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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Green Bancorp, Inc.

Serial No. 78659563

Serial No. 78659571

James R. Menker of Holley & Menker, P.A. for
Green Bancorp, Inc.

Laura A. Hammel, Trademark Examining Attorney, Law Office
107 (J. Leslie Bishop, Managing Attorney).

Before Seeherman, Mermelstein and Bergsman,
Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Green Bancorp, Inc. ("applicant") filed intent-to-use applications to register the marks GREEN BANCORP, INC. and GREEN BANK, in standard character form, for "banking, namely, depository services, namely, accepting FDIC-insured deposits and providing deposit accounts," in Class 36.

Applicant disclaimed the exclusive right to use "Bancorp, Inc." and "Bank" in the respective applications. During

Serial No. 78659563
Serial No. 78659571

the prosecution of the GREEN BANK application, applicant filed an amendment to allege use which was accepted.

The examining attorney refused registration under Section 2(e)(1) of the Trademark Act of 1946, 15 U.S.C. §1052(e)(1), on the ground that applicant's marks are merely descriptive. Also, the examining attorney refused registration on the ground that applicant's marks so resemble the previously registered marks set forth below as to be likely to cause confusion. Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).

A. Registrations owned by Citizens Financial Group, Inc.

1. Registration No. 2934524 for the mark GREEN CHECKING for "retail and commercial banking services, in the nature of a checking account," in Class 36.¹ Registrant disclaimed the exclusive right to use the word "Checking."

2. Registration No. 3432909 for the mark GREEN SAVINGS for "retail and commercial banking services, in the nature of a savings account," in Class 36.² Registrant disclaimed the exclusive right to use the word "Savings."

¹ Issued March 22, 2005; Sections 8 and 15 affidavits accepted and acknowledged.

² Issued May 20, 2008.

Serial No. 78659563
Serial No. 78659571

B. Registration owned by PNC Bank, N.A.

Registration No. 3319600 for the mark GREEN BRANCH for, *inter alia*, "financial services, namely, banking services featuring checking, savings and investment account services," in Class 36.³ Registrant disclaimed the exclusive right to use the word "Branch."

Because the appeals in the two applications involve substantially similar issues of fact and law, the appeals were consolidated in an order dated April 13, 2011. We will reference the evidence and briefs in application Serial No. 78659563 unless otherwise indicated.

Whether GREEN BANK and GREEN BANCORP, INC.
are Merely Descriptive?

The examining attorney contends that the marks GREEN BANCORP, INC. and GREEN BANK are merely descriptive because applicant's banking services are "environmentally beneficial, such as, *inter alia*, electronically delivered statements, online banking and bill payment, and by allowing its consumers to recycle paper at the bank. The word 'GREEN' describes a feature, characteristic, or quality of applicant's services because they are provided in an environmentally beneficial manner."⁴ Applicant, on

³ Issued October 23, 2007.

⁴ Examining Attorney's Brief, unnumbered page 21.

Serial No. 78659563
Serial No. 78659571

the other hand, argues that the marks are not merely descriptive because the word "Green" has numerous meanings when used in connection with banking services, thus conveying "a nebulous and amorphous concept ... of some quality of Applicant's banking services. ... As a result of this vagueness and uncertainty, ordinary consumers will pause and reflect on the use of the mark before understanding anything specific about a feature or characteristic of the product [sic]." ⁵

The examining attorney supported her refusal with the following evidence:

A. July 8, 2009 Office Action

1. The definition of the word "green" found on the *Dictionary.com* website and derived from the Random House Dictionary (2009). The word "green" is defined as, *inter alia*, "environmentally sound or beneficial: *green computers*," and "*Slang*, money; greenbacks (usually prec. by *the*): *I'd like to buy a new car but I don't have the green.*" (Emphasis in the original).

2. An article posted on the *Social Funds* website (*socialfunds.com*) on January 23, 2003 in the "Sustainability Investment News" section.

⁵ Applicant's Brief, p. 12.

Serial No. 78659563
Serial No. 78659571

Green Banking

Ten exemplary "green banking" enterprises were honored recently, highlighting the growth of environment-friendly investing.

Although green is the color of money involved in most banking transactions in the United States, traditional banks do not often practice "green banking" or community investing in environmentally beneficial businesses or nonprofits. However, green banking is becoming more prevalent. Yesterday ten organizations that best exemplify green banking were honored by the Community Investing Campaign. ...

... These and seven other organizations practice green banking in myriad ways, from forest preservation to clear water production to eco-tourism.

B. February 1, 2010 Office Action⁶

1. An article posted on the *CarbonSolutionsAmerica.com* website on March 27, 2009 regarding a "green bank."⁷

Eustis' First Green Bank to target eco-friendly niche

⁶ We did not consider the entry from the Korean Times website because it is a Korean-based website featuring a story about a Korean bank. Also, we did not consider the entry from the *EcoFinancing.co.uk* website because it is a website emanating from the United Kingdom. The examining attorney did not present any evidence that the websites would be encountered by consumers in the United States.

⁷ The examining attorney submitted two additional articles on the same subject: one on the *Orlando Business Journal* website (orlando.bizjournals.com) and one on the *MindBodyGreen.com* website.

Serial No. 78659563
Serial No. 78659571

Kenneth LaRoe wants to prove that banks can be profitable and have a social conscience at the same time. That's why he applied with the state on March 24 to start First Green Bank. The new Eustis-based community bank will strive to encourage the "green" construction movement by offering discounted interest rates to companies building Leadership in Energy and Environmental Design (LEED) projects certified by the U.S. Green Building Council.

* * *

Ultimately, the bank's goal is for 20 percent of its loans to be for eco-friendly projects.

2. An excerpt from an article posted in the business section of the *EcoBright* website (lime.com) on March 31, 2008 taken from the *GreenBuildings.com* website.

First Green Bank to Cater to Eco-Friendly Projects

A new bank in Central Florida plans to specialize in services for environmentally friendly businesses and building projects.

3. An article posted on the *JestsonGreen.com* website on June 7, 2007 entitled "Wachovia to Build 300 Green Bank Centers by 2010." The article reports on Wachovia's decision to build environmentally efficient banks.

4. An article posted on the *Mother Nature Network* website (mnn.com) on March 25, 2009 regarding the Green Bank Act of 2009.

Serial No. 78659563
Serial No. 78659571

Congress looks at a green bank

Another government-owned bank concept also made the news yesterday when Maryland Congressman Chris Van Hollen introduced the Green Bank Act of 2009. The objective of the Green Bank would be to provide financing options for clean energy projects throughout the nation. ...

One of the goals of the Green Bank that Congressman Van Hollen lists on his website states that the bank would, "Assist in advancing vital national objectives - including transitioning to a clean energy economy, job creation through the construction and operation of clean energy and energy efficiency projects, abating climate change, energy independence from foreign sources, and fostering long-term domestic manufacturing capacity in clean energy and energy efficiency technologies."

C. Applicant's August 2, 2010 Response

1. In response to the examining attorney's request for information in the February 1, 2010 Office action, applicant provided the following answers to the listed questions:

(1) Are applicant's services provided in an environmentally sound or beneficial establishment?

Applicant embraces innovative technology and focused customer care while consciously promoting environmental responsibility.

(2) Are applicant's services paperless?

Serial No. 78659563
Serial No. 78659571

Applicant offers its customers electronically delivered statements.

(3) Are applicant's services provided to environmentally friendly consumers or businesses?

Applicant's services are available to all individuals and businesses including those that are environmentally conscious.

(4) Is any feature, purpose, quality, function, use of applicant's services beneficial to the environment?

Applicant's transaction accounts, money market accounts, certificates of deposit, retirement accounts, loan products and other banking services are all designed with simplicity, superiority and sustainability in mind.

2. Excerpts from applicant's website displaying applicant's mark GREEN BANK in connection with banking services.

a. Home page

Make Your Green a Little More Green

This is the story of a bank that is doing its part to increase awareness of environmental issues and partner with its customers to make stringer [sic] communities

Our Story

Green Bank embraces innovative technology and focused based customer care while consciously promoting environmental responsibility. Our success can be measured by the

Serial No. 78659563
Serial No. 78659571

practical steps we take today to encourage environmental awareness one person and one business at a time.

Learn with us

At Green Bank, we are on a journey to take our business and our personal lives down a greener path. We invite you to join us on this journey. Come share in our adventure as together we discover what it means to be "green."

b. Our Story web page

Our Vision

Our vision is to become a preferred provider for business and personal banking products and services, the employer of choice in the markets we serve, the investment preference for investors, and a champion for a cleaner, healthier environment.

* * *

Our Promise ...

To act in environmentally and socially-responsible ways to support and strengthen the communities where we operate.

D. The Declaration of Manual J. Mehos, applicant's Chairman of the Board of Directors.⁸

Mr. Mehos, through his declaration, provided the following information regarding applicant's banking services:

⁸ The Declaration was submitted only in applicant's June 5, 2009 Response in Serial No. 78659571 (GREEN BANK).

Serial No. 78659563
Serial No. 78659571

7. Applicant strives to operate in a way that uses fewer natural resources and creates less waste, thus minimizing the footprint Applicant leaves on the planet. Applicant's goal is to become a carbon-neutral company. Applicant's environmental conscientiousness has been highlighted by the *Houston Chronicle*, *Houston Business Journal*, *Texas Bankers Association* and other publications.

8. In further demonstrating its commitment to environmental conscientiousness, Applicant is supporting Ignite Solar LLC in testing its solar panel and sun-tracking technology and is allowing Ignite Solar to use a Green Bank rooftop as its laboratory.

9. Applicant sponsors or supports a number of environmentally conscious causes, demonstrating its commitment to environmental conscientiousness and enhancing and distinguishing the environmental experience of its customers and prospective customers.

10. Applicant's has obtained LEED certification for its headquarters and is seeking it for all of its facilities and other real estate projects.

11. Applicant's products and services reward customers who choose product and service options that save resources and reduce waste. As a result, several green non-profits and green-minded companies and consumers have opened accounts with Applicant because of its environmental conscientiousness.

12. Customers interested in Applicant's goals and way of doing business in an environmentally responsible manner are sophisticated consumers who specifically research and seek out companies such as Green Bancorp, Inc.

13. The average consumer of financial services is more sophisticated than the average consumer and tends to exercise a high degree of care when entrusting their money to a financial institution. Moreover, the average environmentally-conscious consumer of banking services is even more sophisticated and considerably more deliberate in deciding which bank they chose to bank with.

E. August 25, 2010 Office Action

1. An article posted on the *Money Rates* website (money-rates.com) entitled "Green Banking with Paperless Online Checking Accounts." The article discusses the ways in which banks can minimize their impact on the environment

Serial No. 78659563
Serial No. 78659571

through paperless transactions and other "green initiatives."

2. An excerpt from the Bank of Oak Ridge website touting its "Green Banking" initiative.

From paperless forms to reducing the need to travel to a bank branch, Bank of Oak Ridge offers earth-friendly options for making transactions and managing your money.

3. An article posted on the *U.S. News & World Report* website (usnews.com) on June 5, 2008 regarding green banking.⁹

How Green Banking Pays You Back

New environmental initiatives let you save the Earth and some money

Why pay more to become environmentally responsible? The new movement toward greener banking benefits consumers' finances while reducing their carbon footprints.

* * *

A survey released this week from Javelin Strategy & Research found that 57 percent of consumers expressed interest in green banking initiatives, and that their number appears to be growing.

* * *

⁹ The examining attorney submitted a similar article citing the Javelin Strategy & Research survey posted on the *Payment News* website (paymentnews.com).

Serial No. 78659563
Serial No. 78659571

Simon encourages concerned consumers to focus on how to lower their carbon emissions before signing up for green banking options.

4. An article posted on the *Michigan First Credit Union* website (micommunityspace.com) on September 26, 2009 regarding "green banking" entitled "Bank Green, Bank Paperless."

We note that applicant submitted numerous third-party registrations for "Green formative marks in connection with financial services."¹⁰ Listed below are some of the registrations submitted by applicant for banking services.¹¹

Mark	Reg. No.	Disclaimer
GREEN STATION	1316107	Station
GREEN CARD	1327397	Card
CODE GREEN	2864194	None
GREEN CHECKING	2934524	Checking
GREEN BRANCH	3319600	Branch
GREEN NETWORK	3362064	None
GREEN SAVINGS	3432909	Savings
GO GREEN REWARDS CHECKING	3470686	Rewards Checking

¹⁰ Applicant's June 5, 2009 Response. The third-party registrations were submitted to overcome the likelihood of confusion refusal, but they are relevant in our descriptiveness analysis.

¹¹ Applicant submitted additional registrations for other types of financial services and several other "Green" registrations for banking services.

Serial No. 78659563
Serial No. 78659571

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 USPQ 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

Serial No. 78659563
Serial No. 78659571

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 cooling 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 Putman 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).

We find that the evidence submitted by the examining attorney, recounted above, is sufficient to demonstrate that consumers perceive the term "Green Bank" as describing

Serial No. 78659563

Serial No. 78659571

a bank focusing on eco-friendly projects or environmentally beneficial investments, or a bank which is operated in an environmentally-friendly manner. For example, the article posted on the *Social Funds* website states that "traditional banks do not often practice 'green banking' or community investing in environmentally beneficial businesses or nonprofits"; the headline for the article on the *CarbonSolutionsAmerica.com* website announces "Eustis' First Green Bank to target eco-friendly niche" describing a bank that "can be profitable and have a social conscience at the same time"; and the article on the *EcoBright* website with the headline "First Green Bank to cater to Eco-Friendly Projects" describes a bank that "plans to specialize in services for environmentally friendly businesses and building projects."

Applicant's Chairman testified through his declaration that applicant seeks to use fewer natural resources and to create less waste, that applicant seeks to become a carbon-neutral company, and that it sponsors environmentally conscious causes of action. In this regard, applicant's own website touts its eco-friendly focus.

Green Bank embraces innovative technology and focused based customer care while consciously promoting environmental responsibility. Our success can be measured by the

Serial No. 78659563
Serial No. 78659571

practical steps we take today to encourage environmental awareness one person and one business at a time.

We are not persuaded by applicant's argument that "the Board squarely addressed the issue of whether the term GREEN is merely descriptive of banking services and found that the mark GREEN BRANCH is not merely descriptive of banking services including when such services are rendered in environmentally friendly facilities (branches)," citing *In re PNC Bank, N.A.*, (Serial No. 78492942; TTAB January 16, 2007) (non-precedential). It is well settled that the Board must decide each case on its own merits. *In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001). "Even if some prior registrations had some characteristics similar to [applicant's] application, the PTO's allowance of such prior registrations does not bind the Board or this court." *Id.* In other words, we render our decision in these applications based on the evidence presented in these applications and not by the record in another case.

With respect to the doctrine of *stare decisis*, applicant has failed to persuade us that the facts in *PNC* and this application are similar. The doctrine of *stare decisis* may be defined as the policy of courts to stand by

Serial No. 78659563
Serial No. 78659571

precedent and not to disturb a settled point. Black's Law Dictionary (9th ed. 2009).

Essentially, this doctrine provides that, when a court has once laid down a principle of law as applicable to a certain set of facts, it will adhere to that principle, and apply it to all future cases, where the facts are substantially the same, regardless of whether the parties and properties are the same. ... It is clear, however, that this doctrine is one of policy and whether a previous holding of the court shall be adhered to, *modified*, or *overruled* is within the court's discretion under the circumstances of the case before it.

In re Johanna Farms Inc., 8 USPQ2d 1408, 1410 (TTAB 1988)
(internal citations omitted).

Finally, we are not persuaded by applicant's argument that the word "Green" has several meanings in addition to "environmentally friendly," such as "money" or "growth," and "[a]s a result of this vagueness and uncertainty, the ordinary consumer will pause and reflect on the user of the mark before understanding anything specific about a feature or characteristic of the [services]." ¹² Applicant's marks are GREEN BANCORP, INC. and GREEN BANK, not GREEN. Thus, although GREEN may have the meaning of "money" in certain circumstances, as GREEN is used in applicant's marks GREEN

¹² Applicant's Brief, p. 12.

Serial No. 78659563
Serial No. 78659571

BANCORP, INC. and GREEN BANK, the record shows that consumers would perceive only the environmental/ecological meaning. *See Concurrent Technologies Inc. v. Concurrent Technologies Corp.*, 12 USPQ2d 1054, 1057 (TTAB 1989) (“we must consider the descriptiveness of the mark “CONCURRENT TECHNOLOGIES CORPORATION” by looking at the mark as a whole”).

With respect to the mark GREEN BANCORP, INC., the examining attorney submitted evidence to show that BANCORP is commonly used in trade names to identify banking corporations (e.g., Old National Bancorp, First Mariner Bancorp, First Midwest Bancorp, Inc., etc.).¹³ We find that the mark GREEN BANCORP, INC. has essentially the same meaning and engenders the same commercial impression as the mark GREEN BANK.

In view of the foregoing, we find that the marks GREEN BANCORP, INC. and GREEN BANK are merely descriptive.

Whether applicant’s marks GREEN BANK and GREEN BANCORP, INC. are likely to cause confusion with the marks GREEN SAVINGS, GREEN CHECKING and GREEN BRANCH?

Our determination of likelihood of confusion under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the

¹³ January 20, 2006 Office action.

Serial No. 78659563
Serial No. 78659571

factors bearing on the issue of likelihood of confusion.

In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973). See also, *In re Majestic Distilling Company, Inc.*, 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003).

A. The similarity or dissimilarity and nature of the services described in the applications and registrations, the channels of trade and classes of consumers.

The services are legally identical. Applicant does not contest that the services are legally identical. In fact, applicant concedes that “[a]ll three registrations cover banking services as does the instant application.”¹⁴

Because the services described in the applications and the cited registrations are legally identical, we must presume that the channels of trade and classes of purchasers are the same. See *Genesco Inc. v. Martz*, 66 USPQ2d 1260, 1268 (TTAB 2003) (“Given the in-part identical and in-part related nature of the parties’ goods, and the lack of any restrictions in the identifications thereof as to trade channels and purchasers, these clothing items could be offered and sold to the same classes of purchasers through the same channels of trade”); *In re Smith and Mehaffey*, 31 USPQ2d 1531, 1532 (TTAB 1994) (“Because the goods are

¹⁴ Applicant’s Brief, p. 6.

Serial No. 78659563
Serial No. 78659571

legally identical, they must be presumed to travel in the same channels of trade, and be sold to the same class of purchasers").

B. The strength of the marks in the cited registrations.

Applicant's main argument as to why there is no likelihood of confusion is that the word "Green" is weak when used in connection with financial services, specifically banking services. To support its argument, applicant introduced forty-four third-party registrations comprised in part of the word "Green" for financial services, including banking services, and evidence of actual use of GREEN marks for financial services, including banking services.

Where the same or similar marks are used by numerous sources in the same or similar field, each mark tends to be weak as an indicator of single source. It is this reason that the marks set forth in the cited references can coexist without confusion and the reason why the applied-for [marks] can coexist with the registered mark [sic] without confusion.¹⁵

Applicant submitted 13 "Green" marks registered for banking services. The most relevant registrations are for the marks GREEN STATION and GREEN CARD (owned by the same entity), GREEN CHECKING and GREEN SAVINGS (owned by the

¹⁵ Applicant's Brief, p. 7.

Serial No. 78659563
Serial No. 78659571

same entity), GREEN BRANCH, GREEN NETWORK, and GO GREEN REWARDS CHECKING.

Although third-party registrations can be used in the manner of dictionary definitions, we do not have to discuss those registrations here because, as we have already found, the term GREEN has the meaning of environmentally or ecologically friendly or environmentally conscious, and depending on the manner in which it appears in a trademark, it can have this meaning for banking services. Based on the third-party registrations and the evidence of third-party use submitted by applicant, we find that the marks in the cited registrations, GREEN SAVINGS, GREEN CHECKING, and GREEN BRANCH, are highly suggestive.

C. The degree of consumer care.

Mr. Mehos, applicant's Chairman of the Board of Directors, provided the following information in his declaration regarding the degree of care exercised by customers for banking services:

12. Customers interested in Applicant's goals and ways of doing business in an environmentally responsible manner are sophisticated customers who specifically research and seek out companies such as Green Bancorp, Inc.

13. The average consumer of financial services is more sophisticated than the average consumer and tends to be

Serial No. 78659563

Serial No. 78659571

exercise a high degree of care when entrusting their money to a financial institution. Moreover, the environmentally-conscious consumer of banking services is even more sophisticated and considerably more deliberate in deciding which bank they chose to bank with.

In other words, it is applicant's position that its banking customers and potential customers are looking to do their banking business with an entity that shares their beliefs regarding environmental responsibility. These customers would be checking into the business practices of the banks with which they would consider doing business.

Notwithstanding Mr. Mehos' declaration, consumers for banking services are the public at large, who may or may not be particularly sophisticated or concerned about the environmental practices of applicant. Because banks are federally insured, consumers do not have to investigate the financial stability of a particular bank to be sure that their money is secure. In this regard, the Court in *Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank*, 842 F.2d 1270, 6 USPQ2d 1305, 1308 (Fed. Cir. 1988), specifically recognized that while some consumers choose their banks with care, others do not. *See also Crocker National Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689, 690 (TTAB 1986), *aff'd* 811 F.2d 1490,

Serial No. 78659563
Serial No. 78659571

1 USPQ2d 1813 (Fed. Cir. 1987). Thus, for purposes of determining likelihood of confusion, we do not treat bank customers as exercising more than ordinary care.

D. The similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression.

We now turn to the *du Pont* likelihood of confusion factor focusing on the similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression. *In re E. I. du Pont De Nemours & Co.*, 177 USPQ at 567. The marks are similar in terms of sight, sound, meaning and commercial impression to the extent that they all include the word "Green" followed by a descriptive, if not generic term, for banking services. Depending on the manner in which it appears in a trademark, the word GREEN has the meaning of environmentally or ecologically friendly or socially conscious when used in connection with banking services. Thus, the issue before us is whether the addition of the word "Bank" in applicant's mark GREEN BANK is sufficient to distinguish it from the marks GREEN SAVINGS and GREEN CHECKING registered by one registrant and GREEN BRANCH registered by a second registrant. For the reasons stated below, we find that the differences in the marks outweigh the similarities.

Serial No. 78659563
Serial No. 78659571

This issue is similar to the issue the Board faced in *Glamorene Products Corporation v. Earl Grissmer Company, Inc.*, 203 USPQ 1090 (TTAB 1979) (SPRAY 'N VAC for a rug cleaner is not likely to cause confusion with RINSENVAC for rug and carpet cleaning products). In *Glamorene*, the Board analyzed the similarity of the marks as follows:

... "VAC" is so commonly used for vacuum cleaners, which are used in both parties' methods, that no reasonable person could infer an origin-indicating relation between the marks and the goods on that basis alone. And, while there may be semantic similarities between "SPRAY" and "RINSE" and between the marks as a whole, we do not believe that ordinary folks will go through the mental gyrations necessary to form the connection. "SPRAY" and "RINSE" are ordinary familiar words, clearly different in appearance and sound, and easily remembered. In the marketing situation we see here, we conclude that all but a de minimis number of people will see each mark as a whole, will associate each with its respective product or products, and will not be confused, mistaken, or deceived. Both marks are highly suggestive of their products and this only enhances the association of each mark with its own goods.

Id. at 1098. See also *Knight Textile Corp. v. Jones Investment Co.*, 75 USPQ2d 1313 (TTAB 2005) (NORTON MCNAUGHTON ESSENTIALS for ladies' sportswear not likely to cause confusion with ESSENTIALS for women's clothing because the word "essentials" is so highly suggestive).

Serial No. 78659563
Serial No. 78659571

As previously indicated, the word "Green" has been used by third-parties to identify banks with an eco-friendly business plan. In addition, the word "Green" has been previously registered as the prefix word in a composite mark for banking services by multiple entities. In addition to the marks in the cited registrations, GREEN SAVINGS and GREEN CHECKING registered by one registrant and GREEN BRANCH registered by a second registrant, the word "Green" has also been registered as part of the marks GREEN STATION and GREEN CARD by a third registrant and GREEN NETWORK by a fourth registrant.

Given this clear meaning of GREEN for banking services and the very limited scope of protection to which the cited marks are entitled, we find that, even though the additional words in the cited marks and applicant's marks are descriptive, because of the differences in the marks applicant's marks convey a different commercial impression from the cited marks, and this is sufficient to distinguish applicant's marks from them. In other words, because of the weakness of the marks GREEN SAVINGS, GREEN CHECKING and GREEN BRANCH, GREEN BANK and GREEN BANCORP, INC. are sufficiently different from the marks in the cited registrations that consumers would not assume that the banking services emanate from a single source.

Serial No. 78659563

Serial No. 78659571

E. Balancing the factors.

Having considered the evidence of record as it pertains to the relevant *du Pont* factors, we find that because of the weakness of the marks in the cited registrations, confusion is unlikely to result from contemporaneous use of the registrants' GREEN SAVINGS, GREEN CHECKING and GREEN BRANCH marks and applicant's GREEN BANK and GREEN BANCORP, INC. marks, even where the marks are used on identical services.

Decision: The refusal to register applicant's marks on the ground of likelihood of confusion is reversed.

The refusal to register applicant's marks on the ground that they are merely descriptive is affirmed and registration of applicant's marks is refused.