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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 Royal Consumer Information Products, Inc.

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Serial No. 78568319

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Richard S. Roberts of Roberts & Roberts for applicant.

Katherine Connolly, Trademark Examining Attorney, Law Office 101 (Ronald R. Sussman, Managing Attorney).

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Before Quinn, Bucher and Cataldo, Administrative Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application was filed by Royal Consumer Information Products, Inc. to register the mark CONNECT-ABLES for "USB computer port hubs, USB computer port powered mouse pads, external computer disk drives, computer scanners, cameras, electronic data organizers, electronic personal digital assistants, scales, computer mice, magnetic coded card readers, computer connected electronic writing boards, computer keypads, calculators, loudspeakers, computer keyboards; radios, and vacuum cleaners, all for electrical

connection to a computer or a motor vehicle" (in International Class 9); and "electric fans, electric cup warmers, air ionizers, and lamps, all for electrical connection to a computer or a motor vehicle" (in International Class 11).[1]

The trademark examining attorney refused registration in both classes under Section 2(d) of the Trademark Act on the ground that applicant's mark, when applied to applicant's goods, so resembles the previously registered mark shown below

for "telephone, wireless, and computer accessories, namely, headsets and power sources"[2] as to be likely to cause confusion.

When the refusal was made final, applicant appealed. Applicant and the examining attorney filed briefs.[3]

Applicant argues that while the involved marks are similar in sound, this similarity is outweighed by the

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[1] Application Serial No. 78568319, filed February 16, 2005, alleging a bona fide intention to use the mark in commerce.
[2] Registration No. 2889031, issued September 28, 2004.
[3] The examining attorney named above was newly assigned to this application at the time of the brief.

differences in appearance. Regarding the goods, applicant contends that while applicant's and registrant's goods may be connected to a computer, the goods are specifically different. The mere fact that the goods may be connected to a computer, applicant argues, is insufficient to show that the goods are related. Applicant also states that purchasers of computers and computer products are sophisticated, and that they would be deliberate in their purchasing decisions.

The examining attorney maintains that the marks are similar and that the goods are closely related. Regarding the goods, the examining attorney contends that the computer peripheral and accessory items identified in the application and the cited registration are commonly sold and used together. In this connection, the examining attorney introduced portions of web pages showing the sale of such items by a single source, and copies of third-party registrations showing adoption of the same mark by a single entity for these types of goods.

Our determination of the issue of likelihood of confusion is based on an analysis of all of 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). See also: In re Majestic Distilling Co., Inc., 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003). In any likelihood of confusion analysis, however, two key considerations are the similarities between the marks and the similarities between the goods and/or services. See Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24 (CCPA 1976). See also: In re Dixie Restaurants Inc., 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997).

We first turn to consider the marks. In determining the similarity or dissimilarity of the marks, we must compare the marks in their entireties as to appearance, sound, connotation and commercial impression. Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005). The test is not whether the marks can be distinguished when subjected to a side-by-side comparison, but rather whether the marks are sufficiently similar in their entireties that confusion as to the source of the goods offered under the respective marks is likely to result. The focus is on the recollection of the average purchaser, who normally retains a general rather than a specific impression of trademarks. Sealed Air Corp. v. Scott Paper Co., 190 USPQ 106 (TTAB 1975).

Although the marks have specific differences, the similarities clearly outweigh them. As to sound, applicant concedes that the marks are similar. Indeed, the marks sound the same. The hyphen in applicant's mark does not affect the sound of applicant's mark because the hyphen would not be pronounced when calling for applicant's goods. Further, the marks, as applied to the goods, are identical in meaning; both marks convey the idea that the goods are able to be connected to something, in this case, a computer. See Proctor & Gamble Co. v. Conway, 419 F.2d 1332, 164 USPQ 301, 304 (CCPA 1970).

Insofar as the appearances of the marks are concerned, registrant's mark, albeit in special form, is clearly dominated by the literal portion CONNECTABLES. It is well established that, in the case of a logo mark, the literal portion of a mark generally is the dominant feature because it is the element by which consumers will refer to and call for the goods. In re Dacombe, 9 USPQ2d 1813, 1814 (TTAB 1988). And, when the registered mark is compared to applicant's mark CONNECT-ABLES, the marks look very much alike. Neither the stylization nor the interconnecting letter "Cs" in registrant's mark is striking or dramatic enough to distinguish the marks. The presence of a hyphen in applicant's mark also does not significantly affect the

appearance of the mark. See In re Champion International Corp., 196 USPQ 48, 49 (TTAB 1977); and In re General Electric Co., 180 USPQ 542, 544 (TTAB 1973).

Given the identity between the sound and meaning of the marks, and the similarities in appearance, we find that the marks as a whole engender substantially similar overall commercial impressions. Accordingly, the first du Pont factor weighs in favor of finding a likelihood of confusion. See In re Shell Oil Co., 992 F.2d 1204, 26 USPQ2d 1687, 1688 (Fed. Cir. 1993).

As just noted, the marks have identical meanings. Notwithstanding the clearly suggestive meaning of the term "connectables" as applied to computer peripherals and accessories, the record is devoid of any evidence of third-party uses or registrations of the same or similar mark in the computer field. This sixth du Pont factor weighs in favor of finding a likelihood of confusion.

We next turn to a consideration of the goods. It is not necessary that the respective goods be identical or competitive, or even that they move in the same channels of trade to support a holding of likelihood of confusion. It is sufficient that the respective goods are related in some manner, and/or that the conditions and activities surrounding the marketing of the goods are such that they

would or could be encountered by the same persons under circumstances that could, because of the similarity of the marks, give rise to the mistaken belief that they originated from the same producer. In re Melville Corp., 18 USPQ2d 1386 (TTAB 1991). We also note, at the outset of considering this du Pont factor, that the greater the degree of similarity between applicant's mark and the cited registered mark, the lesser the degree of similarity between applicant's goods and registrant's goods that is required to support a finding of likelihood of confusion. In re Opus One Inc., 60 USPQ2d 1812, 1815 (TTAB 2001). As discussed above, the marks are substantially similar.

Applicant's and registrant's identifications of goods cover computer peripheral devices and computer accessories. Although applicant's and registrant's goods may be specifically different, these computer devices and accessories are commercially related. In furtherance of this point, the examining attorney introduced web pages to show that the same entities sell goods of the type involved herein. The third-party registrations offer additional support. See In re Albert Trostel & Sons Co., 29 USPQ2d 1783 (TTAB 1993); and In re Mucky Duck Mustard Co. Inc., 6 USPQ2d 1467 (TTAB 1988) [third-party registrations that individually cover different items and that are based on

use in commerce serve to suggest that the listed goods are of a type that may emanate from a single source]. It also is readily apparent that items such as applicant's computer mice, computer keyboards, and electric cup warmers and lamps for connection to a computer are likely to be used concurrently with items such as registrant's headsets and power sources for computers. See Tuxedo Monopoly, Inc. v. General Mills Fun Group, Inc., 648 F.2d 1335, 209 USPQ 986, 988 (CCPA 1981) [likelihood of confusion must be found if there is likely to be confusion with respect to any item that comes within the identification of goods in the application].

The types of products described in the respective identifications of goods would travel in the same trade channels (e.g., electronic retailers and computer specialty stores) to the same classes of purchasers.

Applicant's contention that purchasers of computers are sophisticated and that their purchases involve thoughtful deliberation is not persuasive. Firstly, there is no evidence of record on this point. Secondly, given the ubiquity of computers in everyday life, purchasers of computer goods of the types involved herein would include ordinary consumers. These consumers would exercise nothing more than ordinary care when purchasing computer devices

and accessories. In any event, even assuming that purchasers are knowledgeable in the computer field, it does not necessarily mean that they are immune from source confusion, especially in instances where, as here, the marks are so similar. See In re Pellerin Milnor Corp., 221 USPQ 558 (TTAB 1983).

We conclude that consumers familiar with registrant's computer accessories, namely headsets and power sources sold under its mark CONNECTABLES and design would be likely to believe, upon encountering applicant's computer peripherals and accessories sold under the mark CONNECT-ABLES, that the goods originate with or are associated with or sponsored by the same entity.

Lastly, to the extent that any of the points raised by applicant raise a doubt about likelihood of confusion, that doubt is required to be resolved in favor of the prior registrant. In re Hyper Shoppes (Ohio), Inc., 837 F.2d 840, 6 USPQ2d 1025 (Fed. Cir. 1988).

**Decision:** The refusal to register in each class is affirmed.