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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re CurtCo Freedom Group, L.L.C.

Serial No. 75/698,423

Steven J. Nataupsky and Tirzah Abé Lowe of Knobbe, Martens, Olson & Bear, LLP for CurtCo Freedom Group, L.L.C.

Gwen P. Stokols, Trademark Examining Attorney, Law Office 107 (Thomas Lamone, Managing Attorney).

Before Seeherman, Hohein and Wendel, Administrative Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

CurtCo Freedom Group, L.L.C. has appealed from the final refusal of the Trademark Examining Attorney to register ECRM as a trademark for "magazines in the field of business."¹ Registration has been refused pursuant to Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1),

¹ Application Serial No. 75/698,423, filed March 5, 1999, and asserting a bona fide intention to use the mark in commerce.

on the ground that applicant's mark is merely descriptive of the identified goods.

Applicant and the Examining Attorney have filed briefs.² An oral hearing was not requested.

We affirm the refusal.

The Examining Attorney contends that ECRM is a recognized acronym for "electronic customer relationship management," and that this term describes the subject matter of applicant's magazines. In support of this position the Examining Attorney points to applicant's acknowledgement that "'electronic customer relationship management' can be found in the industry" and that "applicant's magazines may discuss aspects of electronic customer relationship management." Response filed October 23, 2000.³ The Examining Attorney has also made of record a listing from "Acronym Finder" showing that ECRM is the acronym for "electronic customer relationship

² Applicant requested several extensions of time to file a reply brief, and extensions were granted until February 19, 2002. No reply brief was filed.

³ Applicant was asked to answer the following questions pursuant to Trademark Rule 2.61(b): 1) Is ECRM an abbreviation for "electronic customer relationship management"? If not, what words do they represent? 2) Does the term "electronic customer relationship management" have any significance in the relevant trade or as applied to the goods or services, any geographical significance or any meaning in a foreign language? 3) Will or do all or any part of the contents of the magazine relate to "electronic customer relationship management"?

management", and excerpts from the NEXIS database and a GOOGLE search summary. The NEXIS excerpts are for the most part from wire service reports, and therefore they are not evidence of public exposure to them. What they do show is that the authors (and it is presumed that there are several authors because the excerpts come from different wire services) understand ECRM or eCRM to mean "electronic customer relationship management."⁴ The GOOGLE search summary is also of limited probative value because it simply lists a few phrases from the websites it retrieved, but these listings do show that "electronic customer relationship management" is known by the acronym "eCRM."⁵

The Examining Attorney has also made of record excerpts from several publications which do show public exposure to ECRM as a term for electronic customer relationship management, as follows:

Electronic Customer Relationship
Management, or ECRM, is something that
I see as a huge threat to the type of

⁴ See, for example, "Quintus Corporation, (Nasdaq: QNTSE), a provider of industry-leading contact center solutions for electronic customer relationship management (eCRM)..." "Business Wire," January 31, 2001; "...a leading e-mail marketing and electronic customer relationship management (eCRM) company." "PR Newswire," January 8, 2001.

⁵ See, for example, "ELECTRONIC CUSTOMER RELATIONSHIO MANAGEMENT (heading) Dear Colleagues: Electronic Customer Relationship Management (eCRM) is a comprehensive approach that provides seamless integration of every area of business...." www.informationforecast.com/electronic.html.

economy we've built in Maine, and there are some big challenges.

"Portland Press Herald," December 30, 2000

It's the old 80-20 rule: 20% of your customers deliver 80% of your profits. But despite ongoing advances in the functionality of electronic customer relationship management (eCRM) systems, many organizations continue to struggle with how to effectively target and coddle their top clients.

"Computerworld," December 11, 2000

Many companies are struggling with customer service representative shortages, which for customers means agonizing hold times on support lines and e-mail inquiries that never receive a reply. You can add warm bodies to your customer service department, but that's an expensive answer that may not resolve the problem as handily or as cost-effectively as an eCRM (electronic customer relationship management) system.

"InfoWorld," April 3, 2000

A mark is merely descriptive, and therefore prohibited from registration by Section 2(e)(1) of the Trademark Act, if it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of a product or service. It does not have to describe every one of those. It is enough if it describes a single, significant quality, feature, function, etc. Moreover, the question of descriptiveness is not decided in a vacuum but in relation to the goods on which, or the services in

connection with which, it is used. **In re Venture Lending Associates**, 226 USPQ 285, 286 (TTAB 1985).

We find that applicant's mark ECRM is merely descriptive of magazines in the field of business in that it immediately conveys to the relevant purchasers that the subject matter of the magazines includes ECRM, or electronic customer relationship management.

The evidence submitted by the Examining Attorney makes clear that ECRM is a recognized acronym for electronic customer relationship management, and that this is a recognized business term, a term that applicant acknowledges "can be found in the industry" and a term that applicant itself has used to describe some of the subject matter of its magazines. "Applicant's magazines may discuss aspects of electronic customer relationship management." Response filed October 23, 2000. When consumers of magazines in the field of business see the mark ECRM for such magazines, they will immediately understand that the magazines deal with electronic customer relationship management.

Applicant contends that CRM can be an acronym for other terms, including "camera ready material," "certified risk manager," "collateral release mechanism" and "combat readiness medal." There are several problems with this

argument. First, applicant has not submitted any evidence to support that CRM is a recognized acronym for these terms. Second, as noted above, the question of descriptiveness must be considered in connection with the identified goods, not in the abstract. As used in connection with a magazine in the field of business, the meanings of CRM as "Camera ready material" and "combat readiness medal" would not be applicable. Third, and most importantly, the term at issue is ECRM, not CRM. To the extent that applicant would have us take the various words that "E" can stand for, (according to applicant, "east," "electronics," "enterprise," entertainment television," "espana" "excellence" and "explorer")⁶ and combine them with its suggested meanings for the acronym CRM, such a position has no merit whatsoever.

Applicant also argues that the various elements in "electronic customer relationship management" individually have a wide variety of meanings. Applicant then goes on to combine the different meanings and asserts that ECRM could be viewed as suggesting, inter alia, a publication on the Web regarding supervising family-owned businesses, an electronic magazine on fine tuning one's executive skills,

⁶ There is no evidence that "E" is a recognized abbreviation for these words.

an interactive guide to handling romantic relationships in the workplace, or a publication on dealmaking strategies for Internet companies. The problem with this argument is that ECRM is a recognized acronym for electronic customer relationship management, and electronic customer relationship management is a recognized business term which, as noted above, applicant has acknowledged is found in the industry.⁷ Accordingly, consumers would not, as applicant argues, have to mentally consider several possible phrases which are identified by the acronym ECRM. Rather, because the only meaning for the acronym ECRM shown by the evidence which is of record is electronic customer relationship management, customers will immediately view this acronym as describing the subject matter of magazines in the field of business.

Applicant has also argued that it is unclear what "electronic customer relationship management" means, relying on statements made in the "Computerworld" article made of record by the Examining Attorney.⁸ The fact that

⁷ Applicant was specifically asked whether the term "electronic customer relationship management" has any significance in the relevant trade, and answered by saying it can be found in the industry. Applicant cannot now deny this by taking the position that customers would not recognize this term.

⁸ The Examining Attorney submitted excerpts of this article, and with its appeal brief applicant submitted the article in its entirety. Normally the record must be complete upon the filing of the notice of appeal, and material submitted with a brief will

panelists were reported in the article as giving their views as to what the subject of ECRM means to them does not show that ECRM is not a recognized term or business subject. It is clear from the article, as well as from the other evidence of record, that ECRM and electronic customer relationship management are recognized terms in business.

Finally, applicant argues that "the fact that portions of the magazine will discuss customer relationship management does not indicate that the mark ECRM merely describes business magazines," and that "having merely a portion of Applicant's magazine discuss 'customer relationship management' is not enough to deem Applicant's ECRM mark merely descriptive." Brief, p. 5. Applicant relies on **Rand McNally & Company v. Christmas Club**, 242 F.2d 776, 113 USPQ 287 (CCPA 1957), which found that CHRISTMAS CLUB was not merely descriptive of magazines which contained advertisements for Christmas Clubs, but eighty percent of which contained editorials, jokes and quotations which were not about Christmas Clubs.

We are not persuaded by this argument. Applicant stated, in response to the Examining Attorney's request for

not be considered. However, because an excerpt from the article had previously been submitted, we regard the entire article as supplementing the record, and we have considered it.

information as to whether "all or any part of the contents of the magazine relate to 'electronic customer relationship management'" that "Applicant's magazines may discuss aspects of electronic customer relationship management." Applicant's application is based on an asserted intention to use the mark, and therefore the Examining Attorney did not have specimens of the magazine to ascertain the subject matter. Accordingly, the Examining Attorney asked applicant whether all or part of the contents related to electronic customer relationship management. If applicant's magazine was not intended to focus on this subject matter, it was incumbent upon applicant to advise the Examining Attorney to that effect (and thereby perhaps encounter a refusal on the ground of deceptive misdescriptiveness). However, applicant stated that its magazines may discuss aspects of electronic customer relationship management. Applicant may not now avoid this admission by suggesting that ECRM will be a minor portion of the magazine. Moreover, we note that even though applicant relies on the CHRISTMAS CLUB case, applicant does not specifically state that electronic consumer relationship management will be a small portion of its magazines.

Decision: The refusal of registration is affirmed.