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OF THE TTAB**

Paper No. 14
DEB

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Express Communications Supply, Inc.

Serial No. 75/156,429

Robert J. Van Der Wall of Stein Schifino & Van Der Wall for
Express Communications Supply, Inc.

Mary E. Crawford, Trademark Examining Attorney, Law Office
102 (Thomas V. Shaw, Managing Attorney).

Before Hohein, Chapman and Bucher, Administrative Trademark
Judges.

Opinion by Bucher, Administrative Trademark Judge:

Express Communications Supply, Inc. has filed an
application to register the mark EXPRESS QUICK CABLES for
"wiring harnesses of low voltage low amperage telephone wire
for exclusive use in private business telephone equipment,"¹
in International Class 9.

Registration has been finally refused under Section
2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground
that applicant's mark, when applied to its goods, so
resembles the mark QUICK-CABLE, which is registered for

¹ Application Serial No. 75/156,429, filed on August 26, 1996,
which alleges a date of first use of May 1, 1996 and a date of
first use in commerce of May 15, 1996. The word "cables" is
disclaimed.

"electrical cables, cable connectors, ground lugs, terminal clamps and tools sold therewith, and kits containing said cables, cable connectors, ground lugs, terminal clamps and tools therefor," as to be likely to cause confusion, to cause mistake or to deceive.

Applicant has appealed. Briefs have been filed but applicant did not request an oral hearing.

We reverse the refusal to register.

Turning first to consideration of the respective goods, the Trademark Examining Attorney argues that the goods of applicant and of registrant are closely related; and that she has demonstrated through a number of use-based, third-party registrations that the same mark has been registered for electrical wires and telephone wires.

By contrast, applicant argues that, in reality, these goods are very different:

[Eighteen pages of information printed from Registrant's Internet web site] show that the cited Registrant's products are exclusively heavy duty, high amperage copper battery and welding cables, related connectors, crimping tools, accessories, tools, protective products and the like that are used in the vehicular industry. Applicant's products are solely wiring harnesses of fine telephone wire exclusively used in the installation of business telephone equipment.

(Applicant's appeal brief, p. 7.)

We find that the identification of registrant's goods on its face is clear and unambiguous. In addition, the submission of copies of the registrant's web pages confirms

that registrant's goods are used for heavy-duty electrical circuits:

Quick Cable [registrant] will manufacture, sell and distribute heavy duty electrical connectors, cable, tools and related products, in standard and custom configurations, as whole systems and and (sic) component parts.

(Registrant's web page, under "Our Mission Statement.")

The web site goes on to provide the specifications of registrant's connectors, cables, fasteners and tools to be used in connection with heavy-duty electrical circuits. In particular, the web pages makes several references to electrical cable of 250 MCM, a very large, multi-stranded wire used with industrial storage batteries, welding equipment and in high voltage infrastructures.

By contrast, applicant's patent documentation shows a very specialized, wiring harness for usage in the telephone closets of large private branch exchange (PBX) type, business communications systems. This device allegedly saves time and money in office buildings wired for analog devices transitioning to the widespread use of digital technologies.

Accordingly, recognizing that the third-party registrations placed in the record by the Trademark

Examining Attorney suggest that some of the same companies make or supply electrical cable and telephone wires, and acknowledging that both are designed to carry some form of electricity, we find that the actual descriptions of these respective items, as set forth in the application and cited registration, demonstrate that they are at two opposite extremes of wires, judging by their respective gauges and purposes.

As to the respective channels of trade, applicant points out that because of the nature of its specialized products (e.g., wiring harnesses of low voltage low amperage telephone wire for exclusive use in private business telephone equipment), it directs its advertising brochures to the private telephone industry. Hence, even though a medium-sized or larger business organization may own or lease a private branch exchange, applicant considers the vendor/supplier of the PBX to be its customer. Certainly, if anyone from within the enterprise hosting the PBX even knows of this wiring harness, it would be only the most sophisticated of its design engineers.

Given the nature of registrant's products and judging from the web pages of record, registrant's retail customers would include electrical contractors, electricians, welders and owners of heavy equipment. Members of each of these

groups must be considered knowledgeable and discriminating buyers who would exercise a great deal of care in selecting heavy-duty electrical equipment.

In addition to the fact that the decisions to purchase applicant's telephone wiring harnesses and registrant's heavy duty electrical wiring systems would generally be made by separate individuals (e.g., telecommunications experts, design engineers and purchasing agents in the case of the former, and electrical contractors, electricians, welders, and owners of heavy equipment with respect to the latter), we concur with applicant that given the deliberation involved, the respective goods, by their very nature, are not the kind of goods that would be subject to impulse purchases.

Turning next to consideration of the respective marks, the Trademark Examining Attorney argues that applicant has simply added the term EXPRESS to the mark of the registrant, and that the marks in their entireties are similar enough in sound, appearance and commercial impression to support a finding of a likelihood of confusion.

On the other hand, applicant argues that its mark of nearly twice as many syllables begins with the dominant word, EXPRESS. Applicant also points out that the latter portion of its mark is QUICK CABLES (plural and without a hyphen) while registrant's entire mark is QUICK-CABLE (singular and having a hyphen).

Inasmuch as the word "cables" has been disclaimed in this application, and the QUICK CABLES / QUICK-CABLE portions of both marks appear to be highly suggestive, we find that applicant's placement of its house mark as the first word in the composite mark creates a significant difference in the appearance, sound, meaning and overall commercial impression of these two marks.

Accordingly, given the differences in the goods, as identified, and the consequent diversity in channels of trade, the absence of an overlap in the class of purchasers, the sophistication of the respective purchasers and the care and deliberation involved in the purchase of these items, as well as the differences in the respective marks when considered in their entireties, we find that the extent of any potential confusion herein would be *de minimis*.

Decision: The refusal to register is reversed.