

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB SEPT 14, 98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re European American Bank

Serial No. 75/200,800

Stewart J. Bellus of Collard & Roe for applicant.

Ann E. Sappenfield, Trademark Examining Attorney, Law
Office 107 (Thomas Lamone, Managing Attorney).

Before Seeherman, Walters and Wendel, Administrative
Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

European American Bank has filed an application to
register the mark shown below for "automated telephone
banking services."¹



¹ Serial No. 75/200,800, in International Class 36, filed November 20, 1996, based on an allegation of use of the mark in commerce, alleging first use and use in commerce as of August, 1996.

The Trademark Examining Attorney has finally required, under Section 6 of the Trademark Act, 15 U.S.C. 1056, a disclaimer of ACCESSLINE apart from the mark as a whole on the ground, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), that this portion of applicant's mark is merely descriptive in connection with its services.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We affirm the refusal to register.

The Examining Attorney contends that, as evidenced by the specimens of record, the term ACCESSLINE merely describes to applicant's customers a telephone line access to bank accounts; and that the meanings of the individual terms "ACCESS" and "LINE" support the conclusion that the term ACCESSLINE is merely descriptive in connection with applicant's identified services. In support of her position, the Examining Attorney has submitted copies of four third-party registrations for marks incorporating the term ACCESSLINE or ACCESS LINE in connection with the same or related services and including a disclaimer of this term. The Examining Attorney contends that these

registrations are probative of the descriptive significance of this term in the relevant industry.²

Conceding that ACCESSLINE suggests that "a consumer will gain 'access' and will be able to use a telephone 'line'," and that "customers of applicant's automated banking services ultimately may realize that they are going to obtain increased access to something having to do with their bank accounts," applicant contends that, ACCESSLINE, considered in connection with the identified services, is a vague term; that the meaning of the term is not immediately conveyed to customers; and that, therefore, ACCESSLINE is suggestive rather than merely descriptive. Applicant argues that any doubt on the issue of descriptiveness should be resolved in its favor.

Turning to the issue of whether ACCESSLINE is merely descriptive in connection with applicant's services, we consider whether ACCESSLINE immediately conveys information

² While applicant correctly points out that third-party registrations are not evidence of use of the term nor "do they explain why a registrant agreed to a disclaimer," such registrations are of some probative value in considering the issue of descriptiveness. The appearance of the term in a significant number of third-party registrations for marks identifying the same or closely related services would tend to indicate, at least, that the term is of little trademark significance. This is particularly true where the term is disclaimed in each such registration. We note that applicant has not submitted copies of other third-party registrations containing the term ACCESSLINE without a disclaimer. While we do not rest our conclusion in this case on the four third-party registrations of record, this evidence increases our comfort with our decision herein that ACCESSLINE is merely descriptive in connection with the identified services.

Serial No. 75/200,800

concerning a quality, characteristic, function, ingredient, attribute or feature of applicant's product. *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979); *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986). We determine this question on the basis of the identification of services in the application before us. See, *In re Allen Electric and Equipment Co.*, 458 F.2d 1404, 173 USPQ 689 (CCPA 1972); *In re Vehicle Information Network Inc.*, 32 USPQ2d 1377 (TTAB 1994); and *In re Cryomedical Sciences Inc.*, 32 USPQ2d 1377 (TTAB 1994).

We take judicial notice of the dictionary definitions³ submitted by the Examining Attorney with her brief defining "line" as "26. *Telecommunications*. a telephone connection" and defining "access" as "1. ... admittance: *They have access to the files*" and "10. *Computers*. To locate (data) for transfer from one part of a computer system to another, generally between an external storage device and main storage." We take notice, also, of the definitions in the *Computer Desktop Dictionary* (1998) of "access" as "to store data on and retrieve data from a disk or other peripheral device."

³ *Random House Compact Unabridged Dictionary*, 1987.

Considering applicant's promotional flyer submitted as a specimen, we note applicant's language in describing its services under the mark: "In addition to receiving our current services, now you can also access your accounts to transfer money and make EAB payments" and "Once you become familiar with AccessLine, you can speed dial the numbers to get faster access to the services you need." The flyer makes clear that the services include the ability to "transfer funds between accounts" and "make EAB payments."

As identified in the application and described in its promotional material, applicant's services permit a banking customer, via telephone, to gain computerized "access" to that customer's account to conduct banking business such as transferring funds and making payments to the bank. As applicant acknowledges, "line" unquestionably refers to a telephone line. In view of the clear significance and definitions of the terms access and access line, we find nothing vague about the use of ACCESSLINE in connection with applicant's identified services. Rather we find that ACCESSLINE, considered in connection with the services as identified, immediately conveys, without conjecture, to customers that they have automated access to their accounts via telephone to conduct banking business. As the Examining Attorney notes, merging the words ACCESS and LINE

Serial No. 75/200,800

into a single word ACCESSLINE, especially since applicant's design continues to emphasize the individual words, does not change the descriptive significance of the term in connection with applicant's identified services.

In conclusion, we find that ACCESSLINE is merely descriptive in connection with automated telephone banking services, the services identified herein.

Decision: The requirement for a disclaimer of ACCESSLINE is affirmed. Applicant is allowed until thirty days from the mailing date of this decision to submit a proper disclaimer, failing which registration will be refused. See, Trademark Rule 2.142(g).

E. J. Seeherman

C. E. Walters

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