Commissioner of Patents and Trademarks
Patent and Trademark Office (P.T.O.)

RE: TRADEMARK REGISTRATION OF AMERICAN NATIONAL BANK AND TRUST COMPANY
OF
CHICAGO
91-223(R)(R)
January 19, 1993
***1** Request Filed: August 10, 1992

For: WE'RE THE BANK FOR BUSINESS
Registration No. 1,199,831
Issued: June 29, 1982

Jeffrey M. Samuels

Assistant Commissioner for Trademarks

On Request for Reconsideration

American National Bank and Trust Company of Chicago has filed a second request for reconsideration of the Commissioner's decision dated January 27, 1992, denying its petition to reverse the Post Registration Examiner's refusal to accept an amendment of the mark in the above identified registration. Although the Trademark Rules do not specifically provide for requests for reconsideration of decisions on petitions, the Commissioner has the discretion to consider such requests pursuant to Trademark Rule 2.146(a)(3).

Facts

The above registration issued June 29, 1982, for the mark WE'RE THE BANK FOR BUSINESS. On June 15, 1990, petitioner filed a request to amend the mark, pursuant to Section 7(e) of the Trademark Act, 15 U.S.C. § 1057, by deleting the lead word "WE'RE." By letter dated August 6, 1990, the Post Registration Examiner refused to accept the proposed amendment, on the ground that it materially altered the registered mark.

Petitioner filed a request for reconsideration of the Examiner's decision on February 11, 1991, under a certificate of mailing dated February 6, 1991, which the Examiner denied in a letter dated March 25, 1991.

On June 27, 1991, petitioner filed its petition requesting that the Commissioner reverse the Examiner. The Commissioner denied the petition in a decision dated January 27, 1992. On March 5, 1992, petitioner filed a request for reconsideration of the Commissioner's decision, which the Commissioner denied in a decision dated June 9, 1992.

This second request for reconsideration was filed August 10, 1992. [FN1] Petitioner has submitted the declarations of R. Renee McKenna, its Second Vice President; Lynn Balik, Vice President of Operations of Grapentine Company Inc., a company that has conducted advertising

awareness surveys for petitioner; Martin Friedman, Vice President of Dearborn Wholesale Grocers, a customer of petitioner; and John T. Cusack, a partner in the law firm of Rudnick & Wolfe, another customer of petitioner. Ms. McKenna asserts that she is familiar with the marketing of petitioner's banking services; that she is familiar with numerous service marks and tradenames used by banks in the Chicago area; that petitioner has spent millions of dollars advertising, promoting and marketing the proposed mark; that petitioner has conducted a survey that showed that the relevant public perceived the dominant portion of the mark to be THE BANK FOR BUSINESS; and that it is her opinion that the marks THE BANK FOR BUSINESS and WE'RE THE BANK FOR BUSINESS are strong marks, and that they create the same commercial impression. Ms. Balik asserts that Grapentine Company has conducted advertising awareness surveys for petitioner; and that such surveys showed that the mark THE BANK FOR BUSINESS is by far the strongest of any bank in the study area.

***2** Mr. Friedman and Mr. Cusack assert that they are customers of petitioner; that they are familiar with the services and advertising of petitioner; that during the time around February 1986, they perceived the dominant portion of petitioner's mark to be THE BANK FOR BUSINESS; that the deletion of the word "WE'RE" from the mark had no significance to them; and that at all times the marks THE BANK FOR BUSINESS and WE'RE THE BANK FOR BUSINESS gave them a single and continuing commercial impression identifying the source of petitioner's services.

Decision

While the Commissioner has the discretion to consider requests for reconsideration pursuant to Trademark Rule 2.146(a)(3), reconsideration is not a matter of right. In some cases, the Commissioner will grant a request for reconsideration because new facts are presented which warrant equitable relief. However, the Commissioner will deny a request for reconsideration which merely reiterates or expands on arguments previously presented.

Moreover, it stands to reason that contested matters must be brought to a conclusion within a reasonable time. Therefore, the Commissioner will grant a second request for reconsideration of a decision on petition only in those rare situations where the petitioner presents significant facts or evidence which was not previously available.

In this case, petitioner's second request for reconsideration, in essence, merely amplifies and expands upon arguments previously raised. No new facts or reasons have been presented which are significant and compelling with respect to the matter which is the subject of the petition, i.e., the issue of whether the proposed amendment is a material alteration of the registered mark, within the meaning of Section 7 of the Trademark Act. Furthermore, petitioner has supplied no evidence which could not have been submitted with the original petition or the first request for reconsideration.

Accordingly, the instant request for reconsideration of the denial of the earlier request for reconsideration shall not be considered, and it is returned to petitioner with this decision.

FN1. Since August 8, 1992 was a Saturday, petitioner's request for consideration is considered to be timely filed. 37 C.F.R. § 1.7.

33 U.S.P.Q.2d 1535

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