the marks and the similarities or dissimilarities between the goods. **Federated Foods, Inc. v. Fort Howard Paper Co.**, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976).

Turning to the marks, we begin with the well-established principle that there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on a consideration of the marks in their entireties. **In re National Data Corp.**, 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). Here, the dominant element of both applicant's and the registrant's mark is the word ANCHOR. The descriptive words DISTRIBUTORS (in applicant's mark) and BOOKS (in registrant's mark), both of which have been disclaimed, merely advise consumers of the nature of the respective services and goods, and have no source-identifying significance. Thus, although the words DISTRIBUTORS and BOOKS change the appearance and sound of the marks to the extent that these descriptive words look different and are pronounced differently, these differences do not distinguish the marks. The dominant word ANCHOR in both marks is the same. Further, the anchor designs in

both marks merely emphasize the connotation of the word ANCHOR.

Applicant goes into great detail about the specific differences in the marks. For example, applicant points out that in its mark there are "distinctive crossbars being used on the 'A,' 'H,' and 'R' in the word 'ANCHOR' with a highly visible projection to the left in each instance." Brief, p. 3. Applicant also notes that the anchor design is "of a very thick anchor positioned within a vertical rectangle having a height generally equal to the stacked words with a line secured to the ring of the anchor." Applicant characterizes the cited mark, on the other hand, as having the words presented in all capital letters with the initial letter of each word larger than the remaining words, and as having "a rather slender anchor devoid of line or rope positioned within an oval geometric border overlying the two words." Brief, p. 3.

While we agree that a close side-by-side comparison of the marks will reveal specific differences between them, under actual marketing conditions consumers do not have the luxury to make side-by-side comparisons between marks, and instead they must rely on hazy past recollections. **Dassler KG v. Roller Derby Skate Corporation**, 206 USPQ 255 (TTAB 1980). The differences discussed by applicant in such

detail are, in fact, relatively minor, and are not likely to be noted or remembered by consumers. Even if consumers should recall, for example, that one mark has a thick anchor with a rope attached, while the other has an anchor in an oval, they will view these differences as mere variations in marks identifying a single source, rather than as indicating separate sources for the goods and services.

Accordingly, we find that the marks are very similar in appearance, pronunciation and connotation, and that they convey the same commercial impression.

This brings us to a consideration of the respective goods and services. Applicant's services are identified as "wholesale distributorship services featuring books and bookstore products," while the identification of goods in the registration is for "fiction and non-fiction books on a variety of subjects." It is not necessary that the goods or services of the parties be similar or competitive, or even that they move in the same channels of trade to support a holding of likelihood of confusion. It is sufficient if the goods or services are related in some manner, and/or that the conditions and activities surrounding the marketing of the goods or 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. See **In re International Telephone & Telegraph Corp.**, 197 USPQ 910 (TTAB 1978).

There is an obvious relationship between applicant's services and the registrant's goods, in that the registration is for books, and applicant's distributorship services feature books. Moreover, companies publish books and offer book distributorship services, as shown by the third-party registrations and NEXIS excerpts made of record by the Examining Attorney. In fact, applicant's specimens show that applicant itself both publishes books and offers wholesale book distributorship services, having used the mark WHITAKER DISTRIBUTORS for its distribution line and WHITAKER HOUSE for its publishing division.

We note that applicant's services are identified as wholesale distributorship services, and we further note applicant's argument that its services are rendered to knowledgeable bookstore owners. Obviously, some of the purchasers for applicant's services and the registrant's goods are the same, since bookstore owners buy books, too. Nor does the fact that these purchasers are knowledgeable or sophisticated avoid the likelihood of confusion. Bookstore owners will be aware that companies, such as

applicant's, both publish books and render wholesale book distributor services. They will also be aware that they may do so under the same or similar marks. Thus, given the similarity between the marks ANCHOR BOOKS and anchor design and ANCHOR DISTRIBUTORS and anchor design, these bookstore owners are likely to believe that the marks identify, respectively, the book publishing division and the book distribution division of a single entity. This is particularly true in view of the fact that ANCHOR appears to be a strong and arbitrary mark in the book selling arena; certainly there is no evidence of any third-party registrations for ANCHOR marks.

Although we have focused our discussion of the duPont factors on those mentioned by applicant and the Examining Attorney, we have considered all relevant factors in reaching our conclusion herein. As stated above, we find that applicant's use of ANCHOR DISTRIBUTORS and design for wholesale distributorship services featuring books and bookstore products is likely to cause confusion with ANCHOR BOOKS and design for books.

Decision: The refusal of registration is affirmed.