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**THIS DISPOSITION
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Paper No. 12
PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **The Homestead Mortgage Company**

Serial No. 75/487,987

Steven L. Permut of **Reising, Ethington, Barnes, Kisselle, Learman & McCulloch** for **The Homestead Mortgage Company**.

Michael P. Keating, Trademark Examining Attorney, Law Office 107 (**Thomas S. Lamone**, Managing Attorney).

Before **Seeherman, Hairston** and **Chapman**, Administrative Trademark Judges.

Opinion by **Hairston**, Administrative Trademark Judge:

An intent-to-use application has been filed by The Homestead Mortgage Company to register the mark HOMESTEAD USA ("USA" is disclaimed) for "mortgage lending and mortgage brokerage services."¹

Registration has been refused by the Trademark Examining Attorney pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. 1052(d), on the ground that the

¹ Serial No. 75/487,987 filed May 19, 1998.

use of applicant's mark for the identified services would be likely to cause confusion with the registered mark HOMESTEAD MORTGAGE ("MORTGAGE" is disclaimed) for "mortgage brokerage services."²

Applicant has appealed. The case has been fully briefed, but no oral hearing was requested. We affirm the refusal of registration.

Our determination is based on an analysis of all of the probative facts in evidence that are relevant to the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any likelihood of confusion analysis, two key considerations are the similarities between the marks and the similarities between the services. *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24 (CCPA 1976).

Turning first to the respective services, applicant's mortgage lending and mortgage brokerage services are identical in part and otherwise closely related to registrant's mortgage brokerage services. Applicant does not dispute this, but concentrates its arguments on asserted differences in the marks.

We turn then to a consideration of the marks, keeping in mind the well-established principle that when marks

² Registration No. 1,961,295 issued March 12, 1996.

would appear on virtually identical goods or services, the degree of similarity necessary to support a conclusion of likely confusion declines. *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 23 USPQ2d 1698, 1700 (Fed. Cir. 1992).

In this case, we agree with the Examining Attorney that, when compared in their entireties, applicant's and registrant's marks are substantially similar in commercial impression. In considering the marks, we recognize that the disclaimed portion of each mark cannot be ignored. *Giant Food, Inc. v. National Food Service, Inc.*, 710 F.2d 1565, 218 USPQ 390 (Fed. Cir. 1983). However, there is nothing improper in giving more weight, for rational reasons, to a particular feature of a mark. Here, we have given more weight to the HOMESTEAD portion of both applicant's and registrant's marks because of the descriptive nature of the remaining terms in the marks, i.e., USA and MORTGAGE. In *re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985). Not only are customers most likely to remember the HOMESTEAD portion of the marks, but they may not even notice that the marks differ in their ending portions. Persons who are familiar with registrant's HOMESTEAD MORTGAGE mark for mortgage brokerage services would be likely, upon seeing the mark

HOMESTEAD USA for the identical and closely related services, to assume that HOMESTEAD USA is a variant of the registrant's mark, perhaps adopted to suggest that the services originate in the United States.

In reaching our decision herein, we have not overlooked applicant's argument that marks containing the word HOMESTEAD are weak marks which are therefore entitled to only a limited scope of protection. Specifically, applicant maintains that the word HOMESTEAD is so frequently used in marks for financial services that no one party may claim exclusive rights to HOMESTEAD used in connection with such services. In support of its contention, applicant points to Registration Nos. 1,871,563 and 1,900,895, both for the mark HOMESTEAD FUNDS, INC. for mutual fund investment. These registrations were initially cited by the Examining Attorney, but were subsequently withdrawn.

As often stated, third-party registrations are of little weight in determining likelihood of confusion issues. In re Hub Distributing, Inc., 218 USPQ 284 (TTAB 1983). They are not evidence of use of the marks shown therein and they are not proof that consumers are familiar with such marks so as to be accustomed to the existence of similar marks in the marketplace. National Aeronautics and

Space Administration v. Record Chemical Co., 185 USPQ 563
(TTAB 1975).

While we reject applicant's "weak" argument, we nonetheless recognize the suggestive significance of the word HOMESTEAD as used in connection with mortgage lending and mortgage brokerage services. The word suggests that the services are offered for the purchase of homes. However, this fact does not help to distinguish HOMESTEAD MORTGAGE and HOMESTEAD USA. The word HOMESTEAD, as used in both marks, conveys the same suggestive significance, and the additional words MORTGAGE and USA do not change the commercial impression of the marks.

Decision: The refusal to register under Section 2(d) of the Trademark Act is affirmed.