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**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

Hearing:
March 15, 2001

Paper No. 52
HRW

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

The Susan B. Komen Breast Cancer Foundation, Inc.

v.

The American Cancer Society, Mid-Atlantic Division, Inc.¹

Opposition No. 104,973
to application Serial No. 75/031,295
filed on December 12, 1995

Molly Buck Richard of Strasburger & Price, LLP
for The Susan B. Komen Breast Cancer Foundation, Inc.

Nora E. Garrote of Brobeck, Phleger & Harrison, LLP
for The American Cancer Society, Mid-Atlantic Division,
Inc.

Before Cissel, Wendel and Rogers, Administrative
Trademark Judges.

Opinion by Wendel, Administrative Trademark Judge:

The American Cancer Society, Maryland Division, Inc.
(now The American Cancer Society, Mid-Atlantic Division,
Inc.) filed an application to register the mark CARS FOR

¹ The merger and change of name of The American Cancer Society,
Maryland Division, Inc. to The American Cancer Society, Mid-

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A CURE for "charitable fundraising, namely, selling donated used vehicles with the revenues used for cancer-related purposes."²

The Susan B. Komen Breast Cancer Foundation, Inc. has filed an opposition to registration of the mark on the ground of priority and likelihood of confusion under Section 2(d) of the Trademark Act. In the Notice of Opposition, opposer alleges that from at least as early as 1983, opposer has used the mark RACE FOR THE CURE in connection with charitable fundraising, specifically organization and conduct of foot races to raise money for breast cancer research and local community breast health awareness programs; that opposer is the owner of a registration for the mark;³ that opposer's mark has been so extensively used and advertised that "FOR THE CURE" has come to indicate services having their source of origin with opposer; and that by reason of the similarity of applicant's mark and opposer's mark and by reason of the essentially identical services of opposer and applicant, there exists a likelihood of confusion on the

Atlantic Division, Inc. was recorded by the Assignment Branch on May 24, 1999 at reel 1908, frame 0486 (ACS Exhibit 125).

² Serial No. 75/031,295, filed December 12, 1995, claiming a first use date and first use in commerce date of May 1, 1994.

³ Registration No. 1,593,469, issued April 24, 1990; Section 8 and 15 affidavits (6 year) accepted and acknowledged, respectively; Section 8 (10 year) accepted; first renewal.

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part of the relevant public or a likelihood of that they will assume that opposer and applicant are affiliated or associated with one another or that there is a sponsorship relationship between them.

Applicant, in its answer, has denied the salient allegations of the Notice of Opposition, although admitting that its mark was not used prior to April 24, 1990, and has affirmatively alleged that opposer does not own exclusive rights in the words "for the cure" or "for a cure," these words being either descriptive or generic and in use by others.

Motion for Leave to Amend the Opposition

Opposer, on April 8, 1999, after the close of its testimony period, filed a motion under Fed. R. Civ. P. 15 (b) to amend the Notice of Opposition. Opposer sought to add allegations of ownership of ten other registrations and three applications and the claim that all of the marks in these registrations and applications form a family of "FOR THE CURE" marks associated with opposer. The Board, after first suspending applicant's testimony period until the motion could be considered, later resumed proceedings and deferred the motion until final hearing, in view of the Board's policy not to read trial

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testimony or examine other trial evidence prior to final hearing. The trial went forward to completion. We now take the motion up for resolution.

Opposer contends that the issue of opposer's ownership of a family of marks was tried by implied consent during the deposition testimony of its witness Cynthia Schneible. Opposer argues that during this testimony opposer introduced into evidence a number of opposer's marks and questioned the witness with respect to the use of these marks, and that applicant did not object to this testimony, but rather utilized its opportunity to cross examine the witness on the selection and adoption of certain of these marks.

Applicant, in its opposition to the motion to amend, argues that the record does not support a finding of trial by implied consent; that opposer has failed to show that applicant was fairly apprised that the evidence that opposer was introducing was being offered in support of a family of marks claim; and that opposer's mere testimony with respect to ownership of registrations for marks with a common element is not sufficient to establish or even give notice of a family of marks claim. Applicant maintains that the evidence of ownership by opposer of other FOR THE CURE marks was relevant to applicant's

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pleaded weak mark defense and that applicant did not object to the testimony concerning these other marks because it helped establish the weakness of RACE FOR THE CURE. Applicant argues that granting opposer's motion would be highly prejudicial to applicant.

Opposer, in reply, insists that because applicant did not object to the introduction of evidence which opposer contends supports its family of marks claim, but rather cross examined the witness on this evidence, there will be no prejudice to applicant by the amendment of the Notice of Opposition.

Under Fed. R. Civ. P. 15(b), when issues not raised by the pleadings are tried by express or implied consent of the parties, the pleadings may be amended to conform to the evidence. Implied consent to the trial of an unpleaded issue can be found only where the non-offering party (1) raised no objection to the introduction of evidence on the unpleaded issue and (2) was fairly apprised that the evidence was being offered in support of the unpleaded issue. See *Colony Foods, Inc. v. Sagemark, Ltd.*, 735 F.2d 1336, 222 USPQ 185 (Fed. Cir. 1984); *Levi Strauss & Co. v. R. Josephs Sportswear Inc.*, 36 USPQ2d 1328 (TTAB 1994); *Devries v. NCC Corporation*, 227 USPQ 705 (TTAB 1985).

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After a thorough review of the Schneible deposition transcript and the other evidence offered by opposer during its testimony period, we are convinced that the family of marks issue was never tried by either express or implied consent of the parties. While applicant never objected to the testimony introduced by opposer, and in fact cross examined the witness with respect to several of opposer's FOR THE CURE marks, we find no reason to conclude from this that applicant was fairly apprised that the evidence of ownership and use of a number of FOR THE CURE marks was being offered in support of a family of marks claim. Neither the term "family of marks" nor the word "family" was ever used during the testimony of Ms. Schneible. Nor was evidence introduced of any promotion of the various marks as members of a family, as opposed to separate use of the marks in connection with specific programs of opposer. Some testimony was taken and exhibits introduced showing use of two or more marks together, such as the use of the marks FRIENDS FOR THE CURE, MEN FOR THE CURE and WALK FOR THE CURE together with the RACE FOR THE CURE mark, as the names of separate programs or events which coincided with the race (Komen Exhibit 48). There was, however, no testimony as to any co-promotion of these marks, such that applicant

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would be aware that a claim was being asserted that a family of marks exists.

Our principal reviewing court, in *J & J Snack Foods Corp. v. McDonald's Corp.*, 18 USPQ2d 1889, 1891 (Fed. Cir. 1991), stated:

A family of marks is a group of marks having a recognizable common characteristic, wherein the marks are composed and used in such a way that the public associates not only the individual marks, but the common characteristic of the family, with the trademark owner. Simply using a series of similar marks does not of itself establish the existence of a family. There must be a recognition among the purchasing public that the common characteristic is indicative of a common origin of the goods.

Opposer introduced no evidence of the promotion of the various marks of opposer as a FOR THE CURE family or of public recognition of FOR THE CURE as a common characteristic pointing to opposer as the common origin of the services. Opposer's testimony is limited to the use and ownership of registrations for several separate marks having FOR THE CURE as a part thereof, which we find insufficient to either put applicant on notice that the issue was being tried or support a family of marks claim. See also *American Standard Inc. v. Scott & Fetzer Co.*, 200 USPQ 457 (TTAB 1978).

Accordingly, opposer's motion to amend under Fed. R. Civ P. 15(b) is denied. The opposition will be determined on the basis of the only claim set forth in

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the original pleadings, i.e., opposer's Section 2(d) claim based on the mark RACE FOR THE CURE.⁴ Thus, in our analysis of likelihood of confusion, we have compared opposer's mark RACE FOR THE CURE with applicant's mark CARS FOR A CURE.

The Record

The record consists of the file of the involved application; opposer's testimony deposition, and accompanying exhibits, of Cynthia Schneible, Vice-President of opposer; status and title copies of nine registrations owned by opposer, including the pleaded registration, and certain of applicant's responses to opposer's interrogatories and requests for admission, made of record by opposer's Notice of Reliance; applicant's testimony depositions, and accompanying exhibits, of Cynthia Currence, American Cancer Society's

⁴ While opposer, by its Notice of Reliance, has introduced evidence of its ownership of registrations for other marks and has taken deposition testimony with respect to the use of a total of thirteen marks, we find this sufficient only to put applicant on notice of the ownership of these other marks, not that the issue of likelihood of confusion was being tried on the basis of any mark other than RACE FOR THE CURE. Moreover, we note that of the registered marks other than RACE FOR THE CURE, six were registered prior to the filing of the Notice of Opposition and four later registered marks were at least used prior to the filing of the Notice of Opposition. Opposer knew full well of these marks when it filed the Notice of Opposition, yet chose to base its opposition on the one mark, RACE FOR THE CURE. See *Fossil Inc. v. Fossil Group*, 49 USPQ2d 1452 (TTAB 1998).

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National Vice-President for Strategic Marketing and Branding, Betty Coco, Director of the CARS FOR A CURE program and Richard Riehl, American Cancer Society's Vice-President of Nationwide Vehicle Donations; the certified copies of third-party registrations and applications, Website printouts, Nexis printouts and other printed materials made of record by means of applicant's Notice of Reliance;⁵ and the stipulated rebuttal testimony offered by means of an affidavit, with accompanying exhibits, of opposer's counsel. Both parties filed briefs⁶ and both participated in an oral hearing.

The Parties and Their Activities

The Susan B. Komen Breast Cancer Foundation was

⁵ Opposer has objected to much of the evidence introduced by applicant's Notice of Reliance. Since, however, these objections are directed to the probative value of the evidence, rather than its admissibility per se, we have considered the objections *infra* in determining the weight to be given to the evidence.

⁶ At the oral hearing it was pointed out to applicant that its brief exceeded the limit of fifty-five pages set forth in Trademark Rule 2.128(b). Applicant at that time orally moved that its brief, which was fifty-seven pages in length, be accepted. The motion is denied. Under Rule 2.128(b) the Board must give "prior leave" in order for a party to file an overlength brief. Thus, the motion must be filed on or before the due date for the brief. See *United Foods Inc. v. United Air Lines Inc.*, 33 USPQ2d 1542 (TTAB 1994). Applicant's motion, accordingly, was untimely. The brief has been stricken from the record. Only applicant's arguments presented at the oral hearing have been taken under consideration.

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established in 1982 by Nancy Brinker in memory of her sister, who had died of breast cancer. It is a national organization with affiliates in 93 cities and 42 states and the District of Columbia. The RACE FOR THE CURE is a combined five kilometer and one mile race event which is organized by community volunteers in 85 cities across the United States. The race is sponsored nationally by a group of corporations and national sponsors and in each community it is supported by local sponsors. The first event was held in Dallas in 1983 and in 1986 the event extended to Peoria, Illinois. There were seven events in 1990, including one in Washington, D.C., and by 1998 the number was up to 85. In 1998 the expected number of participants in the race events was more than half a million. From 1982 to 1998 approximately 85 million dollars have been raised by opposer, most of which has come from the RACE FOR THE CURE. The race events are publicized by paid national advertising, by advertising campaigns run by national sponsors, by local media sponsors and by the advertising of local corporate sponsors. Opposer distributes about 5,000 media kits concerning the race events each year. Cars have been provided by national sponsors for use as raffle or sweepstakes items for opposer's annual national awards

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event and cars or leases on cars have sometimes been provided by dealer groups as sweepstakes items for local race events.

Opposer uses other marks for other fund raising programs or purposes, including HOPE FOR THE CURE, REACHING FOR THE CURE, RUNWAY TO THE CURE, CHAMPIONS FOR THE CURE, PULL FOR THE CURE, SHOP FOR THE CURE, FRIENDS FOR THE CURE, MEN FOR THE CURE, GOLF FOR THE CURE, ON COURSE FOR THE CURE, SHOOT FOR THE CURE, SWING FOR THE CURE and WALK FOR THE CURE.

Applicant is one of the 17 regional divisions of the American Cancer Society (ACS). As a fund-raising activity, in early 1993 the Maryland Division (applicant's predecessor) developed a car donation program, for which the mark CARS FOR A CURE was selected. Under this program individuals donate used vehicles, primarily cars, but also RVs, travel trailers, campers and boats, which applicant in turn sells at auction. The proceeds go to the ACS. The program is run year-round and donors usually take part in the program for the economic benefit, namely the advantage of being able to take the value of the car as a tax deduction. The average sale price of a vehicle is \$330. The entire donation process, including transfer of title, normally

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takes about a week and a half. The program has no corporate sponsors and involves no raffles of donated new cars.

The CARS FOR A CURE program had expanded to 44 states by 1999. Promotional and advertising materials are widely used and include radio and TV ads (both paid and unpaid public service announcements), newspaper ads, Val-Pak mailing inserts, general mailings to volunteers and donors and a section on the ACS Website. Since the inception of the car donation program, the gross value of donations has risen from \$160,590 in 1994 to \$3,590,190 in 1999.

The Opposition

Priority is not an issue here in view of opposer's submission of a certified status and title copy of its pleaded registration for the mark RACE FOR THE CURE. See King Candy Co., Inc. v. Eunice King's Kitchen, Inc., 496 F.2d 1400, 182 USPQ 108 (CCPA 1974). In addition, Ms. Schneible has testified to the beginning of the race event in 1983, a date well prior to the time in 1993 when, applicant has testified, applicant's car donation program began. Applicant has also admitted in its answer that its mark was not used prior to April 24, 1990, the issue date of opposer's pleaded registration.

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Turning to the issue of likelihood of confusion, we take under consideration all of the *du Pont* factors which are relevant under the present circumstances and for which there is evidence of record. See *E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

We look first to the marks of the parties and the similarity or dissimilarity thereof. Opposer contends that the marks RACE FOR THE CURE and CARS FOR A CURE are similar in appearance and meaning; that the terms RACE and CARS are "in part descriptive" of the services involved; and that the similar phrases FOR THE CURE and FOR A CURE are the dominant portions of the marks.

It is well established that marks must be considered in their entireties in determining likelihood of confusion, although under certain circumstances there is nothing improper in giving more or less weight to a particular portion of a mark. In *re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). Here the marks as a whole are obviously different in sound and appearance. The words RACE and CAR differ in meaning and impart different connotations to the marks. While opposer argues that "cars" are known to "race," we find any such correlation between the marks extremely tenuous. Instead, when the marks are considered in

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context, i.e., in connection with the particular services for which they are being used, the connotations of the marks are clearly different. Although it is true that the marks share the words FOR and CURE, and that the terms A and THE are readily interchangeable, we do not find the phrases FOR THE CURE and FOR A CURE to so dominate the two marks, to the exclusion of RACE and CARS, respectively, that the overall commercial impressions are similar. While the marks may be alike insofar as each is highly suggestive of the particular services with which it is being used, each mark creates a different commercial impression. Each is suggestive of a different type of program, one involving a RACE, the other involving CARS. We find this dissimilarity in overall commercial impression to weigh in applicant's favor.

Comparing the respective services, we are guided by the general principle that the services need not be identical or even competitive in order to support a holding of likelihood of confusion. It is sufficient if the services are related in some manner or that the circumstances surrounding their marketing are such that they would be likely to be encountered by the same persons in situations that would give rise, because of

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the marks used thereon, to a mistaken belief that they originate from the same provider or that there is an association between the providers of the respective services. See *In re Wilson*, 57 USPQ2d 1863 (TTAB 2001); *Monsanto Co. v. EnviroChen Corp.*, 199 USPQ 590 (TTAB 1978).

Opposer argues that the services of opposer and applicant are similar. Both involve fundraising activities for cancer-related purposes. We note, however, that at a more specific level, the particular services recited in opposer's registration and applicant's application are very different. As opposer's mark suggests, opposer's services involve conducting foot races, whereas, as applicant's mark suggests, applicant's services deal with a car donation program. Nonetheless, there is testimony of record that applicant also sponsors a walk event for breast cancer, albeit under another, different mark, and that there are other charitable organizations, although not opposer, who have similar car donation programs.⁷ Thus, in general, both types of programs, car donations to raise money and fundraising footraces, might well be encountered by the same persons,

⁷ Despite opposer's arguments to the contrary, opposer's car raffles with new cars donated by its sponsors do not qualify as car donation programs in the nature of applicant's programs.

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who could assume a common sponsorship of both types of programs or events by a single organization if the same or similar marks were used therewith. This factor slightly favors opposer.

It is clear that no distinction between the services can be made on the basis of channels of trade. The services of both parties involve direct participation by members of the general public.

On the other hand, there is a difference in the manner of purchasing, or more accurately described in the case of fundraising, of participating in, the respective services. Opposer's annual race events in particular cities are one-day events in which individuals choose to participate. Applicant's car donation program runs year round and participating involves a longer, more thoughtful process on the part of the individual donor. As the record shows, the average donation takes a week and a half, with considerable interaction between the donor and ACS. Furthermore, when a potential donor contacts the CARS FOR A CURE staff, the program is identified as an ACS program and the packet sent to the donor bears similar identification. (Coco deposition, p.

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26 and 34). The title of the donated car is assigned to ACS. Throughout this process, there is ample opportunity for potential donors to realize that the CARS FOR A CURE program is affiliated with applicant. This difference in degree of involvement of potential participants weighs in applicant's favor.

Insofar as the fame of opposer's mark is concerned, although the record shows that the mark has been well publicized and the race events have grown significantly in number and participants, we find no basis for affording to opposer's mark the greater scope of protection given to a famous mark. See *Recot Inc. v. M.C. Becton*, F.3d. , 54 USPQ2d 1894 (Fed. Cir. 2000). In fact, the record shows that the RACE FOR THE CURE mark is, in most instances, used in close association with the Susan B. Komen name and not alone. Thus, we find no support for any claim of fame of the mark RACE FOR THE CURE in itself.

Next we turn to the factor which we find to be of critical importance in the case, namely, the number and nature of similar marks in use for similar services by third parties. Applicant has made of record copies of third-party registrations and applications, printouts of numerous Web- sites, printouts of NEXIS articles as well

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as oral testimony to support its contention of widespread usage of "cure" designations, including formatives such as "for the cure" and "for a cure," in connection with charitable fundraising programs relative to many diseases.

At the outset, we note that we do not find evidence of usage of the word "cure" by itself in reference to cancer or other diseases to be relevant to the present issue of likelihood of confusion. Thus, we have taken into consideration only that evidence directed to the usage or adoption of designations in which the term "cure" is a part, such as "for the cure," "for a cure," or similar designations, in connection with fundraising activities. While opposer has strongly objected to this third-party evidence on the basis that the mere introduction of third-party registrations and applications is not evidence of use of the marks or public familiarity therewith, and that the probative value of Website information is weak,⁸ we do not find the evidence to be without significance in this case.

⁸ As acknowledged by opposer, the Internet printouts have been introduced under the declaration of counsel. Thus, the printouts are admissible and can be taken under consideration for what they show on their face. See *Raccioppi v. Apogee, Inc.*, 47 USPQ2d 1368 (TTAB 1998).

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Instead, we find both the third-party registrations and the Website printouts to have probative value for the purpose of establishing that designations such as "for the cure" and "for a cure" have appealed to others as a trademark element in the field of charitable fundraising; that the designations may not be particularly distinctive in this field; and that the designations have a readily understood suggestive meaning in the field. See *Bost Bakery, Inc., v. Roland Industries, Inc.*, 216 USPQ 799, 801, n.6 (TTAB 1982). See also *Henry Siegel Co. v. M&R Mfg. Co.*, 4 USPQ2d 1154, 1161, n.11 (TTAB 1987). The conclusion which may be drawn from evidence of this nature is that there is an inherent weakness in a mark incorporating the designation in question and that only slight differences in marks containing similar designations may be sufficient to distinguish one from another. See *In re Melville Corp.*, 18 USPQ2d 1386 (TTAB 1991). See also *In re Hamilton Bank*, 222 USPQ 174 (TTAB 1984).

Looking then to the third-party registrations made of record by applicant (Exhibit 99), we note the following as representative of marks adopted by third parties for use in connection with various charitable fund raising services:

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- (1) CLIP FOR THE CURE (hair care to raise money for cancer research);
- (2) PARTNERS FOR A CURE (fundraising in connection with diabetes);
- (3) POLO FOR THE CURE (fundraising for leukemia research, patient aid and public education);
- (4) SWINGING FOR A CURE (fundraising in field of breast cancer);
- (5) CANS FOR A CURE (collection of recyclable cans);
- (6) CLIMB FOR THE CURE (fundraising by solicitation of contributions in support of AIDS research; through sponsorship of climbing of Mt. McKinley by expedition);
- (7) TOUR FOR THE CURE (organizing and conducting golf tournaments to benefit breast cancer research); and
- (8) FISHING FOR A CURE (raising funds for diabetes research.)

Turning to the Website printouts introduced by applicant's Notice of Reliance, we find an abundance of evidence of the adoption by others of marks or names for fundraising activities containing the designations "for the cure" or "for a cure." We note but a few as representative: CONCERT FOR THE CURE, PGA TOUR FOR THE CURE, JDF WALK FOR THE CURE, DOWN THE RIVER FOR A CURE, QUILT FOR A CURE, CALL FOR A CURE, COUNTDOWN TO A CURE, CARDS FOR A CURE, KATIE'S KIDS FOR THE CURE, RALLY FOR A CURE, BIG RIDE FOR A CURE, and CURT'S RUN FOR A CURE.

In addition, applicant has made of record NEXIS printouts of various newspaper articles publicizing fundraising events bearing as part of the name therefor the "for the cure" or "for a cure" designation. One in particular is the ACS fishing event, CAST FOR A CURE. By

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oral testimony applicant has introduced evidence of the use of several other marks, including WALK FOR THE CURE for a program of the Juvenile Diabetes Foundation and COASTING FOR A CURE for an event benefiting the Leukemia Society.

All in all, we find the evidence sufficient to establish that the designations "for the cure" and "for a cure" have been adopted by many in the field of charitable fundraising; that the designations are not distinctive, but rather have a highly suggestive connotation when used in connection with programs or events of this nature. Thus, we conclude that there is an inherent weakness in the FOR THE CURE element of opposer's mark and the FOR A CURE element of applicant's mark, so that even the mere addition of different descriptive terms, i.e., RACE and CARS, respectively, is sufficient to distinguish one mark from the other. The record does not support opposer's allegation in the Notice of Opposition that FOR THE CURE has come to indicate services having their source of origin in opposer.

Although opposer has made of record evidence of policing of its mark, resulting in the abandonment of at least three marks, it would appear that opposer is

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fighting an uphill battle. Moreover, we find this policing somewhat selective, in view of the evidence that opposer has entered into a consent agreement with the owner of the registration of SWINGING FOR THE CURE for charitable tennis events in order to obtain registration of its mark SWING FOR THE CURE for golfing events, requiring only that the house marks be used in close association with the marks. (ACS Exhibit 103).

In this vein, we note that both parties have testified to the lack of knowledge of any instances of actual confusion. While we are aware that the test under Section 2(d) is likelihood of confusion, not actual confusion, we nevertheless must consider this factor, and it favors applicant. Moreover, we note that the lack of actual confusion appears to stem from the fact that the record shows that both opposer and applicant make a practice of using their house marks in close association with the specific program marks before us. While we recognize that registration is being sought by applicant for its program mark alone, and we can not assume that this practice of using its house mark will continue, applicant presently always uses its house mark in connection with CARS FOR A CURE. The record clearly substantiates applicant's assertions that it wants

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potential donors to be fully apprised of the affiliation of the CARS FOR A CURE program with applicant, because of the historical association of ACS with cancer research fundraising programs. We find no basis on which to assume that these intentions will change.

The only other factor which we find to be relevant is applicant's intent in adopting its mark. From the testimony of applicant's witnesses, it is clear that there was no express intention on the part of applicant to take advantage of any of opposer's goodwill in the adoption of the mark CARS FOR A CURE. (Currence deposition, p. 44, Riehl deposition p. 66). While opposer's race event was first held in Baltimore in 1993, applicant initiated its car program in early 1993 and claims to have been unaware of opposer's mark. Although opposer is correct in arguing that applicant must be charged with constructive knowledge of opposer's registration for the mark which issued April 24, 1990, opposer has failed to come forth with any proof of either applicant's actual knowledge of opposer's mark or of applicant's intention to trade on the goodwill of opposer's mark. We can draw no conclusion other than that applicant adopted its mark in good faith. See *Big Blue Products v.*

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International Business Machines Corp., 19 USPQ2d 1072
(TTAB 1991).

Accordingly, upon weighing all the relevant factors, we find that although opposer's mark RACE FOR THE CURE and applicant's mark CARS FOR A CURE are being used for generally related fundraising activities, applicant has established that the designations FOR THE CURE or FOR A CURE are inherently weak in the field of charitable fundraising related to diseases and that when the commercial impressions of the involved marks are considered, in connection with the specific programs of the parties, and in light of the degree of involvement by potential donors in applicant's program, there is no likelihood of confusion.

Decision: The opposition is dismissed.