

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Before the Trademark Trial and Appeal Board**

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|---|-------------------------------|
| <b>APPLICANT: Logistic Innovations, LLC</b> | <b>T. M. Law Office: 117</b>  |
| <b>SERIAL NO: 76/715,611</b>                | <b>EXAMINER: J. R. Cantor</b> |
| <b>FILED: December 26, 2013</b>             | <b>St. Louis, Missouri</b>    |
| <b>MARK: THE LOGIC NETWORK + Design</b>     | <b>Date: July 2, 2015</b>     |

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

\_\_\_\_\_  
*[Handwritten Signature]*  
Attorney

\_\_\_\_\_  
*[Handwritten Signature]*  
Date of Signature

Honorable Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

\_\_\_\_\_  
**BRIEF UPON APPEAL**  
\_\_\_\_\_

Respectfully Submitted,

Paul M. Denk  
Attorney for Applicant  
Patent Office Reg. No. 22,598  
763 South New Ballas Road, Ste. 305  
St. Louis, MO 63141  
(314) 872-8136



**07-13-2015**

**Real Parties in Interest**

The real party in interest in this trademark appeal is LOGISTIC INNOVATIONS, LLC, a New York Limited Liability Company, located at 8 West 38<sup>th</sup> Street, Suite 201, New York, New York 11018.

### Summary of the Facts

Applicant, LOGISTIC INNOVATIONS, LLC, filed its servicemark application upon the mark subject to this appeal comprising the LOGIC NETWORK + Design, wherein the O of the LOGIC has a particular stylized design. The application was filed on December 26, 2013, in International Class 37, for the provision of part time and temporary employment to business and organizations for meeting planning services. The subject mark is as shown hereafter:

THE LOGIC NETWORK

The examiner initially rejected the application upon the grounds of likelihood of confusion, with U.S. Reg. No. 3,897,239, upon the mark incorporating a stylized quadrant, and the word LOGICRPO, also shown hereunder:



The mark of that particular registration is in International Class 35, for employment hiring, recruiting, placement, staffing and career networking services. The examiner based her rejection upon the factors set forth in the case of *In re E. I. Du Pont de Nemours & Co.*, 177 USPQ 563 (C.C.P.A. 1973). Other cases were also cited. The examiner stated the factors most relevant to her rejections were the similarities of the marks, the nature of the services, and the trade channels involved.

Applicant is a subsidiary of a Missouri Limited Liability Company, called MAC MEETINGS & EVENTS, LLC, which owns Reg. No. 3,003,263, for the service of installing and dismantling business marketing exhibits for use in the organization of business meetings, particularly small business meetings. Logistic Innovations, LLC is a subsidiary of the foregoing and provides temporary and part time placement of employees for use in such small business meetings, for setup, conducting, and dismantling of such meetings.

It is this comparison between the mark of the applicant herein, the nature of its services, the specific design of the cited registration, and the conduct of its business, that applicant contests the basis for rejection by the examiner.

## ISSUE PRESENTED

The issue is whether the mark of the applicant herein, as previously disclosed, so resembles the registered mark cited by the examiner, that there is a likelihood of confusion, mistake, or deception as to the source or origin of their respective services.

As previously reviewed, the examiner has relied heavily upon *In re E. I. Du Pont de Nemours & Co., Supra*, as a basis for rejection of the mark of this current application.

When one reviews the initial testing established by this case in paragraph (1) to determine the likelihood of confusion in *In re E. I. Du Pont de Nemours & Co., 177 USPQ 563 (C.C.P.A. 1973)* under Section 2(d) and whether such confusion can actually exist in the first instance, the two marks as shown, just do not even look alike. The mark of this application is upon THE LOGIC NETWORK, as a phrase, where the word LOGIC has a particularly stylized O within its structure. The mark of the cited registration, to the contrary, as can be seen, has a quadrant like design made up of curved arrows, in front of the stylized word Logicrpo, and thus, the only comparison between applicant's mark, and that of the cited registration, is the specific use of the stylized word LOGIC, by both, in the formation of their servicemarks. Actually, the specific use of the wording by the registrant is of the word Logicrpo. The particular quadrant design in front of the registrant's mark is uniquely distinctive in and of itself. Applicant does not know what the suffix part of the registrant's mark, the letters rpo, relates to, but it certainly provides its own distinctive appearance to the complete word, in its setting. Thus, it is submitted that the mark of the cited registration is really quite distinct from what is shown in the applicant's servicemark.

Applicant's mark, on the other hand, has its own unique distinctness, comprising THE LOGIC NETWORK, which in and of itself, except for using the same word LOGIC, is totally distinct from the registrant's mark. And, when you compare their particular designs for the word LOGIC, they are also reasonably different. Thus, it is questionable whether it is really a likelihood of confusion that may prevail through usage of the respective marks by the applicant, and the registrant.

Furthermore, the word LOGIC has been registered numerous times in the Trademark Office, and in and of itself, should not be given the weight as afforded by the examiner as a basis for rejecting the design LOGIC mark as combined by the applicant in its servicemark. Furthermore, the cited registration is not upon the word LOGIC alone, but the word Logicpro. In view of these differences, in design, pronunciation, and appearance, it is submitted that the two marks are just not quite that similar, but are quite dissimilar, in their appearance.

Another primary factor to be considered is set forth in the *du Pont* factor (2), if not also the factor (3), with regards to the nature of services being rendered. For example, applicant's particular services are providing temporary and part time placement of workers for meeting planning providers, for the type of organization of small business meetings that its parent Company, MAC, conducts under its Reg. No. 3,003,263. This is a very specific type of placement service. The service of the cited registration is apparently for general employment hiring, recruiting, placement, staffing and career networking services. This appear to be a far broader type of employment agency service, unlike what the applicant does in simply temporary staffing small business meetings, with temporary employees. Thus, the nature of the services appear to be somewhat different between applicant, and what is provided by the cited registration. Furthermore, it would appear the trade channels may be somewhat different. General employment agency services are conducted to find, usually, full time employment for those seeking work, or career advancement or changes. Applicant is simply hiring temporary employees for use for staffing its small business meetings. Thus, the two do not appear to even be in the same type of business.

Under *du Pont* analysis .(4), there really is no distinction between impulse buyers, or sophisticated buyers, of applicant's service. If applicant is setting up the small business meeting, and they need to staff it with temporary employees, they have already established themselves with the Company with which they are doing business, and therefore, it would not appear that a likelihood of confusion would ever prevail with respect to another Company handling employment agency services.

Under *du Pont* .(5), the cited registration has only been in existence for less than five years, and therefore, it is questioned just how much fame it has established for its owner. Its fifth year affidavit will be due shortly.

With respect to the *du Pont* factor .(6), applicant has already alluded to the substantial number of marks that are registered, or pending, that incorporate the term LOGIC. Hence, it is questioned whether that particular term can carry substantial and exclusive protection upon the word "LOGIC" itself, apart from the mark in its entirety. This also relates to what is the question set forth in the *du Pont* factor (1), where the marks should be viewed in their entirety as to their appearance, sound, connotation and commercial impression.

To applicant's knowledge, there has been no actual confusion in the marketplace.

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It appears that the Trademark Examining Attorney has apparently dissected Applicant's mark and is only focusing on the word LOGIC to determine confusion. Such dissection of the mark is improper. In particular, the basic principle in determining confusion between marks is that marks must be compared in their entirety and must be considered in connection with the particular goods or services for which they are used. *Glenwood Laboratories v. American Home Products Corp.*, 455 F.2d 1384, 1385, 173 USPQ 19, 20 (CCPA

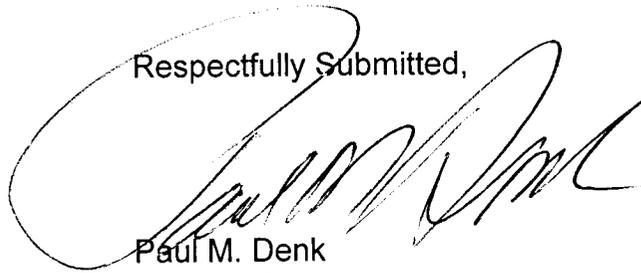
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**Conclusion**

It is applicant's contention that its mark, in its entirety, is not likely to cause any confusion with the Logicpro + Design mark as cited and relied upon by the examiner. It is believed applicant has set forth sufficient argument for acceptance and publication of its mark, and eventual registration.

The Boards review of this matter would be appreciated.

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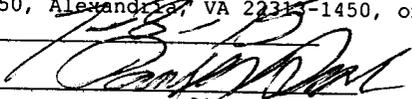
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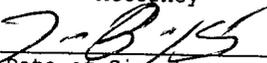
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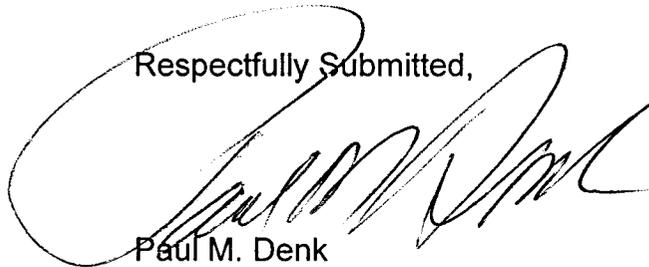
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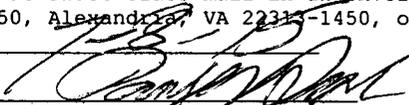
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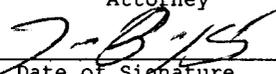
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To applicant's knowledge, there has been no actual confusion in the marketplace.

When one reviews the remaining *du Pont* factors, it is questioned whether the mark of the cited registration can be interpreted to be imbued with all of the various attributes as considered in these other factors, when the marks are reviewed as a whole. The examiner went on in various rejections to minimize the design portion of the registered mark, completely ignored the RPO portion of the cited mark, and gave little weight to the addition of the word NETWORK in applicant's mark, stating that it was merely descriptive. But, to dissect the various marks in the manner done by the examiner, would appear to fly in the face of well established trademark law, including in the *du Pont* case, that the marks in their entirety as to appearance, sound, connotation and commercial impression should be reviewed, and not to isolate particular aspects of the two marks, so as to focus upon what common subject matter can be found, when undertaking her analysis for likelihood of confusion.

It appears that the Trademark Examining Attorney has apparently dissected Applicant's mark and is only focusing on the word LOGIC to determine confusion. Such dissection of the mark is improper. In particular, the basic principle in determining confusion between marks is that marks must be compared in their entirety and must be considered in connection with the particular goods or services for which they are used. *Glenwood Laboratories v. American Home Products Corp.*, 455 F.2d 1384, 1385, 173 USPQ 19, 20 (CCPA

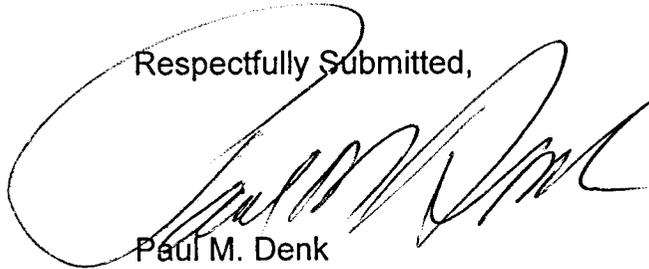
1972), 2 J. McCarthy, *Trademarks and Unfair Competition*, § 23:15A (2<sup>nd</sup> ed. 1984). It follows from that principle that likelihood of confusion cannot be predicted on dissection of a mark, that is, on only part of a mark. *Massey Junior College, Inc. v. Fashion Institute of Technology*, 492 F.2d 1399, 1402, 181 USPQ 1005, 1007 (CCPA 1974). See also *Franklin Mint Corp. v. Master Mfg. Co.*, 667 F.2d 1005, 1007, 212 USPQ 233,234 (CCPA 1981). As the above cited cases indicate, it is axiomatic that a mark should not be dissected and considered piecemeal. It must be considered as a whole in determining likelihood of confusion.

**Conclusion**

It is applicant's contention that its mark, in its entirety, is not likely to cause any confusion with the Logicrpo + Design mark as cited and relied upon by the examiner. It is believed applicant has set forth sufficient argument for acceptance and publication of its mark, and eventual registration.

The Boards review of this matter would be appreciated.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Paul M. Denk', written over a large, light-colored oval scribble.

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