

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. : 88-488409
MARK : **kynect**
FILED : May 28, 2019
APPLICANT : Kynect IP Holdco, LLC
EXAMINING ATTORNEY : James Prizant

Response to Office Action

Applicant has applied for the mark KYNECT in Classes 035 and 038 covering the following services:

035: multi-level marketing services, namely, the marketing of: (i) electricity and natural gas services; (ii) home security and alarm services; (iii) identity theft and credit monitoring services; (iv) computer technical support services; (v) satellite, cable and DSL television and internet services; administration of a discount program for enabling participants to obtain discounts on the cost of goods and services or receive improved services through use of a membership card

038: telecommunication services, namely, mobile virtual network operator (MVNO) services; wireless telephone services

In the office action dated August 21, 2019, the Trademark Office raised three issues: 1) a Section 2(d) refusal based on several cited registrations; 2) a partial Section 2(e) refusal; and 3) an objection to the identification of services. Applicant submits the following arguments in support of registration.

I. AMENDMENT TO THE IDENTIFICATION OF SERVICES

Applicant respectfully requests that the Trademark Office enter the following amendment to Applicant's identification of services in Classes 035 and 038:

035: multi-level marketing services, namely, the multi-level marketing of: ~~(i) electricity and natural gas services;~~ ~~(ii) home security and alarm services;~~ ~~(iii) identity theft and credit monitoring services;~~ ~~(iv) computer technical support services;~~ ~~(v) satellite, cable and DSL television and internet services;~~ administration of a discount program for enabling participants to obtain discounts on the cost of goods and services or receive improved services through use of a membership card

038: telecommunication services, namely, mobile virtual network operator ~~(MVNO)~~ services; wireless telephone services

The foregoing amendments are believed to clarify or limit the services originally itemized in the application and therefore are in compliance with 37 C.F.R. §2.71(a). Applicant further believes that the foregoing amendments address and/or render moot the objection to the identification of services set forth in the August 21, 2019 office action.

II. THE SECTION 2(D) REFUSALS

A. THE LIKELIHOOD OF CONFUSION FACTORS

A trademark application may be rejected only if there is a substantial likelihood that the ordinary buyer in the marketplace for the parties' goods or services will be confused as to the source, sponsorship or association of those products or services. *Smithkline Beckman Corp. v. Procter & Gamble Co.*, 591 F. Supp. 1229, 223 U.S.P.Q. 1230 (N.D.N.Y. 1984), *aff'd*, 755 F.2d 914 (2nd Cir. 1985). The determinative issue is not whether the actual goods are likely to be confused, but rather, whether confusion is likely to exist as to the source of the goods. *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993).

In *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), the Court of Customs and Patent Appeals discussed the factors relevant to a determination of likelihood of confusion. In *ex parte* examination, the following factors are usually the most relevant:

- The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.
- The relatedness of the goods or services as described in an application or registration or in connection with which a prior mark is in use.
- The similarity or dissimilarity of established, likely-to-continue trade channels.
- The conditions under which and buyers to whom sales are made, *i.e.*, "impulse" vs. careful, sophisticated purchasing.
- The number and nature of similar marks in use on similar goods.
- A valid consent agreement between the applicant and the owner of the previously registered mark.

See TMEP §1207.01. Not all of the factors are relevant to every case, nor are they listed in order of merit. *In re E. I. du Pont*, 476 F.2d at 1361.

B. THE REFUSAL IN VIEW OF U.S. REGISTRATION NO. 4,549,048 ("KYNECT")

The Trademark Office has cited U.S. Registration No. 4,549,048 as a basis for a partial Section 2(d) refusal of Applicant's application for registration of KYNECT in Class 035. The Trademark Office alleges that Applicant's KYNECT mark when used in conjunction with its "administration of a discount program for enabling participants to obtain discounts on the cost of goods and services or receive improved services through use of a membership card" in Class 035 is likely to cause confusion with U.S. Registration No. 4,549,048 for KYNECT covering

“[p]roviding health insurance exchanges in the nature of a marketplace that offers purchasers of health insurance a variety of plans from different insurance providers” in class 35. For the reasons set forth below, Applicant submits that its KYNECT mark does not raise a likelihood of confusion with the cited KYNECT mark covering health insurance exchanges due to the number of third-party phonetically equivalent “connect” marks, the lack of relatedness of the respective services, and the distinct channels of trade.

i) The Cited Mark is Weak and Entitled to a Narrow Scope of Protection.

The cited mark—KYNECT—is not a strong mark and should thus be given only a narrow scope of protection. This is evidenced by the fact that there are 2931 live registrations or pending applications in currently listed in Class 035 which utilize the word “connect,” not counting phonetic equivalents. Of those 2,931 live entries, there are 714 live registrations or pending applications currently listed in Class 035 which utilize the word “connect,” and there are 237 live registrations or pending applications in currently listed in Class 038 which utilize the word “connect.” Below is just a sampling of the registrations or allowed applications which utilize the word “connect” (or phonetic variations thereof) and have been permitted to coexist on the USPTO’s Principal Register:

	Mark	Owner	Goods/Services
1	KYNECT <i>(cited mark)</i> App: 85-931,854 Reg: 4,549,048	KENTUCK HEALTH BENEFIT EXCHANGE	<i>35: Providing health insurance exchanges in the nature of a marketplace that offers purchasers of health insurance a variety of plans from different insurance providers</i> <i>36: Insurance information</i>
2	CONNECT 24 App: 75-393,206 Reg: 2,540,747	TYCO SAFETY PRODUCTS CANADA LTD	<i>38: Telecommunications, namely, electronic transmission of data</i>
3	CONNECT MIDSTREAM App: 88-298,329	VALIANT MIDSTREAM, LLC	<i>35: Marketing services for energy providers</i>
4	CONNECTNETWORK App: 85-265,747 Reg: 4,162,041	GLOBAL TEL*LINK CORPORATION	<i>38: Long distance telephone communication services</i>
5	CONNECTPOINT App: 85-207,274 Reg: 4,094,603	PST DIGITAL, L.L.C.	<i>38: Providing multiple user wireless access to the internet; telecommunication services, namely, local and long distance transmission of voice, data, graphics and video by means of broadband optical or wireless networks...</i>
6	CONNECT BETTER App: 88-192,248	MEGAPORT (SERVICES) PTY LTD	<i>38: Telecommunications services, namely, transmission and delivery of data via ethernet and internet exchange services...</i>
7	KINECTUS	KINECTUS, LLC	<i>38: Telecommunication services, namely,</i>

	<i>(cited mark)</i> App: 87-235,390 Reg: 5,445,864		<i>providing telecommunication facilities for real-time interaction between and among users of mobile devices in the nature of providing on-line facilities for real-time interaction with other computer users concerning topics of general interest related to a user's location...</i>
8	CONNECT App: 87-428,966 Reg: 5,431,403	MOBILE TECH, INC.	<i>45: Analysis of surveillance and anti-theft sensors and alarm device statistical data for fraud and theft prevention purposes</i>
9	QINEQT App: 87-263,586 Reg: 5,255,211	QINEQT INC.	<i>35: Providing an on-line computer web site that provides commercial financial transaction data, account management, and financial reporting 36: Financial services, namely, providing financial information, and financial management and analysis services; monitoring of financial markets for investment purposes</i>
10	KINECT App: 85-023,473 Reg: 4,072,676	MICROSOFT CORPORATION	<i>9: Computer software for playing video games and operating sensor devices, computer hardware, and computer peripherals; computer and video game system devices, namely, electronic sensor devices, cameras, projectors, and microphones for capturing gesture, facial, and voice recognition; computer software for controlling personal computing and entertainment devices; computer software for controlling, viewing, accessing, browsing and utilizing global computer, communication and entertainment networks</i>
11	KEYNEQT App: 86-376,860 Reg: 4,911,941	KEYNEQT, INC.	<i>42: Providing a web hosting platform for end users to create a social emergency network, allowing users to connect and share information with designated and trusted contacts in the event of end of life planning, succession planning or emergencies; electronic storage of personal and business files and documents that relate to life planning, succession planning, trusted business contacts and emergencies</i>
12	KONEX App: 79-228,809	EUGENIO S. YNION, JR.	<i>35: Online business networking services...</i>
13	CONNECT App: 79-163,823 Reg: 4,924,766	SENNHEISER ELECTRONIC GMBH & CO. KG	<i>9: Software for use in telecommunication apparatus, mobile phones, portable media players, handheld computers, audio devices, microphones, loudspeakers, headphones and headsets, audio media applications, to control and improve audio equipment sound quality...</i>
14	CONNECT App: 86-474,893 Reg: 5,286,661	SOLPAD, INC.	<i>9: Electronic devices for communicating data regarding electricity generation, demand, and distribution, namely, power supply adaptors for use with solar panels</i>

15	ALLCONNECT App: 75-159,393 Reg: 2,220,770	ALLCONNECT, INC.	42: Consultations rendered to consumers on the subjects of utility and telecommunication services including the initiation and termination of services with utility and telecommunication providers
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Evidence of third-party use falls under the fifth du Pont factor – the “number and nature of similar marks in use on similar goods.” See TMEP §1207.01(d)(iii), quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361. If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, it “is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.” *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1373-74, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).

As shown in the chart above, the cited mark (Reg. No. 4,549,048) should be given narrow protection because there are numerous registered marks or allowed applications that are very similar to the cited mark. It would be inconsistent for the Trademark Office to refuse Applicant’s mark on the basis of a likelihood of confusion yet approve the multitude of other “connect” marks and “connect” phonetic equivalents, particularly given the differences in Applicant’s services and those of the cited mark.

ii) The Services in Question Are Not Related.

The applied-for KYNECT mark is used in conjunction with, amongst other things, the “administration of a discount program for enabling participants to obtain discounts on the cost of goods and services or receive improved services through use of a membership card.” The consuming public is very familiar with membership discount programs. Well-known companies offering membership discount programs include AAA, AARP, Costco, CVS/Walgreens, Starbucks, airlines, hotel groups, and car rental services.

In contrast, the cited mark KYNECT is utilized in conjunction with “health insurance exchanges.” Health insurance exchanges are also known as health insurance marketplaces. Following the passage of the Patient Protection and Affordable Care Act (ACA) in March 2010, the federal government created a federal health insurance exchange accessible at www.healthcare.gov. Several states elected to run their own exchanges. These exchanges are accessible through websites, call centers, and in-person assistance and help individuals, families, and small businesses shop for and enroll in affordable medical insurance. (See Exhibit A - <https://www.healthcare.gov/glossary/exchange/>).

As the Trademark Office is well aware, “[t]he issue is not whether the goods will be confused with each other, but rather whether the public will be confused about their source.” TMEP §1207.01(a)(i), citing *Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404 (CCPA 1975). Thus, if the goods in question are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect

assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely. TMEP §1207.01(a)(i)

In analyzing the relatedness of the goods, the Trademark Office has cited screenshots of Insights, Aetna, and other websites as evidence that certain health insurers offer a variety of health insurance plans and bundle them with customer loyalty programs. Applicant respectfully submits that the PTO's Internet evidence of record lacks probative value. The cited KYNECT mark is not owned by Aetna, Insights, or any other health insurer. Rather, the cited mark is owned by the state of Kentucky and utilized in conjunction with the state's healthcare exchange. The Trademark Office is assuming, without evidentiary support, that consumers would be confused by the coexistence of Applicant's KYNECT discount program and the state of Kentucky's KYNECT health insurance exchange solely because certain insurers (e.g., Aetna) who participate on the exchange may themselves offer discount programs. The Trademark Office's relatedness conclusion requires multiple leaps of logic that is detached from how the consuming public would actually interface with the marks at issue. Consumers interested in Aetna's discount programs would understand that those programs are being offered by Aetna—not the government-run health insurance exchange. Certainly, there is no evidence of record that suggests that consumers would mistakenly believe that Aetna's discount programs are, in actuality, being offered by the state of Kentucky's KYNECT health insurance exchange.

In determining the relatedness of services, the critical question is this: are the services in question related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source? Applicant respectfully submits that the answer is “no.” The Trademark Office has not presented evidence showing that (1) entities that administer discount membership programs also administer health insurance exchanges (2) the services for the cited mark flow in the same trade channels as those for the applied-for mark or are used by the same class of consumers, or (3) the services are complementary in terms of purpose or function.

iii) The Targeted Buyers of the Services at Issue are Sophisticated Purchasers Who Purchase Through Distinct Channels of Trade.

A finding of no likelihood of confusion is also supported by the fact that the targeted customers of Applicant's and Registrant's respective services are sophisticated purchasers who purchase the respective services through distinct channels of trade. Most membership discount programs—such as those offered by AAA, AARP, Costco, CVS/Walgreens, etc.—involve a consumer filling out paperwork and/or paying a membership fee in order to access the discounts being offered by the particular vendor. Meanwhile, health insurance exchanges are government-run and generally accessible through websites, call centers, and in-person assistance and help individuals, families, and small businesses shop for and enroll in affordable medical insurance. (See <https://www.healthcare.gov/glossary/exchange/>). Applicant's services and Registrant's services clearly are offered through distinct channels of trade, and the nature of the service offerings in each case suggest that the purchasers will be exercising a heightened sense of caution when making a purchasing decision. These factors support a finding of no confusion.

C. THE REFUSAL IN VIEW OF U.S. REGISTRATION NO. 5,445,864 (“KINECTUS”)

The Trademark Office has cited U.S. Registration No. 5,445,864 as a basis for a partial Section 2(d) refusal of Applicant's application for registration of KYNECT in Class 038. The Trademark Office alleges that Applicant's KYNECT mark when used in conjunction with its "mobile virtual network operator services" and "wireless telephone services" in Class 038 is likely to cause confusion with U.S. Registration No. 5,445,864 for KINECTUS covering "providing on-line facilities for real-time interaction with other computer users concerning topics of general interest related to a user's location" and "providing an online forum for registered users to share information about desired activities and engage in social networking through mobile devices" in Class 038. For the reasons set forth below, Applicant submits that its KYNECT mark does not raise a likelihood of confusion with the cited KINECTUS mark due to the number of third-party phonetically equivalent "connect" marks, the visual and phonetic differences in the marks themselves, the lack of relatedness of the respective services, and the distinct channels of trade.

i) The Cited Mark is Weak and Entitled to a Narrow Scope of Protection.

For the reasons set forth above with respect to U.S. Registration No. 4,549,048, The cited mark—KINECTUS—is not a strong mark and should thus be given only a narrow scope of protection. This is evidenced by the fact that there are 2931 live registrations or pending applications in currently listed in Class 035 which utilize the word "connect," not counting phonetic equivalents. Of those 2,931 live entries, there are 714 live registrations or pending applications currently listed in Class 035 which utilize the word "connect," and there are 237 live registrations or pending applications in currently listed in Class 038 which utilize the word "connect."

ii) The Marks in Question Are Sufficiently Dissimilar.

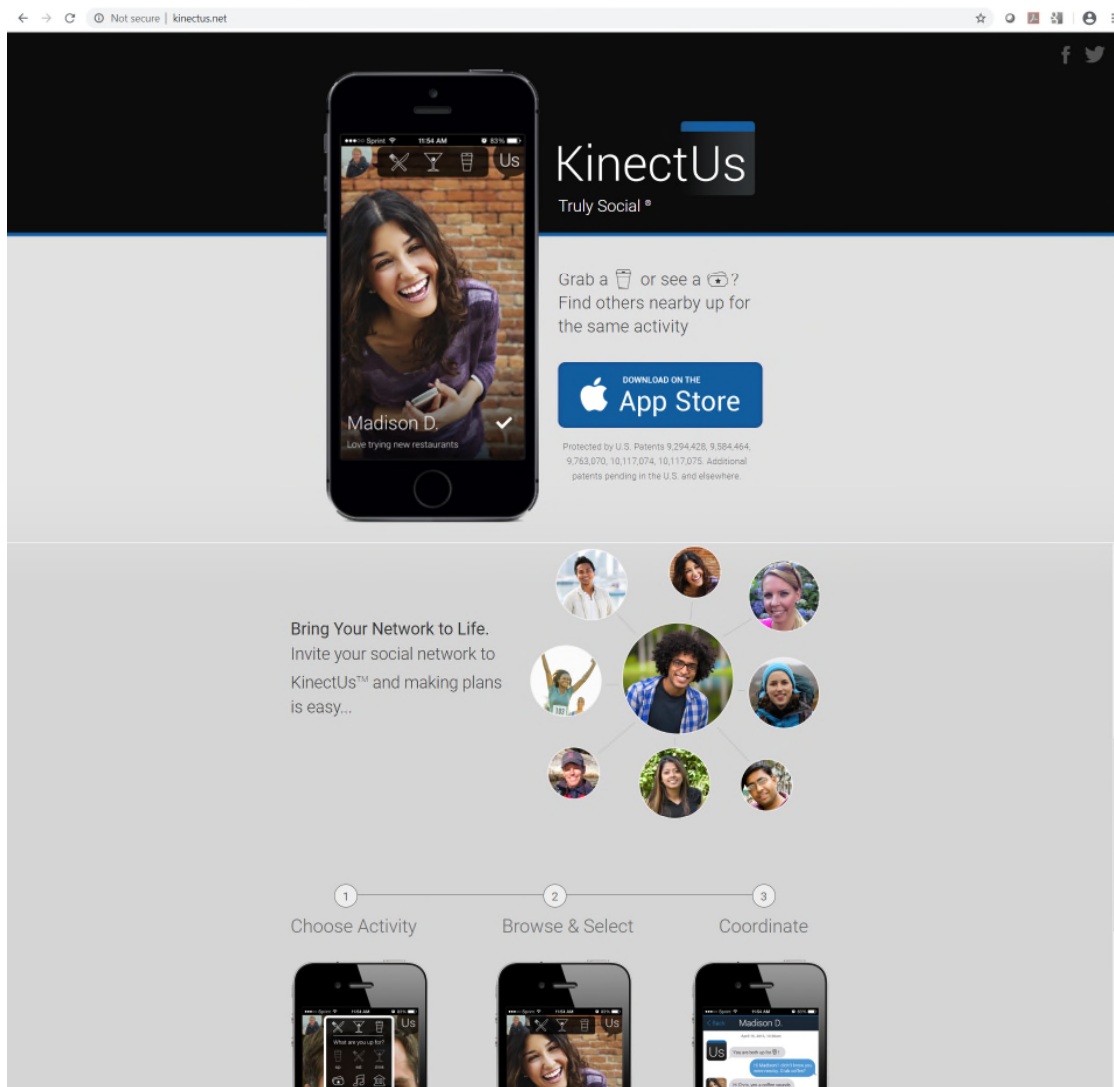
The applied-for KYNECT mark and the cited KINECTUS mark are sufficiently dissimilar such that there is no likelihood of confusion as to the source of the respective services. The points of comparison for a word mark are appearance, sound, meaning, and commercial impression. See *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005). "The basic principle in determining confusion between marks is that marks must be compared *in their entireties* and must be considered in connection with the particular goods or services for which they are used. It follows from that principle that likelihood of confusion cannot be predicated on dissection of a mark, that is, on only part of a mark." *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 750-51 (Fed. Cir. 1985)(emphasis added). Furthermore, similarity of the marks in one respect – sight, sound, or meaning – will not automatically result in a determination that confusion is likely even if the goods are identical or closely related; rather, taking into account all of the relevant facts of a particular case, similarity as to one factor alone may be sufficient to support a holding that the marks are confusingly similar. See *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1635 (TTAB 2009); *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988).

Here, when considering the marks at issue in their entireties, the unavoidable conclusion is that the marks are sufficiently dissimilar in appearance, sound, meaning, and commercial

impression such that there is no likelihood of confusion as to the source of the respective services. Only by mutilating the applied-for mark and cited mark can an argument be made that the two marks are phonetically similar. Similarly, from a visual perspective, the applied-for mark KYNECT and the cited KINECTUS are dissimilar unless you dissect the two marks and compare the similarities in a vacuum. For these reasons, Applicant respectfully submits that the Trademark Office should approve Applicant's mark for publication.

iii) The Services in Question Are Not Related.

The applied-for KYNECT mark is used in conjunction with, amongst other things, the “mobile virtual network operator services” and “wireless telephone services.” Well known examples of mobile virtual network operators (MVNOs) include Boost Mobile and Cricket Wireless. In contrast, the cited mark KINECTUS is utilized in conjunction with a social network accessible through a mobile application. Below is a snipped image from <http://www.kinectus.net/>:



The KINECTUS application allows a user to “[b]rowse real-time, location based results of others who are nearby and up for the same activity right now.” (See <http://www.kinectus.net/>) The user can then “[s]elect anyone you want to see; users who mutually select each other are instantly connected.” (See <http://www.kinectus.net/>)

Software applications such as the KINECTUS app are undeniably accessible through mobile phones. And it is also undeniable that mobile phones must be connected to a mobile network in order to have internet access. However, those facts alone do not support the conclusion that Applicant’s wireless service provider services and the registrant’s mobile application services are related. The key question is whether the services in question are related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source. TMEP §1207.01(a)(i). Here, consumers interested in purchasing wireless services from a mobile network provider would not incorrectly assume that those services are somehow related or affiliated with a software application designed to facilitate “real-time interaction between and among users of mobile devices...concerning topics of general interest related to a user's location.”

iv) The Targeted Buyers of the Services at Issue are Sophisticated Purchasers Who Purchase Through Distinct Channels of Trade.

Another factor supporting a finding of no likelihood of confusion is that fact that the targeted customers of Applicant’s and Registrant’s respective services are sophisticated purchasers who purchase the respective services through distinct channels of trade. Mobile network services—such as those offered by AT&T, Verizon, Sprint, etc.—are typically purchased by consumers who either interact with a sales associate in person (e.g., at a brick-and-mortar store), over the telephone, or virtually through a dedicated website. In order to consummate the transaction, the consumer must execute one or more contracts. The process can take over thirty minutes to complete from start to finish. In contrast, the registrant’s services are accessed by downloading the KINECTUS application from Apple’s app store. Once downloaded, the consumer presumably creates an account and then is given access to the features of the application. These disparate channels of trade support a finding of no likelihood of confusion.

D. THE REFUSAL IN VIEW OF U.S. REGISTRATION NO. 5,661,949 (“KINECT ENERGY GROUP”)

The Trademark Office has cited U.S. Registration No. 5,661,949 as a basis for a partial Section 2(d) refusal of Applicant’s application for registration of KYNECT in Class 035 for the following services: “multi-level marketing services, namely, the marketing of: electricity and natural gas services.” In the present response, Applicant has requested that the Trademark Office enter an amendment to Applicant’s identification of services in Classes 035 which deletes “the marketing of electricity and natural gas services” from the present application. Therefore, Applicant believes that the partial Section 2(d) refusal in view of U.S. Registration No. 5,661,949 is now moot.

E. THE REFUSAL IN VIEW OF U.S. REGISTRATION NO. 4,325,063 (“PARTNERSKINECT”)

The Trademark Office has cited U.S. Registration No. 4,325,063 as a basis for a partial Section 2(d) refusal of Applicant’s application for registration of KYNECT in all of the listed Class 035 services. However, since the issuance of the August 21, 2019 Office Action, U.S. Registration No. 4,325,063 has gone abandoned. Therefore, Applicant believes that the partial Section 2(d) refusal in view of U.S. Registration No. 4,325,063 is now moot.

III. The Section 2(e)(1) Refusal

The Trademark Office has also issued a partial Section 2(e) refusal applicable to Applicant’s Class 038 services, arguing that the applied-for mark merely describes a purpose or function of Applicant’s “mobile virtual network operator services” and “wireless telephone services.” More specifically, the Trademark Office asserts that the word “connect” is understood to mean “[t]o join to or by means of a communications circuit.,” and that this meaning conveys a basic feature and purpose of telecommunications services; i.e., to connect people. Applicant respectfully disagrees that the applied-for mark is descriptive and requests reconsideration in light of the arguments set forth below.

A mark is merely descriptive if it “forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods.” *Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 189 USPQ 759, 765 (2nd Cir. 1976). See also *In re Abcor Development Corp.*, 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, in order to be merely descriptive, the mark must convey such information with a “degree of particularity.” *Plus Products v. Medical Modalities Associates, Inc.*, 211 USPQ 1199, 1204-05 (TTAB 1981). If consumers must employ a multi-stage reasoning process, rather than finding an instantaneous understanding from the mark of an attribute of the service, then the mark is suggestive and not merely descriptive. See *Nautilus Group Inc. v. ICON Health and Fitness Inc.*, 372 F.2d 1330, 71 USPQ2d 1173 (Fed. Cir. 2004) and cases cited therein.

Here, Applicant respectfully submits that its KYNECT mark is suggestive—rather than descriptive—of Applicant’s services, thereby making the descriptiveness refusal inappropriate. Applicant disagrees that its KYNECT mark conveys a descriptive characteristic of telecommunications services with the requisite “degree of particularity” required to constitute a merely descriptive trademark. As demonstrated by the Trademark Office’s own evidence, the word “connect” has a multitude of dictionary definitions that theoretically could be characterized as conveying characteristics of any goods or services involving two or more parts, people, things, etc. For example, Registration No. 4,549,048 for the mark KYNECT covering “providing health insurance exchanges” could be characterized as connecting consumers to insurance providers. Moreover, Registration No. 4,911,941 for the mark KEYNEQT covering “a web hosting platform for end users to create a social emergency network, allowing users to *connect* and share information with designated and trusted contacts...” could be characterized as connecting end users to designated contacts via a communications circuit; i.e., the internet. However, from a consumer’s perspective, the word “connect” is too vague and nebulous to convey *an immediate idea* of a characteristic or function of the foregoing services. Similarly, in the present case, a

consumer would not consider Applicant's KYNECT mark to convey an immediate idea about Applicant's telecommunications services, as the word "connect" is too vague and nebulous. Rather, consumers would have to employ a multi-stage reasoning process, as the most common connotation of the word "connect" is "to join or fasten together." Wireless services, by definition, do not physically join two electronic devices. Thus, in the minds of a consumer, he or she must cycle through the rolodex of definitions of the word "connect" before arriving at the suggested feature of the identified services. Such multi-stage reasoning is a tale-tale sign of a suggestive—rather than a descriptive—mark. See *Nautilus Group Inc. v. ICON Health and Fitness Inc.*, supra.

Moreover, the Trademark Office has improperly ignored the visual distinctiveness of Applicant's KYNECT mark, summarily concluding that KYNECT is merely a "slight misspelling" of the word "connect." Although "[a] slight misspelling of a word will not turn a descriptive or generic word into a non-descriptive mark," Applicant's KYNECT mark only shares three common letters with the word "connect." Applicant's applied-for mark would be perceived by consumers as being more than a slight misspelling of the word "connect." Some imagination, thought, and perception is needed to reach a conclusion as to the nature of Applicant's services, making the mark suggestive rather than descriptive.

Lastly, it would be inconsistent for the Trademark Office to maintain the descriptiveness refusal of Applicant's mark yet approve the multitude of other "connect" phonetic equivalents. These preexisting marks were approved for registration because consumers would have had to undertake mental gymnastics to discern the feature of the goods and services being suggested by the mark. For similar reasons, Applicant's KYNECT mark is suggestive rather than merely descriptive.

Conclusion

For the foregoing reasons, Applicant requests entry of the proposed amendment to the identification of services and reconsideration of the Section 2(d) and Section 2(e) refusals.

Respectfully submitted,

DATE: February 21, 2020

s/ Michael K. Leachman

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