

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

Mailed:
Dec. 12, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Inspiration Software, Inc.

v.

Diana Correales

Opposition No. 91164064
to application Serial No. 76553615
filed on October 23, 2003

David P. Cooper of Kolisch Hartwell, P.C. for Inspiration
Software, Inc.

Steven J. Eyre for Diana Correales.

Before Walters, Grendel and Mermelstein, Administrative
Trademark Judges.

Opinion by Grendel, Administrative Trademark Judge:

Diana Correales, applicant herein, seeks registration
on the Principal Register of the mark PARENTS INSPIRATION
INSTITUTE (in standard character form; PARENTS and INSTITUTE
disclaimed) for services recited in the application as
"educational services, namely, providing classes, seminars,
workshops, training and lectures in the field of parenting

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and effective parenting skills, and course materials distributed in connection therewith," in Class 41.¹

Inspiration Software, Inc., opposer herein, has opposed registration of applicant's mark. As its ground for opposition, opposer alleges that applicant's mark, as used in connection with applicant's recited services, so resembles opposer's previously-used and previously-registered mark INSPIRATION as to be likely to cause confusion, to cause mistake, or to deceive. Trademark Act Section 2(d), 15 U.S.C. §1052(d). In the notice of opposition, opposer alleged ownership of two registrations. The first is Reg. No. 1768514, which is of the mark INSPIRATION (in standard character form) for "computer programs in the field of idea development through visual diagramming, outlining and text creation," in Class 9.² The second registration is Reg. No. 1864117, which is of the mark INSPIRATION (in standard character form) for "computer education training," in Class 41.³

¹ Serial No. 76553615, filed October 23, 2003. The application is based on applicant's asserted bona fide intention to use the mark in commerce. Trademark Act Section 1(b), 15 U.S.C. §1051(b).

² Issued on May 4, 1993. Affidavits under Sections 8 and 15 accepted and acknowledged. Renewed.

³ Issued on November 22, 1994. Affidavits under Sections 8 and 15 accepted and acknowledged. Renewed.

Applicant filed an answer in which she admitted that opposer's two pleaded registrations are valid and subsisting and owned by opposer, but denied the remaining allegations.

The evidence of record in this case consists of the pleadings, the file of the opposed application, and opposer's two pleaded registrations.⁴ Opposer submitted no evidence during its testimony period. Neither party filed a brief on the case.

Because opposer's pleaded registrations are of record, we find that opposer has established its standing to oppose registration of applicant's mark. *See Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982); *see also Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842 (Fed. Cir. 2000). Moreover, because opposer's pleaded registrations are of record, Section 2(d) priority is not an issue in this case as to the mark and goods or services covered by said registrations. *See King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108 (CCPA 1974).

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

⁴ Opposer's two pleaded registrations are of record by virtue of applicant's admissions, in her answer, that the registrations are valid and subsisting and are owned by opposer. See the Board's January 31, 2006 order denying applicant's motion under Trademark Rule 2.132(a) to dismiss the opposition for failure to prosecute.

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of confusion issue (the *du Pont* factors). See *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). See also *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Majestic Distilling Co.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003); *In re Dixie Restaurants Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997).

We begin our analysis with the second *du Pont* factor, which requires us to consider evidence pertaining to the similarity or dissimilarity of the parties' respective goods and/or services as identified in applicant's application and in opposer's registrations. Applicant's services are identified in the application as "educational services, namely, providing classes, seminars, workshops, training and lectures in the field of parenting and effective parenting skills, and course materials distributed in connection therewith." Opposer's services as identified in its Reg. No. 1864117 are "computer education training."

It is apparent that the only thing these respective services have in common is that they both involve educational services. That general point of similarity is not enough to support a finding that the parties' specific services are related. Applicant's educational services pertain to parenting and parenting skills, a subject which

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obviously is far removed from computer training, the subject matter of opposer's educational services. On their face, the respective services are dissimilar and unrelated for purposes of the second *du Pont* factor.

Applicant's educational services involving parenting and parenting skills are even farther afield from the goods identified in opposer's Reg. No. 1768514, i.e., "computer programs in the field of idea development through visual diagramming, outlining and text creation." Opposer's computer programs obviously have a highly specific focus and subject matter which are wholly unrelated to applicant's classes and seminars in the field of parenting skills.

For these reasons, we find that the second *du Pont* factor weighs in applicant's favor in our likelihood of confusion analysis.

We turn next to the first *du Pont* factor, which requires us to determine the similarity or dissimilarity of the marks when viewed in their entirety in terms of appearance, sound, connotation and overall commercial impression. *Palm Bay Imports, Inc., supra*. Opposer's mark is INSPIRATION. Applicant's mark is PARENTS INSPIRATION INSTITUTE. In terms of appearance and sound, the parties' marks are similar to the extent that the word INSPIRATION appears in both, and dissimilar to the extent that applicant's mark also includes the words PARENTS and

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INSTITUTE. We find that the marks are dissimilar in terms of connotation and overall commercial impression. Both parties' marks include the word INSPIRATION, but in applicant's mark that word is placed between the additional words PARENTS and INSTITUTE, which together create a quite specific connotation and commercial impression which are wholly missing from opposer's mark. We note as well that the word INSPIRATION is highly suggestive as applied to opposer's "idea development" computer programs, a fact which narrows the scope of protection to be afforded opposer's mark as applied to such goods. Viewing the marks in their entirety, we find that they are dissimilar rather than similar, and that the first *du Pont* factor accordingly weighs in applicant's favor in our likelihood of confusion analysis.

Considering all of the evidence of record (which consists solely of opposer's registrations), we find that there is no likelihood of confusion. At bottom, opposer has failed to prove that applicant's mark and opposer's mark are so similar that confusion is likely to result from use of the marks on goods and services which are as essentially unrelated as those identified in applicant's application and opposer's registrations.

Decision: The opposition is dismissed.