

**THIS OPINION IS NOT A  
PRECEDENT OF  
THE T.T.A.B.**

Mailed: January 16, 2007

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re PNC Bank, N.A.

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Serial No. 78492942

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Andrew J. Cornelius of Andrew J. Cornelius, P.C. for PNC Bank, N.A.

Zhaleh Delaney, Trademark Examining Attorney, Law Office 116 (Michael W. Baird, Managing Attorney).

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Before Holtzman, Drost, and Bergsman, Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

PNC Bank, N.A. filed an intent-to-use application to register the mark GREEN BRANCH for "financial services, namely, banking services featuring checking, savings and investment account services; financial wealth management; consumer lending services; investment brokerage services; pension valuation services; administration of employee pension plans; insurance agency services; life, health, accident and fire insurance underwriting; investment

banking services; funds investment and fund investment consultation" (as amended) (hereinafter "financial and banking services").<sup>1</sup>

Registration was refused on the ground that GREEN BRANCH proposed for use in connection with financial and banking services is merely descriptive. Section 2(e)(1) of the Lanham Act, 15 U.S.C. §1052(e)(1). When the refusal was made final, applicant appealed. Both the applicant and the examining attorney filed briefs.

The examining attorney contends that the mark is merely descriptive because it describes financial and banking services offered in "branches" that have environmentally friendly (*i.e.*, "green") features. The examining attorney supported her refusal with the following evidence:

1. A March 14, 2004 press release posted on three websites referencing applicant's "green branch" in connection with environmentally friendly buildings ("The construction cost of a 'green branch' is the same as a traditional branch");

2. Definitions of the word "green" from two online dictionaries:

- a. Encarta.msn.com

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<sup>1</sup> Application Serial No. 78492942, filed October 1, 2004.

grass colored

having edible green leaves

grassy or leafy

advocating protection of the environment

made with little environmental harm

not ripe

jealous

sickly-looking

innocent

new

unseasoned (woodwork)

untanned (industry)

unfired (ceramics)

b. Infoplease.com

of the color of growing foliage

covered with herbage or foliage

unseasoned

immature

environmentally sound or beneficial

money; greenbacks

fresh leaves or branches of trees

3. Article in the *Pittsburgh Post Gazette*, November 10, 2005:

PNC banks on being greener

You've heard of greenbacks and Green Stamps, and if you've been in Pittsburgh long enough, the Green Weenie. Now get ready for green bank branches.

PNC Financial Service Group, which in the last few years has built a handful of environmentally friendly "green" branches, now hopes to become a Green Giant of sorts by building at least 90 more green offices over the next three years.

\* \* \* \*

Overall, the green branches, which range from about 3,200 to 3,600 square feet, will cost around \$1.4 million, or roughly \$100,000 less than competitors are paying for similar-sized traditional branches, Saulson said.

Applicant argues that GREEN BRANCH is not merely descriptive for the following reasons:

1. The term green could have several meanings, including money and green growth or foliage;
2. Financial and banking services do not imply or suggest environmental protection; and,
3. The combination of "green" and "branch" has a wide range of potential meanings that does not immediately convey information regarding financial and banking services.

A term is merely descriptive if it immediately conveys knowledge of a significant quality, characteristic, function, feature or purpose of the goods or services with which it is used, or intended to be used. *In re Gyulay*, 820 F.2d 1216, 3 USPQ 1009 (Fed. Cir. 1987). Whether a particular term is merely descriptive is determined in relation to the goods or services for which registration is sought and the context in which the term is used, or is intended to be used, not in the abstract or on the basis of guesswork. *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); *In re Remacle*, 66 USPQ 1222, 1224 (TTAB 2002). In other words, the issue is whether someone who knows what the goods or services are will understand the mark to convey information about them. *In re Tower Tech, Inc.*, 64 USPQ 1314, 1316-1317 (TTAB 2002); *In re Patent & Trademark Services Inc.*, 49 USPQ2d 1537, 1539 (TTAB 1998); *In re Home Builders Association of Greenville*, 18 USPQ2d 1313, 1317 (TTAB 1990); *In re American Greetings Corp.*, 226 UPSQ 365, 366 (TTAB 1985).

When two or more merely descriptive terms are combined, the determination of whether the composite mark also has a merely descriptive significance turns on the question of whether the combination of terms evokes a new and unique commercial impression. If each component

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retains its merely descriptive significance in relation to the goods or services, the combination results in a composite that is itself merely descriptive. See, *In re Tower Tech, Inc., supra* (SMARTTOWER merely descriptive of commercial and industrial cooking towers); *In re Sun Microsystems Inc.*, 59 USPQ 1084 (TTAB 2001) (AGENTBEANS merely descriptive of computer programs for use in developing and deploying application programs); *In re Putnam Publishing Co.*, 39 USPQ2d 2021 (TTAB 1996) (FOOD & BEVERAGE ONLINE merely descriptive of new information services in the food processing industry).

"On the other hand, if one must exercise mature thought or follow a multi-stage reasoning process in order to determine what product or service characteristics the term indicates, the term is suggestive rather than merely descriptive. [Internal citations omitted]. . . incongruity is a strong indication that a mark is suggestive rather than merely descriptive." *In re Tennis in the Round, Inc.*, 199 USPQ 196, 197 (TTAB 1978). See also, *In re Shutts*, 217 USPQ 363, 364-365 (TTAB 1983); *In re Universal Water Systems, Inc.*, 209 USPQ 165, 166 (TTAB 1980).

In many instances, such as this case, the line between descriptive and suggestive marks is not clear. Determining whether a mark is merely descriptive or suggestive may

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require the drawing of fine lines similar to making distinctions among many shades of gray. In any given situation, this process may be hazy, subjective, and difficult to articulate. Accordingly, doubts as to registrability are resolved in favor of applicants. *In re American Standard Inc.*, 223 USPQ 353, 355 (TTAB 1984); *In re Micro Instrument Corp.*, 222 USPQ 252, 255 (TTAB 1984); *In re The Officers' Organization*, 221 USPQ 184, 186 (TTAB 1983).

Applicant's mark GREEN BRANCH does not evoke an immediate association with financial and banking services because such services are not generally associated with environmentally friendly or ecologically efficient characteristics. The rendering of such services in environmentally friendly or ecologically efficient facilities does not affect the basic principles of the financial and banking business. Insofar as the record in this case shows, the placement of applicant's financial and banking services in environmentally friendly buildings, rather than traditional buildings, serves no particular purpose in the performance of those activities.

When GREEN BRANCH is used (or proposed for use) in connection with financial and banking services, we think that some level of thought is necessary to make the

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connection between the mark and the services. Therefore, the connection between the mark GREEN BRANCH and applicant's financial and banking services (even those rendered in an environmentally friendly facility) is too indirect or remote to find the mark merely descriptive. Accordingly, we find that applicant's mark GREEN BRANCH if used in connection with financial and banking services is suggestive, rather than merely descriptive.

Decision: The refusal to register is reversed.