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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Rippon Community Credit Union

Serial No. 78/120,900

Joseph F. Heino of Davis & Kuelthau, s.c. for Rippon
Community Credit Union.

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Office 110 (Chris A.F. Pedersen, Managing Attorney).

Before Cissel, Seeherman and Bottorff, Administrative
Trademark Judges.

Opinion by Cissel, Administrative Trademark Judge:

On April 10, 2002, Rippon Community Credit Union, a
corporation organized and existing under the laws of the
state of Wisconsin, filed the above-referenced application
to register the term "MEMBER FRIENDLY CREDIT UNION" on the
Principal Register for "credit union services," in Class
36. The basis upon which the application was filed was
applicant's assertion that it possessed a bona fide
intention to use this term as a service mark in commerce in

connection with the specified services. The application included a disclaimer of the exclusive right to use the term "Credit Union" apart from the mark as shown.

The Examining Attorney refused registration under Section 2(e)(1) the Lanham Act, 15 U.S.C. Section 1052(e)(1), on the ground that the proposed mark is merely descriptive of the services set forth in the application. She reasoned that "MEMBER FRIENDLY" describes a characteristic of applicant's services and that the disclaimed terminology "CREDIT UNION" describes the basic nature of the services, and concluded that "MEMBER FRIENDLY CREDIT UNION" therefore describes credit union services which are "member friendly, or geared towards members."

Responsive to the first Office Action, applicant argued that its mark "is, at best, suggestive of the manner in which it hopes the services will be performed by Applicant's employees towards its customers." Applicant quoted dictionary definitions of "friendly" as "of, relating to, or befitting a friend," and of "friend" as "a person whom one knows, likes, and trusts," and argued that because applicant is not a natural person, by definition it cannot be a "friend." Applicant contended that "(w)hile its employees may make every attempt to act in a friendly manner, Applicant submits that it is quite presumptuous and

optimistic to say that the credit union services will, at all times and in all dealings, rise to that level of informal cordiality that would be required in order to be called 'friendly.' "

The Examining Attorney was not persuaded by applicant's arguments, and in her second Office Action, she repeated the refusal to register under Section 2(e)(1). Attached to the Office Action in support of the refusal to register were excerpts from published articles, retrieved from an automated database, wherein the term "member friendly" is used in connection with credit union services, as well as other services which are rendered to members of various other kinds of organizations. Typical examples include the following:

- (1) Listing three different approaches for credit union collections, the January 1, 1999 edition of Credit Union National Association identifies one such "philosophy" as introducing "a member-friendly, sales-oriented approach to help members get back on their feet and build long-term member loyalty." In the same excerpt, the publication goes on to explain that "step one is to develop a member-friendly, sales-oriented collections philosophy. 'We use a very friendly approach when dealing with our members,' observes Bob Manning, Treasurer and Manager of the PSTC Employees Federal Credit Union, Upper Darby, Pa..." The same article goes on to say that "(t)he member-friendly collections approach is designed to create and foster a spirit of cooperation between credit unions and their members," and that "Member-friendly means results."

(2) The January, 2001 edition of Credit Union Magazine notes that "(a)s credit unions have been forced to streamline their operations and compete for market share, many are reaching a pleasant realization: The technologies that once represented the intrusion of hardball competitive tactics into their culture are now, ironically, some of the best means they have for maintaining their reputations as member-friendly institutions."

(3) The June, 2000 edition of Credit Union Management states that "... many credit unions tweak the pre-approval process to make it more member friendly."

and

(4) The February, 1997 edition of Texas Banking states that "TBA is expanding its educational services to include innovative, member-friendly delivery formats."

Also included with the final refusal to register were materials the Examining Attorney retrieved from an Internet search wherein the term "member friendly" is shown used in connection with various activities rendered by organizations which have members. One such document is the OSU Federal Credit Union Newsletter, which states that "(t)here is a member-friendly online tool that will help you pay bills and manage your accounts with ease." The ELGA Credit Union Home Loans Web page, after noting that credit unions are owned by their members, states that credit union members are very important parts of the credit

union system, and "that's what enables us to offer our special member friendly home loan program."

The Examining Attorney concluded that this evidence clearly shows the descriptive use of the term "member friendly" in connection with credit union services, and the refusal to register was made final.

Applicant timely filed a Notice of Appeal and an appeal brief. The Examining Attorney filed her brief on appeal, but applicant did not request an oral hearing before the Board. Accordingly, we have resolved this appeal based on consideration of the written record in the application and the briefs.

Section 2(e)(1) of the Act prohibits registration on the Principal Register of a mark which merely describes the services in connection with which it is used. A mark is merely descriptive under this section of the Act if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the specified services. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re MetPath Inc., 223 USPQ 88 (TTAB 1984); In re Bright-Crest, Ltd., 204 USPQ 591 (TTAB 1979). In order to be held merely descriptive, a term need not describe all of the purposes, functions, characteristics or features of the services. It is sufficient if the term describes one

significant attribute of them. In re MBAssociates, 180 USPQ 338 (TTAB 1973).

When the mark here sought to be registered is considered in light of these principles and the evidence submitted by the Examining Attorney, we find that "MEMBER FRIENDLY CREDIT UNION" is merely descriptive of "credit union services" because it immediately and forthwith conveys information about a significant characteristic or feature of such services, namely that they are credit union services which are easy to use and would be found desirable by members.

Applicant argues that the mark is not merely descriptive of the specified services, but instead is only suggestive of them because it does not immediately convey the subject of the services, but rather suggests to the consumer what they are. To the contrary, the designation "MEMBER FRIENDLY CREDIT UNION," when used in connection with credit union services, immediately, without conjecture or speculation, describes the fact that applicant's credit union services are favorably oriented toward its members. Although applicant cites several cases in which the marks were held to be only suggestive, in each such case some imagination, thought or perception is required in order to

determine the nature or characteristics of the goods or services.

Applicant's contention that the refusal must be reversed because applicant is not a person, and therefore cannot be a friend or friendly, is not well taken. The materials made of record by the Examining Attorney make it clear that consumers would understand the descriptive significance of the term sought to be registered in connection with credit union services.

Applicant claims that the term it seeks to register is so vague that it does not describe with any particularity a significant feature or characteristic of the services with which it intends to use the term as a mark. As support for this argument, applicant points to a quote from the Examining Attorney's second Office Action exhibit entitled "Success Strategies for Creating a Member Friendly Association." The article asks several questions: "So, what does member-friendly mean? We might understand the concept, but what does it look like? How does a member-friendly group make members feel?" Contrary to applicant's contention, however, this evidence supports the refusal to register. It shows that the term "member-friendly" is used to describe services which are rendered through membership organizations. The writer indicates that we understand the

basic concept identified by the term, but that the actual manifestation of that concept will vary under different circumstances. This falls far short of demonstrating that the term is so vague as to be without descriptive significance.

Applicant also argues that the suggestion of being "friendly to members" is not needed by applicant's competitors in order for them to describe their services. This contention is disproved by the Examining Attorney's Internet evidence, which shows other credit unions using the term "member friendly."

Applicant goes on to contend that it has the only pending application to register a mark using "member friendly" in connection with credit union services. Notwithstanding the above-referenced evidence, even if applicant were the first and only user of this merely descriptive designation, refusal under Section 2(e)(1) would still be appropriate. In re National Shooting Sports Foundation, Inc., 219 USPQ 1018 (TTAB 1983). In a similar sense, the fact that some of the articles attached by the Examining Attorney to her second Office Action refer to subject matter other than credit unions does not mandate a different result in this appeal. That "member friendly" or its equivalent is also used descriptively in connection

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with services rendered by membership organizations other than credit unions does not make it any less descriptive in connection with credit union services.

DECISION: The refusal to register under Section 2(e)(1) of the Act is affirmed.