

F B RICE & CO
SYDNEY NSW

Trade Mark Applications Nos. 576501 to 576508 in the Name of INTERNET SERVICES CORPORATION

Your ref: 57099 to 57102

I refer to the hearing in relation to the above applications which was conducted by telephone with your Mr Wayne Willis on 22 November 1994.

I have noted your submissions with respect to the difficulty of describing the services provided by the applicant, especially in relation to those in Class 41, in the context of the International Classification. However, the applicant itself states in one of its brochures that: "We not only provide excellence in business sales and training aids, but also provide an international, educational and motivational Seminar System". This would seem to fit without too much difficulty into the "Business training courses" which has been determined by this Office to be classified in Class 41. The present specification of services in applications 576503 and 576507 would therefore appear to be a fairly accurate description of the services provided by the applicant which fall in Class 41.

I consider both trade marks to be clearly non-distinctive in relation to the specified goods and services and not able to be shown to be capable of becoming distinctive without substantially more evidence of use than has been demonstrated to date. I have taken into account your submission that the actual sales figures quite probably understate the amount of use of the marks to the extent that a lot of that use would be by word of mouth. However, there is nothing else before me which would enable me to assess the extent of use of or reputation in the trade marks. The other difficulty in assessing that matter, of course, as pointed out by the examiner, is that the marks appear to be always used in conjunction with one another.

As to the marks themselves, applications 576501 to 576504 consist of the letters CDE and a commonplace diamond border which adds little if anything to the distinctiveness of the mark. Office practice with regard to three-letter marks which do not form a pronounceable word is that they are only registrable in Part A or Part B on the basis of extensive use. The evidence in these cases is insufficient to warrant registration in A or B. Applications 576505 to 576508 are in respect of a large letter N together with the word "networking" in smaller letters, both within an ordinary rectangular border. The requirements as to evidence in respect of one-letter marks, or parts of marks, are obviously even more stringent than in the case of three-letter marks. While, as submitted, the word "networking" may not yet have become established as a term of art in respect of marketing services, it is defined in *The CCH Macquarie Dictionary of Business*, CCH Australia Limited, 1993 as " the process of making useful contacts with other people, eg in relation to one's work or business...", and is therefore seen to be directly descriptive of a method of conducting business.

In light of the above comments I am not prepared to accept the applications in either Part A or Part B of the Register. However, unless you require me, within two months of the date of this letter to issue a formal decision with reasons for refusing the applications, in accordance with reg 76, or unless the applications are withdrawn within that time, the applications will be allowed to lapse.

Michael Homann
Hearing Officer

23 January 1995