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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Approved Federal Savings Bank

Serial No. 75/266,500

Craig L. Mytelka and Megan E. Burns of Clark & Stant, P.C., for
Approved Federal Savings Bank.

Douglas M. Lee, Trademark Examining Attorney, Law Office 108
(David Shallant, Managing Attorney).

Before Hairston, Bucher and McLeod, Administrative Trademark
Judges.

Opinion by Bucher, Administrative Trademark Judge:

First Security Federal Savings Bank, Inc., a federal stock
institution located in Virginia Beach, Virginia, has filed an
application for registration of the mark "APPROVED FEDERAL
SAVINGS BANK" for "banking services" in International Class 36.¹

¹ Serial No. 75/266,500, filed on March 31, 1997, based upon an
allegation of a *bona fide* intention to use the mark in commerce. The
records of the U.S. Patent and Trademark Office reflect the fact that
applicant recorded its name change of April 1997 to "Approved Federal
Savings Bank," at Reel 1659, Frame 607.

The Trademark Examining Attorney issued a final refusal to register based upon Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that if applicant's proposed mark were used in connection with these banking services, it would be merely descriptive of applicant's services.

Applicant has appealed the refusal to register based upon the alleged merely descriptive nature of the mark. Applicant and the Examining Attorney have submitted briefs and an oral argument was held.

A mark is unregistrable under Section 2(e)(1) of the Trademark Act as merely descriptive of the services with which it is used if it immediately and forthwith conveys information about the characteristics, features or functions of those services. See In re Omaha National Corp., 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987), and In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215 (CCPA 1978). Accordingly, the Trademark Examining Attorney contends that the wording "APPROVED FEDERAL SAVINGS BANK" immediately tells potential customers that applicant "...is a federal savings bank that has been approved by an agency of the federal government to offer banking services." (Trademark Examining Attorney's Brief, p. 4). Evidence placed in the record by the Trademark Examining Attorney demonstrates

the use of this phrase, or its variations, in ways that make this point:

The capital plan of Union Federal Savings Bank here has been approved by the Office of Thrift Supervision. *National Mortgage News*, September 30, 1991.

It's the first federal savings bank approved in Connecticut in eight years... *New Haven Register*, September 4, 1994.

Regulators have approved Federal Savings Bank's plans to open a new branch ... in West Little Rock... *Arkansas Democrat-Gazette*, February 8, 1996.

After months of talking about it, the State Farm insurance empire applied Monday for a federal savings bank charter. If approved, the application by State Farm Mutual Automobile Insurance Company would enable the parent to market banking services to holders of its 66 ... *The American Banker*, July 2, 1997.

Charters, mergers, and establishment of branches of national banks require approval of the Comptroller of the Currency.
<http://www.treas.gov/brochure/blue9...>, July 24, 1998.

Applicant takes the position that "[t]he mere use of the term 'approved' gives no indication of the person or entity giving approval or what is being approved." (Applicant's brief, p. 4). Because the word "approved" in this context could mean a variety of different things, applicant contends this is an arbitrary term, or at worst, a suggestive word. Applicant also

argues that the word "approved" has not been treated this way in other registered marks for related or analogous services.²

By contrast, the Trademark Examining Attorney begins with dictionary definitions of the word "approved" as meaning "...to give one's consent to, sanction, confirm..." or "...to be favorable toward, think or declare to be good, satisfactory, etc."³ Then, as seen in the excerpts above, the word "approved" is used quite naturally in the media in the specific context of interaction between government agencies and federal savings banks. The Trademark Examining Attorney contends that when the word "approved" is used in this context, it requires no imagination or multi-step reasoning for consumers to understand its precise significance. Standing alone, this term is descriptive of financial institutions. Then, when combined with the words "federal savings bank," there is nothing in the combination that

² Applicant lists nine alleged third-party registrations in its brief. However, in reaching our decision, the Board is not compelled to even consider the listed registrations as credible evidence of the existence of the registrations so listed. *In re Hub Distributing, Inc.*, 218 USPQ 284 (TTAB 1983). In order to make these third party registrations of record during *ex parte* examination, soft copies of the registrations or even photocopies of the appropriate U.S. Patent and Trademark Office electronic printouts must be submitted. See *Weyerhaeuser Co. v. Katz*, 24 USPQ2d 1230 (TTAB 1992). Furthermore, we have not considered this listing since applicant did not comply with the established rule that the evidentiary record in an application must be complete prior to the filing of the notice of appeal. See 37 CFR 2.142(d), and *In re Smith and Mehaffey*, 31 USPQ2d 1531, 1532 (TTAB 1994).

³ *Webster's New World Dictionary*, p. 68 (3d ed. 1988)

is indefinite, incongruous or susceptible to multiple connotations.

The evidence in the record confirms what most of us know intuitively - there are quite a few different state and federal agencies involved in the supervision, regulation and approval of fiduciary institutions. While the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) play a major role at the federal level, there are other references to the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve System, state government finance offices, the Conference of State Bank Supervisors (CSBS), etc. This complicated patchwork of regulatory structures has evolved over the years to safeguard the bank deposits of U.S. citizens and to ensure the integrity of our financial institutions. However, it is not critical to the Trademark Examining Attorney's position herein that consumers understand each agency's respective areas of expertise, responsibility or approval as it relates to federal savings banks. Rather, it is enough that consumers understand that banking institutions are approved by federal agencies.

We see nothing in the joining of the word "approved" with the term "federal savings bank" that creates a new or different meaning than one would anticipate when melding these individual components. The word "approved" would convey information

immediately to the potential customer that this bank has had its operations endorsed by the appropriate regulatory agencies.

Certainly, there are examples of where common, ordinary words can be combined in a novel or unique way and thereby achieve a degree of protection denied to words when used separately. However, in adopting this specific formulation, applicant has not created any new double or incongruous meaning for the combined phrase. In short, the term "approved federal savings bank" does not require imagination, thought and perception to reach a conclusion as to the nature of the services and therefore it cannot be considered a suggestive term. Towers v. Advent Software Inc., 913 F.2d 942, 16 USPQ2d 1039 (Fed. Cir. 1990) [Term "THE PROFESSIONAL PORTFOLIO SYSTEM" is merely descriptive of computer-based portfolio valuation systems]; BankAmerica Corporation et al. v. International Travelers Cheque Company, 205 USPQ 1233 (TTAB 1979) [Applicant's use of the word "INTERNATIONAL" in the term "INTERNATIONAL TRAVELERS CHEQUE" does not differ from the manner in which that word is commonly used by others (e.g., activities, transactions or relationships between different nations or residents of different nations or persons traveling between different nations), and inasmuch as applicant's services are international in scope, the addition of the word "INTERNATIONAL" to "TRAVELERS CHEQUE" merely describes applicant's financial consulting

services concerning travelers checks and bank drafts]; and National Fidelity Life Insurance v. National Insurance Trust, 199 USPQ 691 (TTAB 1978) [“NATIONAL INSURANCE TRUST” is merely descriptive of insurance trust services which are nationwide in scope].

Accordingly, we find that the Trademark Examining Attorney herein has more than adequately demonstrated that this term is merely descriptive of the services specified in this application.

Decision: We affirm the refusal of the Trademark Examining Attorney to register this matter under Section 2(e)(1) of the Act.

P. T. Hairston

D. E. Bucher

L. K. McLeod
Administrative Trademark
Judges, Trademark Trial and
Appeal Board