

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF  
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 Am-Gold Products, Inc.

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Serial No. 76256771

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Jane Linowitz, Esq. of Levisohn, Berger & Langsam, LLP for  
Am-Gold Products, Inc.

Allison Hall, Trademark Examining Attorney, Law Office 103  
(Michael Hamilton, Managing Attorney).

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Before Seeherman, Hairston and Holtzman, Administrative  
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

An intent-to-use application has been filed by Am-Gold  
Products, Inc. to register the mark ROMANCE CUT ("CUT" is  
disclaimed) for "jewelry."<sup>1</sup>

Registration has been refused by the Trademark  
Examining Attorney pursuant to Section 2(d) of the

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<sup>1</sup> Serial No. 76256771, filed May 15, 2001.

Trademark Act, 15 U.S.C. §1052(d), on the ground that the use of applicant's mark for the identified goods would be likely to cause confusion with the registered mark THE ROMANCE COLLECTION ("COLLECTION" is disclaimed) for "jewelry including rings, bracelets and pendants."<sup>2</sup>

Applicant has appealed. The case has been fully briefed, but no oral hearing was requested. We reverse the refusal to register.

Our determination is based on an analysis of all 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/dissimilarities between the marks and the similarities/dissimilarities between the goods. *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24 (CCPA 1976).

Turning first to the respective goods, they are identical. Thus, we focus our attention on the marks.

With respect to the similarity between the marks, we

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<sup>2</sup> Registration No. 2,228,851 issued March 2, 1999. The Examining Attorney initially issued a second Section 2(d) refusal based on Registration No. 2,381,733 which is of the mark ROMANCE RINGS for "jewelry, including rings, bracelets and pendants." The Examining Attorney withdrew this second refusal after applicant obtained a consent from the registrant. The present Examining Attorney is not the original Examining Attorney in this case.

find that registrant's mark THE ROMANCE COLLECTION and applicant's mark ROMANCE CUT, when considered in their entireties, engender sufficiently different commercial impressions to make confusion unlikely.

Applicant's mark ROMANCE CUT conveys the idea of jewelry crafted in a unique style or cut, i.e., the "romance cut." Registrant's mark THE ROMANCE COLLECTION, on the other hand, connotes a group of jewelry items that are especially suitable for giving as a symbol or token of one's love.

Furthermore, the word ROMANCE is highly suggestive as used in connection with the involved goods because jewelry is often given as a token of one's love or affection. We judicially notice that The American Heritage Dictionary of the English Language (1976) at 1126 defines "romance," among other things, as "love, romantic involvement."<sup>3</sup> In this regard, applicant has pointed to three third-party registrations, all for jewelry, that contain the word ROMANCE: Registration No. 2,381,733 for the mark ROMANCE RINGS, initially cited by the Examining Attorney; Registration No. 2,609,834 for the mark ELEGANCE, ROMANCE

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<sup>3</sup> The Board may properly take judicial notice of dictionary definitions. See *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594, 596 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

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AND LOVE IS CERTAIN; and Registration No. 2,609,834 for the mark SWEET ROMANCE.

While such registrations are not evidence that the marks listed therein are in use or that purchasers are familiar with them, they, along with the dictionary definition, are evidence of the highly suggestive nature of the word ROMANCE as used in connection with jewelry. Thus, registrant's mark is not entitled to a broad scope of protection.

In view of the highly suggestive nature of the word ROMANCE as applied to jewelry, we conclude that applicant's mark ROMANCE CUT projects a significantly different commercial impression from that created by registrant's mark THE ROMANCE COLLECTION. Confusion as to the origin or affiliation of applicant's and registrant's goods is therefore unlikely.

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