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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Dunhill Staffing Systems of Long Island, Inc.

Serial No. 75/630,177

Myron Amer for Dunhill Staffing Systems of Long
Island, Inc.

Giancarlo Castro, Trademark Examining Attorney, Law
Office 109 (Ron Sussman, Managing Attorney).

Before Hanak, Quinn and Bottorff, Administrative
Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

Dunhill Staffing Systems of Long Island, Inc.
(applicant) seeks to register in typed drawing form
WE DO I.T. BETTER for "permanent and temporary
employment agencies in the information technology
field." The application was filed on January 29,
1999 with a claimed first use date of

Ser. No. 75/630,177

January 14, 1999.

Citing Section 2(d) of the Trademark Act, the examining attorney refused registration on the basis that applicant's mark, as applied to applicant's services, is likely to cause confusion with the mark NOBODY DOES IT BETTER, previously registered in typed drawing form for "personnel recruitment and placement services in the field of information technology; and project management in the field of information technology." Registration No. 2,237,811.

When the refusal to register was made final, applicant appealed to this Board. Applicant and examining attorney filed briefs. Applicant did not request a hearing.

In any likelihood of confusion analysis, two key considerations are the similarities of the marks and the similarities of the goods and/or

services. Federated Foods, Inc. v. Fort Howard Paper, Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA

1976).

Considering first the cited mark, we note that it consists of a common, highly laudatory expression. Accordingly, the cited mark NOBODY DOES IT BETTER is entitled to a very narrow range of protection. 1 J. McCarthy, McCarthy on Trademarks and Unfair Competition Sections 7:23 and 11:17 (4th ed. 2000).

Because the cited mark is entitled to a very narrow range of protection, we find that applicant's mark WE DO I.T. BETTER is dissimilar enough such that the use of the two marks on extremely closely related services, or even identical services, is not likely to result in confusion.

While both marks consist of four "words," the only word common to both marks is the final word,

namely, BETTER. Thus, in terms of visual appearance and pronunciation, the two marks are essentially dissimilar. Applicant's use of the two

periods in the third "word" of its mark not only causes this third "word" to be visually dissimilar from the third word in the registered mark, but in addition, the presence of the periods causes the third "word" in applicant's mark to be pronounced, in many cases, as "eye tea." Of course, this manner of pronunciation is an initialism for "information technology," a term which indicates the particular type of employment agency services offered by applicant.

Finally, in terms of meaning or connotation, the two marks are similar only if purchasers ignore the periods in applicant's mark and perceive applicant's mark as WE DO IT BETTER. As previously noted, we believe that many purchasers would understand applicant's mark as meaning WE DO

INFORMATION TECHNOLOGY BETTER. At a minimum, we believe that most purchasers who view applicant's mark as WE DO IT BETTER will, given the nature of the services with which the mark is used, understand that applicant's mark also means WE DO

INFORMATION TECHNOLOGY BETTER.

In short, as previously noted, given the fact that the cited mark consists of a common, highly laudatory expression which is entitled to a very narrow scope of protection, we find that the differences in the two marks are great enough such that their use on extremely similar, and indeed identical services, would not result in a likelihood of confusion.

Our finding of no likelihood of confusion is only further supported when one considers the nature of applicant's and registrant's services. There is no question that employment agency services (applicant's services) are very closely related to personnel recruitment and placement services (registrant's services). However, both types of services are not directed to ordinary consumers, but instead are directed to a rather sophisticated group of purchasers, namely, business owners and personnel managers. Our primary reviewing Court has made it clear that with regard

to the issue of likelihood of confusion, 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).

Finally, it should be noted that both applicant's employment agency services and registrant's personnel recruitment and placement services are limited to the field of information technology. In other words, applicant's employment agency services and registrant's personnel recruitment and placement services do not involve unskilled workers. Hence, in contracting for applicant's employment agency services or registrant's personnel recruitment and placement services, the business owners and personnel managers would have to engage in reasonably significant discussions with applicant and registrant to make certain that the individuals provided by applicant and registrant are qualified

Ser. No. 75/630,177

to operate the particular information systems which the customer has in place. Such significant discussion is yet another factor in reducing the likelihood of confusion. Electronic Design & Sales, 21 USPQ2d at 1392.

Decision: The refusal to register is reversed.