

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB 10/6/98
U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Sandia Laboratory Federal Credit Union

Serial No. 74/703,465

Simor L. Moskowitz of Jacobson, Price, Holman & Stern PLLC
for applicant.

G. T. Glynn, Trademark Examining Attorney, Law Office 102
(Thomas Shaw, Managing Attorney).

Before Simms, Chapman and Wendel, Administrative Trademark
Judges.

Opinion by Wendel, Administrative Trademark Judge:

Sandia Laboratory Federal Credit Union has filed an
application to register the mark CU@HOME for "home banking
services accessible via computer, namely, fund transfers,
deposits, withdrawals, balance inquiries, check requests,
new accounts, bill paying, loan applications, loan
payments, payment estimates, rate and yield information,

prior year dividend/interest for tax purposes, credit union announcements." ¹

Registration has been finally refused on the ground that the mark, when used in connection with these services, is merely descriptive within the meaning of Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1).

Applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested.

A term is merely descriptive within the meaning of Section 2(e)(1) if it immediately conveys information regarding a characteristic, function, purpose or feature of the goods or services with which it is being used. See *In re Abcor Development Corp.* 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); *In re Bright-Crest Ltd.*, 204 USPQ 591 (TTAB 1979).

The Examining Attorney has submitted a page from the Acronyms, Initialisms & Abbreviations Dictionary (1994) to show that CU is a recognized acronym for "credit union" and a page from the PC User's Pocket Dictionary to show that "@" is the standard computer "at" symbol. He points to the identification of the services themselves to show the

¹ Ser. No. 74/703,465, filed July 19, 1995 based on a bona fide intent to use. An amendment to allege use was later filed setting forth first use dates of August 16, 1996.

descriptive nature of the word "home". In addition, he submits an article from the Lexis/Nexis database describing the entrance of credit unions into home banking which refers to the setting up by a third-party of the "Windows-based CU at Home" computer banking service. (The American Banker, Jan. 9, 1995). This evidence is said to demonstrate recognition of the phrase "CU at home" as a "descriptive appellation within the relevant home banking industry... ." On this basis, the Examining Attorney maintains that CU@HOME would immediately inform the prospective purchaser of "the salient feature of these computerized credit union banking services utilized in at home banking transactions... ."

Applicant argues that it is obvious from the multi-stage reasoning process used by the Examining Attorney to combine the various elements of applicant's mark that CU@HOME is suggestive of applicant's home banking services, rather than merely descriptive. As for the use of the designation "CU at home" in a single article, applicant insists that this is neither evidence that that designation is currently being used by others or that there is a need for others in the field to use the terms as combined by applicant. Applicant further contends that the mark has a double entendre in that it may just as easily be

interpreted as "See you at home", a non-descriptive phrase connoting the ease of banking with applicant.

We agree that applicant's mark, CU@HOME, may well be perceived by potential customers as an abbreviated form of the words "Credit Union at Home". The brochure submitted by applicant as a specimen demonstrates applicant's promotion of its CU@HOME services as allowing customers to have "online access to your ... FCU accounts from your home or office computer."

Our problem is that we find no evidence of record that "Credit Union at Home" (the full phrase of which applicant's mark is an abbreviated form) is a phrase used by others in a descriptive manner in connection with a home banking service of this nature. It is true that in the solitary article introduced by the Examining Attorney, the reference is made to a "CU at Home" computer program. But there is nothing to infer that this is other than a service mark adopted by a specific credit union to identify its particular program used in connection with a home banking service. There clearly is no evidence to support the Examining Attorney's argument that this reference shows "the descriptive notoriety of the expression CU at Home within the relevant banking industry and trade."

In the absence of such evidence, we believe that although applicant's mark may be interpreted as "Credit Union at Home", it does no more than suggest that a customer is able to access his credit union account at home. While there is often a fine line between suggestive marks and those which are merely descriptive, we find no information which is immediately conveyed to the customer by the words "Credit Union at Home" (or by CU@HOME). The credit union obviously is not in the customer's home, but simply can be accessed at home by means of the customer's computer. See *In re Wakefern Food Corp.*, 222 USPQ 76 (TTAB 1984) [WHY PAY MORE! only suggestive that applicant's supermarket prices are lower, not descriptive of supermarket services per se]; *In re Sottile*, 156 USPQ 655 (TTAB 1968) [YOUR FINANCIAL SECURITY IS OUR BUSINESS only suggestive of applicant's insurance underwriting services]. Not only is this equally true for applicant's more fanciful rendition of the phrase, CU@HOME, but the phrase presented in this manner also lends itself to the second interpretation, "See You at Home", which cannot be viewed as merely descriptive of applicant's services. See *Henry Siegel Co. v. M & R International Mfg. Co.*, 4 USPQ2d 1154 (TTAB 1987), and the cases cited therein. Thus, in view both of the imagination needed to grasp the significance of

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the applicant's mark, if interpreted as "Credit Union at Home," as well as the double entendre projected by the short-hand rendition, CU@HOME, applicant's mark cannot be considered merely descriptive of the identified home banking services.

Decision: The refusal to register is reversed.

R. L. Simms

B. A. Chapman

H. R. Wendel
Trademark Administrative Judges,
Trademark Trial and Appeal Board

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