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THE TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **Hartford Fire Insurance Company**

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Serial No. 76/**207,423**

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**John R. Garber** of Cooper & Dunham, L.L.P. for applicant.

**Anthony J. Tambourino**, Trademark Examining Attorney, Law Office 107 (**Thomas Lamone**, Managing Attorney).

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

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

Hartford Fire Insurance Company has filed an application to register the mark @VENTURE for "risk management information services."<sup>1</sup>

The Trademark Examining Attorney has refused registration under Section 2(d) of the Trademark Act, in

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<sup>1</sup> Application Serial No. 76/207,423, filed February 9, 2001, and asserting first use and first use in commerce as of November 15, 1999.

view of the prior registration of the mark reproduced below,

**@VENTURES**

for "forming strategic alliances and joint ventures, providing technical assistance and making acquisitions and investments in order to develop and promote the commercialization of electronic content, products and services via a global computer network and other electronic media."<sup>2</sup>

When the Examining Attorney made the refusal final, applicant appealed. Both applicant and the Examining Attorney filed briefs, but an oral hearing was not requested. We reverse the refusal.

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue. In re E.I. du Pont de Nemours and Co.,

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<sup>2</sup> Registration No. 2,118,677 issued December 9, 1997.

476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any likelihood of confusion analysis, two key factors are the similarities between the marks and the similarities between the goods or services. *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976).

The marks are substantially identical in appearance; the only difference being that applicant's mark is singular and the cited mark is plural. The marks would also be pronounced essentially the same. Further, applicant has not presented evidence or argument that the marks would have different connotations because of differences in the services. In sum, the commercial impressions created by the marks are substantially identical.

The substantial identity of the marks makes it likely that, if the marks were used in connection with related services, confusion would result. In this regard, the board has stated that "[i]f the marks are the same or almost so, it is only necessary that there be a viable relationship between the goods or services in order to support a holding of likelihood of confusion." *In re Concordia International Forwarding Corp.*, 222 USPQ 355, 356 (TTAB 1983).

The Examining Attorney argues that the involved services are related because applicant may be providing

information with respect to risk management in the same financial fields where registrant operates. According to the Examining Attorney:

The registrant's services include "forming strategic alliances and joint ventures." Joint ventures are business undertakings in which profits as well as losses are shared. (footnote omitted) If the registrant assists its customers in forming strategic alliances and joint ventures then it must be able to identify potential areas of loss, measure what those losses may be and control the possibility of those losses occurring. This is the crux of what is provided in risk management information. Therefore, there is a likelihood of confusion because consumers may go to the applicant, who provides general risk management information, when they want specific assistance handling the risks associated with the areas in which the registrant operates. (Brief, p. 5).

In support of the refusal, the Examining Attorney submitted with his appeal brief the following dictionary entries:<sup>3</sup>

**risk management:** Programme of identifying, measuring and controlling risk. It includes measures adopted to minimize financial risk (e.g., through insurance, hedging or spreading the risk). International Dictionary of Insurance and Finance.

**risk management:** Procedure to minimize the adverse effect of possible financial loss by  
(1) Identifying potential sources of loss;

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<sup>3</sup> While evidence submitted for the first time with an appeal brief is untimely and generally not considered by the Board, 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).

(2) Measuring the financial consequences of a loss occurring; and (3) Using controls to minimize actual losses or their financial consequences. Dictionary of Insurance Terms.

**joint venture:** A business undertaking in which more than one company shares ownership, control of production, and/or marketing, profits, and losses. Dictionary of International Business Terms.

Essentially conceding the substantial identity of the marks, applicant has focused its arguments on the differences in the services and the asserted differences in their channels of trade and classes of purchasers. Applicant points out that it is an insurance company and that its services are offered to insureds and potential insureds to evaluate potential risks as they relate to insurance and insurance rates. According to applicant, "[t]he services covered by the cited [registration] in no way, shape or form relate to risk management services," but rather relate to "the commercialization of electronic content, products and services." (Brief, p. 3). Applicant acknowledges that every commercial venture in some way involves risk, e.g., the venture may fail, but maintains that this is not the type of risk classified as risk management.

After careful consideration of the arguments of applicant and the Examining Attorney and the limited record

before us, we are not persuaded that the services involved herein are related. It is not enough, as the Examining Attorney contends, that applicant and registrant may operate in the same financial fields. There is simply no evidence that services of the type offered by applicant and registrant emanate from the same companies, travel in the same channels of trade, or are intended for the same purchasers. Moreover, this is not a case where it is obvious from a reading of the respective recitations of services that such services are related. Both applicant's services and the services in the cited registration are specialized in nature and, we are unable to conclude, in the absence of any supporting evidence, that the services are related.

Under the circumstances, and notwithstanding the substantial identity of the marks, we find that the Examining Attorney has not established that the services are so related that confusion is likely to result from the contemporaneous use of the marks on the involved services. We add, however, that while we have found no likelihood of confusion based on this ex parte record, in an inter partes proceeding with a different record, the result may be different.

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