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Paper No. 22
Bottorff

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Custom Teleconnect, Inc.

Serial No. 75835426

Julie K. Morriss of Morriss O'Bryant Compagni, P.C. for
Custom Teleconnect, Inc.

Michael J. Souders, Trademark Examining Attorney, Law
Office 115 (Tomas Vlcek, Managing Attorney).

Before Hanak, Hohein and Bottorff, Administrative Trademark
Judges.

Opinion by Bottorff, Administrative Trademark Judge:

On November 17, 1999, applicant filed the above-
captioned application, by which it seeks registration of
the mark depicted below for goods identified in the
application (as amended) as "telephone communication
services provided for the hospitality industry and payphone

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providers," in Class 38.



The application is based on applicant's asserted bona fide intention to use the mark in commerce. Trademark Act Section 1(b), 15 U.S.C. §1051(b). Applicant has disclaimed the exclusive right to use CUSTOM, INC., PAYPHONE, CUSTOMER SERVICE, and LONG DISTANCE apart from the mark as shown.

At issue in this appeal is the Trademark Examining Attorney's final refusal to register applicant's mark on the ground that the mark, as applied to applicant's goods, so resembles the mark depicted below,

TELECONNECT
Long Distance & Telephone Systems

previously registered (with a disclaimer of LONG DISTANCE & TELEPHONE SYSTEMS) for "long distance and related telephone services" in Class 38,¹ as to be likely to cause confusion, to cause mistake, or to deceive. Trademark Act Section 2(d), 15 U.S.C. §1052(d). The appeal has been fully briefed, but no oral hearing was requested. We reverse the refusal to register.

Our likelihood of confusion determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the likelihood of confusion factors set forth in *In re E. I. du Pont de Nemours and Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In considering the evidence of record on these factors, we keep in mind that "[t]he fundamental inquiry mandated by §2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks." *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976).

We find that applicant's services, as recited in the application, are similar and related, indeed encompassed by and legally identical to, the services recited in the cited

¹ Registration No. 1325028, issued March 12, 1985. Affidavits under Trademark Act Sections 8 and 15 accepted and acknowledged.

registration. Applicant does not contend otherwise. Moreover, because the recitation of services in the cited registration is not limited as to trade channels or classes of purchasers, we must presume that registrant's services are marketed in all normal trade channels and to all normal classes of purchasers for such services, including to the "hospitality industry" and "payphone providers" expressly set forth in applicant's recitation services. See *In re Elbaum*, 211 USPQ 639 (TTAB 1981). These factors weigh in favor of a finding likelihood of confusion.

However, we find that applicant's mark and the cited registered mark, when viewed in their entireties in terms of appearance, sound, connotation and overall commercial impression, are dissimilar rather than similar, and that they indeed are sufficiently dissimilar that there is no likelihood of confusion notwithstanding the fact that the marks are or will be used in connection with legally identical services.

The only significant point of similarity between the marks is that they both contain the word TELECONNECT. (We accord no significant weight to the fact that both marks also include the generic, disclaimed words LONG DISTANCE.) There is no evidence in the record to support applicant's contention, in its reply brief, that the word "teleconnect"

has become part of the "lexicon" of the telecommunications industry. However, we find that the word on its face is highly suggestive as applied to telephone services, connoting "telephone connection," and that it therefore is not a particularly strong source-indicator. Moreover, with respect to the registered mark, we find that it is the highly stylized manner in which the word TELECONNECT is depicted (with the representation of the telephone cord serving as the two "n" letters in the word), as much as the word itself, that would be perceived to be the dominant source-indicating feature of the commercial impression created by the registered mark.

Likewise, the word TELECONNECT, as it appears in applicant's mark, is highly suggestive of applicant's services. We find that the dominant feature of applicant's mark clearly is the depiction, in very large letters, of the letters CTI, which appear along with the distinctive arrow-and-globe design inside the large triangle border. Although the "T" would be understood, upon reflection, to refer to the word TELECONNECT in applicant's trade name as it appears below the triangle border, we find that the word TELECONNECT nonetheless plays a relatively minor role in the overall commercial impression of applicant's mark. It is visually subordinate to the CTI logo portion of the

mark. Likewise in terms of sound, it is CTI which dominates the pronunciation of the mark.

In short, we find that when the marks are viewed in their entireties, the numerous and significant differences between them outweigh the only point of similarity, i.e., the presence of the highly suggestive word TELECONNECT. Both marks are highly (and differently) stylized, resulting in quite different appearances and overall commercial impressions. We further find that the dissimilarity of the marks is sufficiently pronounced that purchaser confusion is unlikely, even where the marks are used on identical services. *See, e.g., Kellogg Co. v. Pack'Em Enterprises Inc.*, 14 USPQ2d 1545 (TTAB 1990), *aff'd*, 951 F.2d 330, 21 USPQ2d 1142 (Fed. Cir. 1991).

Decision: The refusal to register is reversed.