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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Good News Communications, Inc.

Serial No. 75782253

Neil F. Markva for Good News Communications, Inc.

Chris Wells, Trademark Examining Attorney, Law Office 106
(Mary I. Sparrow, Managing Attorney)¹

Before Seeherman, Quinn and Zervas, Administrative
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Good News Communications, Inc. has appealed from the
final refusal of the Trademark Examining Attorney to
register MEDIA-WISE FAMILY, in typed form, as a mark for
the following services:

Educational services, namely,
conducting conferences, seminars,
workshops, lectures, and classes
rendered to Bible-believing,

¹ The application was initially assigned to a different Examining Attorney; the present Examining Attorney was responsible for examining the application subsequent to the first Office action.

God-fearing Americans and Christians regarding the manner in which content of the news and entertainment media may be evaluated from a Biblical perspective and distributing materials in connection therewith.²

Registration has been refused pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark so resembles the mark MEDIAWISE, in typed form, for "newsletter and printed educational materials relating to media literacy used to instruct teachers and families on the effects the mass media has on children's values, attitudes, and behavior,"³ that, if used in connection with applicant's identified services, it is likely to cause confusion or mistake or to deceive. The Examining Attorney has also made final a requirement that applicant disclaim the word FAMILY on the basis that it is merely descriptive.

The appeal has been fully briefed.⁴

² Application Serial No. 75782253, filed August 23, 1999, based on Section 1(b) of the Trademark Act, 15 U.S.C. §1052(b) (intent-to-use). The application originally included goods in Class 16 as well and, in fact, the Examining Attorney was under the impression that they were still part of the application at the time he filed his appeal brief.

³ Registration No. 2909362, issued December 14, 2004.

⁴ After the submission of applicant's reply brief the Examining Attorney filed a paper styled as "Examining Attorney's Response to Reply Brief." As the Board stated in its August 8, 2007 order, the rules do not permit Examining Attorneys to file responses to reply briefs. However, the Board allowed this paper insofar as it clarified that the application was only for

Preliminarily, we must comment on the course of the examination of this application. Although the application was filed in two classes, for goods in Class 16 and for services in Class 41, in the first several Office actions the Examining Attorney confined his comments with respect to the requirement for a disclaimer, and the likelihood of confusion refusal, to applicant's goods. For example, the Office action mailed February 22, 2005, the first action in which the registrant's registration was cited as a basis for refusal (in prior actions applicant was merely advised that the mark was the subject of a pending application), the Examining Attorney referred only to the fact that applicant was seeking to register its mark for goods, and asserted that applicant's goods and those of the registrant were essentially identical. As for the disclaimer requirement, the Examining Attorney referenced only applicant's publications in stating that the term was merely descriptive. The final refusal, mailed September 7, 2005, similarly discussed only the similarity of the goods and, while it specifically mentioned "applicant's goods in International Class 16," no mention whatsoever was made of the services in Class 41. In his denial, mailed May 18,

services in Class 41, and to correct a typographical error in the Examining Attorney's brief.

2006, of applicant's request for reconsideration (in which paper applicant had deleted the Class 16 goods from its application), the Examining Attorney acknowledged "that the refusal to date made not [sic] mention of applicant's services," but said that the substance of the refusal applied equally to the services. The Examining Attorney also reiterated the requirement for a disclaimer, and in this action treated this requirement as applying to the Class 41 application.⁵

Normally, if the Examining Attorney had intended to refuse registration and to require a disclaimer with respect to the Class 41 services, but had not done so, it would have been premature to issue a final Office action on May 7, 2005. In this case, however, the Examining Attorney did make clear, in the Office action mailed May 18, 2006, that the refusal of registration and the requirement for a disclaimer pertained to the Class 41 services. Moreover, as a result of applicant's request for remand, applicant had an opportunity to respond to the refusal and requirement for the application in Class 41. In that

⁵ In discussing the requirement for a disclaimer the Examining Attorney listed the identification of services as applicant had amended them in its request for reconsideration. We note that the Examining Attorney's repetition of the identification of services left out a phrase that was in the applicant's identification, but since applicant subsequently further amended its identification this omission was immaterial.

request for remand applicant addressed both of these issues, including submitting a further amendment of its identification of the Class 41 services, and additional evidence. In these circumstances, and given that the appeal was fully briefed subsequent to these developments, there is no need to vacate the Board order instituting the appeal and remand the file to the Examining Attorney at this point.

Accordingly, we turn next to the issues in the appeal, beginning with the requirement for a disclaimer of FAMILY. Section 6(a) of the Trademark Act provides that the Director may require the applicant to disclaim an unregistrable component of a mark otherwise registrable. It is the Examining Attorney's position that FAMILY is merely descriptive of applicant's services within the meaning of Section 2(e)(1), and therefore it must be disclaimed. A term is deemed to be merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). A term need not immediately convey an idea of each and every specific

feature of the applicant's goods or services in order to be considered to be merely descriptive; rather, it is sufficient that the term describes one significant attribute, function or property of the goods or services. In re H.U.D.D.L.E., 216 USPQ 358 (TTAB 1982); In re MBAssociates, 180 USPQ 338 (TTAB 1973). Whether a term is merely descriptive is determined not in the abstract, but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with the goods or services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use; that a term may have other meanings in different contexts is not controlling. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

The Examining Attorney asserts that "family" describes applicant's target audience. In support of this position, the Examining Attorney submitted with his brief a dictionary definition of "family," which includes the following meanings:

- 1a. A fundamental social group in society typically consisting of one or two parents and their children.
- b. Two or more people who share goals and values, have long-term commitments to one another, and reside usually in the same dwelling place.
2. All the

members of a household under one roof.
3. A group of persons sharing common ancestry. 4. Lineage, especially distinguished lineage. 6a. A group of like things; a class b. A group of individuals derived from a common stock: *the family of human beings*.⁶

Applicant asserts that FAMILY as used in applicant's mark "simply suggests the family of mankind for Bible-believing, God-fearing Americans and/or the family of God for Christians." Brief, p. 19. In support of this position, applicant asserts that its target group

believe the self-evident truths in the second sentence of the Declaration of Independence that "all men are created" so that they belong to the family of mankind that addresses the Creator in the Lord's prayer [sic]—"Our Father who art in heaven" (Matthew 6:0). The first principle of creation is that the creator of anything has ownership authority over its created work. So the Creator God has ownership authority over mankind as its Father. And the Bible informs Christians that "as many as are led by the Spirit of God" are called "sons of God," and the Spirit of God "bears witness with [their] spirit that [they] are children of God" (Romans 8:14, 16). Affirming these terms of "family" for Christians, the apostle Paul writes, "I bow my knees to the Father of our Lord Jesus Christ,

⁶ The American Heritage Dictionary of the English Language, 4th ed. © 2000. The Board may take judicial notice of dictionary definitions. *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983). We have omitted those meanings which clearly have no relevance to the services at issue, e.g., an organized crime unit (definition 5); and definitions pertaining to linguistics, biology and chemistry.

from whom the whole family in heaven
and earth is named," thus recognizing
them as the family of God."

Brief, p. 10.

The Board does not intend to get into a theological discussion based on applicant's views and applicant's interpretation of Scripture. We note, however, that not everyone identified in applicant's identification of services will necessarily have the same views as applicant. There are many different denominations of Christians. Therefore, we cannot conclude that all Bible-believing God-fearing Christians would view the term FAMILY in applicant's mark as referring only to the family of God. Moreover, applicant's services are not limited to Christians, but include "Bible-believing, God-fearing Americans" as well. We do not accept applicant's contention that these "Bible-believing God-fearing Americans" who are not Christians, or are Christians that do not follow applicant's particular theology, would view the word "family" in applicant's mark as referring to the "family of mankind." Merely because the Declaration of Independence states that "all men are created equal"⁷ does not mean that people would view the word "family" as

⁷ Applicant omitted the word "equal" from its quote of the phrase.

referring only to the "family of mankind." In any event, given the widely recognized meaning of "family" as a group consisting of parents and their children, even people who would recognize and follow the concept of the "family of mankind" or the "family of God" will understand the "social group" meaning of "family," and will understand FAMILY, as used in the mark MEDIA-WISE FAMILY in connection with the identified services, as describing that applicant's educational services will help them evaluate media content for their own personal family, and not for the general family of mankind or the family of God.⁸

Accordingly, because consumers would immediately understand the word FAMILY in applicant's mark to describe the users of applicant's services, the requirement that this word be disclaimed is affirmed.

Registration has also been refused on the basis that applicant's mark MEDIA-WISE FAMILY is likely to cause confusion with MEDIAWISE for "newsletters and printed educational materials relating to media literacy used to instruct teachers and families on the effects the mass

⁸ We acknowledge that applicant's identification of services does not specifically reference "families" as the customers or beneficiaries of its services. However, it is not necessary that the users of a service be identified in the identification in order to find that a mark, or a term in a mark, is descriptive of the customers or users or beneficiaries.

media has on children's values, attitudes, and behavior." Our determination of this issue 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). See also, *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003). In any likelihood of confusion analysis, two key considerations are the similarities between the marks and the similarities between the goods and/or services. See *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24 (CCPA 1976). See also, *In re Dixie Restaurants Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997).

We turn first to a consideration of the goods and services. Applicant does not dispute that educational services consisting of conducting conferences, seminars, workshops, lectures and classes are related to newsletters and printed educational materials if the educational services and printed materials have the same subject matter. Obviously, both educational services and educational printed materials are similar in that they are both methods for educating, or providing information. What applicant takes issue with is the Examining Attorney's position that the goods and services are both about the

same essential subject matter, which the Examining Attorney contends is "understanding media."

It is applicant's position that registrant's activities rest "on the inductive reasoning of media literacy and has nothing to do with the Bible or a Biblical world-view, which is deductive reasoning that starts from the standpoint of Biblical truth." Brief, p. 14. Essentially, applicant attempts to distinguish the goods and services by the approach that applicant takes in teaching its subject, and the approach that applicant claims the registrant takes in its educational materials. Applicant relies on extrinsic evidence to support its claim of such differences. "Applicant has provided extrinsic evidence to show that its recitation of services in its application does not encompass Registrant's identification of its goods in its registration, and vice versa." Brief, p. 17. The extrinsic evidence on which applicant relies is the registrant's website and third-party websites which discuss or reference "media literacy."

We are not persuaded by these arguments. As applicant itself recognizes, it is well-established that the question of likelihood of confusion must be determined based on an analysis of the mark as applied to the goods and/or services recited in applicant's application vis-à-vis the

goods and/or services recited in the cited registration, rather than what the evidence shows the goods and/or services to be. See *Canadian Imperial Bank of Commerce v. Wells Fargo Bank, N.A.*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987); *In re William Hodges & Co., Inc.*, 190 USPQ 47 (TTAB 1976). This is because the presumptions afforded a registration under Section 7(b) of the Trademark Act extend to the goods or services as disclosed therein, and include a presumption of use on all goods or services encompassed by said description. See *Burger Chef Systems, Inc. v. Sandwich Chef, Inc.*, 201 USPQ 611 (TTAB 1978), *aff'd* 608 F.2d 895, 203 USPQ 733 (CCPA 1979). Applicant relies on *In re Trackmobile Inc.*, 15 USPQ2d 1152 (TTAB 1990), as providing permission for an applicant "to provide extrinsic evidence to show that the registrant's identification has a specific meaning to members of the trade." Brief, p. 16.

The Trackmobile decision reiterated the principle that:

in determining the issue of likelihood of confusion in *ex parte* cases, this Board must compare applicant's goods as *set forth in its application* with the goods as *set forth in the cited registration*. It is improper to decide the issue of likelihood of confusion based upon a comparison of applicant's actual goods with registrant's actual goods. If registrant's goods are broadly described in its registration

so as to include types of goods which are similar to applicant's goods, then an applicant in an ex parte case cannot properly argue that, in point of fact, registrant actually uses its mark on a far more limited range of goods which range does not include goods which are similar to applicant's goods.
(emphasis in original)

Id. at 1153. However, Trackmobile stated that "when the description of goods for a cited registration is somewhat unclear," the Board may consider "extrinsic evidence showing that the description of goods has a specific meaning to members of the trade." Id. at 1154, emphasis added. In In re Continental Graphics Corp., 52 USPQ2d 1374, 1376 (TTAB 1999), the Board further explained, "when the Board considered the applicant's extrinsic evidence regarding the registrant's goods in Trackmobile, it was not because the registrant's goods were identified broadly in the registration, but because the Board was uncertain as to what the goods identified in the registration were. That is, the Board did not consider the extrinsic evidence in order to determine the nature of the registrant's particular "light railway motor tractors," but rather to determine what "light railway motor tractors" were, in general.

We do not consider "media literacy" as used in the identification of the cited registration to be unclear; on

the contrary, the entire identification explains precisely what the subject matter of the registrant's educational materials are, i.e. "to instruct teachers and families on the effects the mass media has on children's values, attitudes, and behavior." Moreover, the registrant's goods are not the type of items that one would need specialized knowledge to understand, as opposed to the "mobile railcar movers" and "light railway motor tractors" involved in Trackmobile, terms which the Board acknowledged "are somewhat vague to members of this Board who possess no special knowledge about such equipment." Here, the registrant's goods are directed to, inter alia, families, and we must consider such consumers as members of the general public, rather than members of a specialized trade such as those who would purchase mobile railcar movers and light railway motor tractors.

Accordingly, we see no basis for limiting the registrant's registration to printed educational materials that employ inductive reasoning or dialectics or scientific method. As identified, the cited registration must be deemed to include newsletters and printed educational materials relating to any philosophy, including that of a Biblical perspective, with respect to the effects that the

mass media has on children's values, attitudes and behaviors. Accordingly, the subject matter of the printed materials identified in the cited registration encompasses the subject matter of applicant's educational services. The du Pont factor of the similarity of the goods and services favors a finding of likelihood of confusion.

With respect to the channels of trade, applicant contends that because registrant's goods are limited as to the method of their subject matter, the channels of trade are different from applicant's:

Registrant's goods are publications that are marketed to educators and families through typical channels of trade of it [sic] publications to support its advocacy for "the movement for everyone who cares about kids. It explains what media are doing to our children and youth and what we can do about it."

Brief, p. 15. Applicant claims that its services, on the other hand, promote "self-government to its target group that is to discharge whatever its duty is that is owed to our Creator for evaluating and addressing the content of the news and entertainment media from a Biblical perspective." Brief, p. 15. Applicant also points out that its services are not limited to teachers and families.

For the same reasons that we were not persuaded by applicant's arguments about the differences in the subject

matter of applicant's and the registrant's goods and services, we are not persuaded by its arguments regarding differences in the channels of trade. Because the registrant's goods, as identified, are not limited to a particular method or philosophy of instructing consumers as to the effects the mass media has on children, its goods can be marketed to the same people who are consumers of applicant's educational services. We note that applicant's services are not limited to teachers and families, but neither are its services restricted to exclude them from its customer base. Further, although the goods and services will not necessarily be marketed in the same manner because applicant offers services, and the registrant sells goods, the goods and services, as identified, will both reach the same classes of consumers. In this respect, the factor of the channels of trade favors a finding of likelihood of confusion.

As for the factor of the similarity of the marks, applicant's mark is MEDIA-WISE FAMILY and the cited mark is MEDIAWISE. The words MEDIA-WISE in applicant's mark are virtually identical to the registrant's mark; the hyphen has no source-identifying significance, and consumers are not likely to remember whether MEDIAWISE appears as one word or as a hyphenated term. Applicant's mark adds the

word FAMILY to MEDIA-WISE, but this word, which describes the users of applicant's services, is entitled to less weight in the likelihood of confusion analysis. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985) (in articulating reasons for reaching a conclusion on the issue of likelihood of confusion, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on a consideration of the marks in their entirety). In other words, consumers will look to MEDIA-WISE as the source-identifying portion of the mark, with FAMILY indicating the nature of the services.⁹

Thus, the marks are highly similar in appearance and pronunciation. Applicant, however, argues that the marks are different in connotation:

Applicant's MEDIA-WISE FAMILY Mark considered in its entirety reflects the meaning of Applicant's corporate name, Good News Communications, Inc., which speaks of communicating the good news of Jesus Christ and the gospel of the kingdom of God that He preached. Applicant's mark has a Biblically-

⁹ We agree with the Examining Attorney that even if the disclaimer of the term FAMILY were not warranted, FAMILY is still entitled to less weight in the likelihood of confusion analysis. Assuming arguendo that the word FAMILY in applicant's mark is not descriptive, it is so highly suggestive that consumers would look to the words MEDIA-WISE as having the greater source-identifying significance.

related meaning that refers to being wise with respect to the manner in which content of the news and entertainment media may be evaluated from a Biblical perspective based on the truth of Biblical wisdom revealed in a fixed, uniform, and universal standard of the laws of nature and nature's God as in the Declaration of Independence, 1776. The law of nature means laws put there by a Creator, not merely laws that happen to occur in nature. And those laws include laws of human conduct. The law of nature's God is the divine law as revealed in the Bible and the nation's laws and institutions presuppose the laws of the Creator which apply to all people. Thus, when evaluating the content of the news and entertainment media, Applicant's target group will learn to hold the media to a Biblical standard of wisdom so that its target group will "behave wisely" and "set nothing wicked before [its] eyes." (Psalms 101:2, 3.)

Brief, p. 8.

Applicant also claims that the registrant's mark MEDIAWISE has a secular meaning, and that registrant's analysis of the media is based on the secular wisdom of the world. It appears to be applicant's position that the registrant uses an inductive method, and this method is the connotation of the registrant's mark.

We acknowledge that in some situations marks that are identical in appearance and pronunciation may still be found not confusingly similar because they differ in connotation. See, for example, *In re Sears, Roebuck and*

Co., 2 USPQ2d 1312 (TTAB 1987) (CROSS-OVER for bras not likely to cause confusion with CROSSOVER for ladies' sportswear); In re British Bulldog, Ltd., 224 USPQ 854 (TTAB 1984) (PLAYERS for men's underwear not likely to cause confusion with PLAYERS for shoes); In re Sydel Lingerie Co., Inc., 197 USPQ 629 (TTAB 1977) (BOTTOMS UP for ladies' and children's underwear not likely to cause confusion with BOTTOMS UP for men's suits, coats and trousers).

However, that is not the case here. First, although applicant's corporate name may intend to communicate the "good news of Jesus Christ and the gospel of the kingdom of God that He preached," it is the meaning of applicant's applied-for mark, not its corporate name, that we must consider. As for that mark, we would agree that the mark has a meaning that suggests being wise with respect to the manner in which content of the news and entertainment media may be evaluated. Where we part company with applicant's position is that consumers would view the mark as connoting an evaluation of the media from a Biblical perspective based on the truth of Biblical wisdom. Although that may be the perspective by which applicant evaluates the media, the mark itself does not project that meaning. Nor do we accept applicant's position that the registrant's mark has

the connotation of a secular inductive method of analysis. The mark, when viewed in conjunction with the identified goods, does not convey a secular meaning or commercial impression.

On the contrary, we find that both marks convey the same meaning: they suggest that the respective goods and services make the consumer knowledgeable about the media and its content and teach people so they can be "wise" in what they view. Applicant's mark amplifies this meaning of MEDIA-WISE by identifying a group that are the users of the services--families--but the overall connotation and commercial impressions of the marks are the same. To the extent consumers note the differences in the marks, they are likely to believe that MEDIA-WISE FAMILY is a variation of the registrant's MEDIAWISE mark, advising consumers that the services are of value to families or that the classes may be attended by the entire family.

Applicant has made of record a search summary for MEDIAWISE retrieved by the Google search engine. This summary shows two listings for the registrant's website; two listings for a UK organization that states it is a charity; one listing for what is stated to be a "supplier for cd copy protection, software antipiracy systems, cd and dvd media services and products"; one for a company which

offers "presentation coaching and media training for professionals" (it is not clear if Media Wise is the name of this company); one for MediaWise Creative Services, with no further indication of its activities; and one which has no indication whatsoever as to any activities, it merely says "Please Come Back Soon" and gives an Australian address and telephone number. There is also a listing for one domain name, www.mediawiseus.com, with no other information whatsoever. Applicant contends that this evidence shows that there are many different secular meanings for the term MEDIAWISE. We disagree. The search summaries are too attenuated to show that "mediawise" has any recognized meaning at all. Certainly these listings do not show use of the term for any of the types of goods or services which are at issue herein. Therefore, to the extent that applicant relies on this evidence to show that MEDIA-WISE in applicant's mark and MEDIAWISE in registrant's mark have different meanings, we reject that argument. Nor does the Google search summary show that registrant's mark is highly suggestive, and is therefore entitled to only a limited scope of protection, or that there are third-party trademark uses of MEDIA WISE in the relevant field that would cause consumers to distinguish

applicant's mark from registrant's because of the presence of the word FAMILY in applicant's mark.

Accordingly, the du Pont factor of the similarity of the marks favors a finding of likelihood of confusion, while the strength of the registered mark and the factor of the number and nature of similar marks in use on similar goods or services also favor a finding of likelihood of confusion.

The only other du Pont factor on which there has been evidence or argument is the conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing. The consumers of applicant's services and the registrant's goods include the general public (the registration specifically identifies "families"), and therefore they cannot be considered to have any particular sophistication. Nor is there any evidence to show that services such as those identified in applicant's application or the goods identified in the registrant's registration are particularly expensive. Applicant asserts that its consumers--Bible-believing, God-fearing Americans and Christians--take care in choosing to attend the classes where applicant performs its educational services. Applicant also asserts, without any evidentiary support, that the consumers of registrant's goods would

take care in choosing to purchase or read its printed educational materials. Although we accept that the decision to attend a class or purchase a newsletter or written educational materials will not be made on impulse, the marks are so similar that even careful purchasers who note that applicant's mark contains the word FAMILY and the registrant's mark does not are likely to believe that both educational services and printed materials dealing with evaluating or considering the effects of the mass media emanate from the same source. This is because purchasers familiar with the registrant's goods will see MEDIA-WISE FAMILY as a variation of the registrant's MEDIAWISE mark, with FAMILY providing additional information about the consumers to whom the educational services are directed. In this connection, the identification of goods in the registrant's registration specifically states that its goods are used to instruct families.

Thus, although we recognize that applicant's services and the registrant's printed matter will be chosen with some degree of care, we cannot say that this du Pont factor favors applicant.

Finally, even if we posit that applicant's target audience is so careful and so concerned about the approach to teaching the subject matter that they are not likely to

be confused into believing that applicant's services emanate from the same source as the registrant's goods, there is still the question of reverse confusion. Again, accepting applicant's assertion that the registrant's instruction materials follow a different philosophy from applicant's classes, this may cause consumers not to purchase the registrant's goods because they believe that they emanate from applicant, and they do not want educational materials which evaluate the media from a Biblical perspective.

In view of the foregoing discussion, we find that applicant's mark for its identified services is likely to cause confusion with the cited registration. We also add that, to the extent there is any doubt on this issue, and we have none, it is a well-established principle that such doubt must be resolved in favor of the registrant and prior user. In re Pneumatiques, Caoutchouc Manufacture et Plastiques Kleber-Colombes, 487 F.2d 918, 179 USPQ 729 (CCPA 1973).

Decision: The requirement for a disclaimer of FAMILY and the refusal of registration on the ground of likelihood of confusion are affirmed.