

**THIS DISPOSITION
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24 FEB 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re GMAC Mortgage Corporation

Serial No. 76313855

Sherry H. Flax for GMAC Mortgage Corporation.

Jill C. Alt, Trademark Examining Attorney, Law Office 114
(K. Margaret Le, Managing Attorney).

Before Hanak, Hairston and Walters, Administrative
Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

GMAC Mortgage Corporation (applicant) seeks to register in typed drawing form WAREHOUSEBANK.COM for "commercial lending services, namely, providing loans and lines of credit to mortgage banks and brokers." The intent-to-use application was filed on September 12, 2001.

Citing Section 2(e)(1) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's mark is merely descriptive of applicant's services. When the refusal to register was made final, applicant appealed to this Board. Applicant and the

Examining Attorney filed briefs. Applicant did not request a hearing.

A mark is merely descriptive pursuant to Section 2(e)(1) of the Trademark Act if it immediately conveys information about a significant quality of characteristic of the relevant goods or services. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re Bed & Breakfast Registry, 791 F.2d 157, 229 USPQ 818, 819 (Fed. Cir. 1986). Moreover, a mark need only describe one significant quality or characteristic of the relevant goods or services in order to be held merely descriptive. In re Gyulay, 3 USPQ2d at 1010.

During the examination process, the Examining Attorney made of record approximately 100 articles from newspapers and magazines where the term "warehouse bank" appears. One such article is from the July 21, 1986 edition of the Boston Business Journal and it reads, in part, as follows: "At a closing, the mortgage company's check for the mortgage loan is turned over to a conveyancing attorney. The lawyer deposits the check in his account, then issues the necessary checks for the transaction from his account. The documents must be sent back to the mortgage company, which then sends the package to the warehouse bank." Another article appearing in the September 6, 1994 edition

of National Mortgage News reads, in part, as follows:

"Another source noted that one mortgage banking company - which he would not identify -- recently had cut the number of warehouse banks it uses to five, from 30." Another story appearing in the August 21, 2001 edition of the Business Journal reads, in part, as follows: "To accommodate its increased monthly mortgage fundings, Entrust Mortgage has increased its warehouse lines of credit by \$10.5. Entrust's warehouse banks have been very accommodating by increasing Entrust's credit lines due mainly to Entrust's increased profitability."

In addition, the Examining Attorney made of record the following definition of the word "warehousing" which is as follows: "A line of credit normally extended by a commercial bank to a mortgage banker. The mortgage banker borrows money from the bank to fund its loans and pledges the loans as collateral. The loans serving as collateral are 'warehoused' at the bank and later sold to secondary market investors." The Language of Real Estate (5th ed. 2000).

In addition, the Examining Attorney properly made of record a printout of applicant's website entitled "WarehouseBank ... a Unit of GMAC Bank." Continuing, this website has the following headline: "Welcome to

WarehouseBank." The text of this website then reads as follows: "WarehouseBank is a unit of GMAC Bank, which is an indirect wholly owned subsidiary of General Motors Acceptance Corporation. Located in Mt. Laurel, New Jersey, WarehouseBank extends short-term revolving lines of credit (warehouse lines) to mortgage bankers, enabling them to fund mortgage loans to homebuyers. Warehouse Lending is a value-added product for GMAC Bank Wholesale Mortgage Lending customers."

Based upon the foregoing, we find that the term "warehouse bank" is a commonly used term to describe precisely the services for which applicant seeks to register WAREHOUSEBANK.COM for, that is, "commercial lending services, namely, providing loans and lines of credit to mortgage banks and brokers."

Moreover, it is long been held that the addition of a "top level domain indicator like '.com' does not turn an otherwise unregistrable designation into a distinctive, registrable trademark [or service mark]." 1 J. McCarthy, McCarthy on Trademarks and Unfair Competition, Section 7:17.1 at pages 7-28.1 to 7.29 (4th ed. 2001). See also Brookfield Communications v. West Coast Entertainment Corp., 174 F.3d 1036, 50 USPQ2d 1545, 1558 (9th Cir. 1999)

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("The '.com' top-level domain [merely] signifies the site's commercial nature.").

Decision: The refusal to register is affirmed.