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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Nevada State Bank

Serial No. 76487874

Lauri S. Thompson of Greenberg Traurig, LLC for Nevada State Bank.

Priscilla Milton, Trademark Examining Attorney, Law Office 110 (Chris A.F. Pedersen, Managing Attorney).

Before Seeherman, Quinn and Holtzman, Administrative Trademark Judges.

Opinion by Holtzman, Administrative Trademark Judge:

An application has been filed by Nevada State Bank (applicant) to register the mark REDDI-CHECKING (standard character form) for "financial services; namely, banking; checking accounts, checking account services" in Class 36.<sup>1</sup>

The trademark examining attorney has refused registration under Section 2(d) of the Trademark Act on the ground that

<sup>1</sup> Serial No. 76487874, filed February 6, 2003, based on an allegation of first use and first use in commerce on June 1, 1993.

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applicant's mark, when used in connection with applicant's services, so resembles the registered mark shown below for "banking services, namely checking, savings, certificates of deposit, money market and IRA accounts; savings bonds; credit and debit cards; individual, commercial, consumer and real estate loans; bank by mail, drive-up, ATM, telephone, electronic and Internet; safe deposit boxes; and wire transfers" in Class 36, as to be likely to cause confusion.<sup>2</sup>



When the refusal was made final, applicant appealed. Briefs have been filed.

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 & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any likelihood of confusion analysis, however, two key considerations are the similarities or dissimilarities between

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<sup>2</sup> Registration No. 2939076; issued April 12, 2005. The registration states, "The stippling in the drawing is for shading purposes only."

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the marks and the similarities or dissimilarities between the goods and/or services. See *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24 (CCPA 1976).

We turn first to the services. Applicant's banking services and checking account services are identical to, and/or fully encompass, the particular "banking services" listed in the registration. Further, because there are no restrictions in the application or registration, these identical services must be deemed to be offered in the same channels of trade and directed to the same purchasers. See *Genesco Inc. v. Martz*, 66 USPQ2d 1260 (TTAB 2003); and *Interstate Brands Corp. v. McKee Foods Corp.*, 53 USPQ2d 1910 (TTAB 2000). We note that the potential customers of banking services include ordinary members of the general public. These customers are not necessarily sophisticated, and we cannot agree with applicant that they will exercise more than ordinary care in selecting the services. See *1st USA Realty Professionals, Inc.*, \_\_\_\_\_ USPQ2d \_\_\_\_\_, Serial No. 78553715 (TTAB August 7, 2007) ("the Court in *Amalgamated [Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank]*, 842 F.2d 1270, 6 USPQ2d 1305 (Fed. Cir. 1988)] specifically recognized that while some consumers choose their banks with care, others do not. ").

We turn next to a consideration of the marks. The examining attorney argues that the similarities in sound, connotation and

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overall commercial impression outweigh the dissimilarities between the marks. In particular, the examining attorney contends that the commercial impressions of the marks are similar because the terms REDI and REDDI are the dominant features of the marks. The examining attorney notes that the word CHECKING in applicant's mark is generic for applicant's services, and that, but for the hyphen in the mark, applicant would have been required to disclaim that term. The examining attorney also contends that it is the word REDI in registrant's mark, rather than the design, that is entitled to greater weight, reasoning that the word REDI is more likely than the design to be impressed upon a purchaser's memory and also that the word would be used by purchasers in calling for the services.

In determining the similarity or dissimilarity of marks, we must consider the marks in their entireties in terms of sound, appearance, meaning and commercial impression. See *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005). While marks must be compared in their entireties, one feature of a mark may have more significance than another, and in such a case there is nothing improper in giving greater weight to the dominant feature. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed. Cir. 1985).

The dominant part of applicant's mark REDDI-CHECKING is the term REDDI. The word CHECKING, as the examining attorney points out, is generic for applicant's services and, in and of itself, this term is of no source-distinguishing effect. However, we do not agree that the word REDDI is necessarily the dominant part of registrant's mark, or that REDDI is necessarily entitled to more weight than the design portion of registrant's mark.

In terms of appearance, it is the design element, rather than the word, that dominates registrant's mark. The design is a fanciful, cartoon like image of a locomotive engineer holding a lantern. The image is much larger than the word REDDI, which appears in tiny script below the image, and it is by far the most visually significant part of the mark.

The design is also stronger than the word REDDI in conveying the meaning and commercial impression of registrant's mark. REDDI is simply a misspelling of "ready" and the evidence made of record by applicant shows that "ready" is highly suggestive of banking services. Applicant has submitted over 15 pages of a Google search summary where it can be seen even from these abbreviated excerpts that the term "ready" is frequently used in the banking field to denote cash that is available for immediate use. Examples of these excerpts are shown below:

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Citizens Bank - Oxfam VISA

**Ready Cash** And Credit. You can get 24 hour cash advances through any of the 240,000 world-wide ARM's displaying the VISA symbol...

[www.citizensbank.com](http://www.citizensbank.com)

Quackgrass Press #31: E-gold

"Money in the bank" is not **ready cash** (that depends on the bank's financial health), but "gold in bailment" is ready cash...

[www.quackgrass.com](http://www.quackgrass.com)

American State Bank

...Ready Reserve Overdraft Protection can be accessed when using **Ready Cash** & Check to provide instant money for any use. ...

[www.clickonasb.com](http://www.clickonasb.com)

Wachovia Small Business - Lines of Credit

Our lines of credit provide **ready cash** to help you meet short-term funding needs...

[www.wachovia.com](http://www.wachovia.com)

First National Bank - Ready Equity(sm) Home Equity Loans

With a Ready Equity SM Home Equity Loan, you will always have **ready cash** for home improvements, debt consolidation, or any special plans or purchases...

[www.1stnational.com](http://www.1stnational.com)

Applicant has also submitted a number of third-party registrations showing that "ready" is frequently incorporated in marks for banking and financial services, further demonstrating the highly suggestive meaning of this term. These registrations include the following:

Registration No. 2872887 for the mark READY CASH CHECKING (CASH CHECKING disclaimed) for "banking services";

Registration No. 2344723 for the mark READYCASH (and design) for "financial services for electronically

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converting cash money into a predetermined, fixed amount debit card";

Registration No. 2661364 for the mark RED D CA\$H (CASH disclaimed) for "financial services in the nature of check cashing, deferred deposits, payroll advancements, and short term loans";

Registration No. 1745376 (on the Supplemental Register) for the mark READY ACCESS ACCOUNT (ACCOUNT disclaimed) for "financial investment services; namely, brokering margin accounts";

Registration No. 1341448 for the mark READY EQUITY (EQUITY disclaimed) for "banking services"; and

Registration No. 0891400 for the mark READY-CREDIT for "checking account services with overdraft protection."

It is generally held that in comparing marks in their entireties, less weight should be placed on highly suggestive portions of the marks. See *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693, 694 (CCPA 1976) ("Because marks, including any suggestive portions thereof, must be considered in their entireties, the mere presence of a common, highly suggestive portion is usually insufficient to support a finding of likelihood of confusion."); and *Cumberland Packing Corp. v. McMahan Products, Inc.*, 189 USPQ 428 (TTAB 1975).

While the term REDI is highly suggestive, the character design in registrant's mark is entirely arbitrary and unique, and is most significant in conveying the commercial impression of

registrant's mark. Giving more weight to the stronger design feature, we find that the marks, as a whole, create distinctly different commercial impressions.<sup>3</sup> The term REDDI, a misspelling of "ready," considered in relation to applicant's services and in the context of the mark REDDI-CHECKING, suggests readily available checking account funds. The term REDI in registrant's mark is also a misspelling of "ready." However, in the context of registrant's mark the term suggests something different from the dictionary meaning of that term. "Redi" is displayed in quotation marks below the image of the character, thereby conveying the fanciful impression of the character's name, that is, a character named "Redi."

It is true that the marks include the phonetically identical terms REDDI and REDI, and to that extent, the two marks sound the same. However, we find that when the marks are considered in their entireties, the differences in the marks in appearance, meaning and commercial impression far outweigh that one point of similarity. In view of the highly suggestive nature of the word "ready" and the evidence of third-party use of this term, the

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<sup>3</sup> However, in making this determination, we have given no weight to applicant's argument and evidence that registrant only uses the design without the word REDI on its website. Our analysis must be based on the mark exactly as it appears in the registration. Nor do we agree with applicant that the case, *In re Electrolyte Labs, Inc.*, 929 F.2d 645, 16 USPQ2d 1239 (Fed. Cir. 1990), is applicable here. That case involved composite marks featuring letters which, as the Court noted, can be close to design marks and therefore may or may not be vocalized. The literal portion of the composite mark in the present case consists of an identifiable and pronounceable word.

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fact that both marks contain the word REDI/REDDI is not a sufficient basis for us to conclude that the marks are similar.

Notwithstanding the identity of the services, we find that, in view of the dissimilarities between the marks, and moreover, the relative weakness of REDI for banking services, even purchasers exercising only ordinary care in the purchase of these services would be able to readily distinguish the two marks. See *Kellogg Co. v. Pack'em Enterprises Inc.*, 951 F.2d 330, 21 USPQ2d 1142, 1145 (Fed. Cir. 1991) (even a single *du Pont* factor can be dispositive).

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