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Beyond the Translation: Lessons from the 'Merci' vs. 'Danke' Trademark Dispute

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A recent decision from the United States Patent and Trademark Office's Trademark Trial and Appeal Board ("Board") offers a practical branding lesson for businesses. In August Storck KG v. Florend Indústria e Comércio de Chocolates LTDA, the owner of the long-standing chocolate brand "Merci" opposed registration of "Danke" for chocolate products. Both words mean "thank you" (in French and German, respectively), and the opponent argued that consumers would translate the terms and assume a connection. The Board disagreed and allowed "Danke" to proceed to registration.

The dispute centered on the Doctrine of Foreign Equivalents, a USPTO principle requiring foreign words to be translated into English when assessing potential consumer confusion. The Board concluded that many U.S. consumers would recognize and translate both terms to "thank you." However, that was not the end of the analysis. Trademark law looks at the overall commercial impression of a brand, how it sounds, looks, and feels in the marketplace. Despite sharing the same meaning, "Merci" and "Danke" differ visually and phonetically, and the Board found those differences sufficient to avoid likely confusion.

Importantly, the case also highlights how marketing can impact brand strength. The "Merci" owner had used the slogan, "Nothing says thank you like Merci." The Board viewed this as reinforcing the ordinary meaning of the word "merci," which made the mark conceptually weaker. When a brand leans heavily into a common sentiment, such as "thank you," "fresh," or "natural," it risks narrowing its scope of protection.

For business leaders, the takeaway is straightforward: translation is only one factor in brand clearance. Companies should evaluate how a mark sounds, looks, and fits within their particular industry and avoid names built around common expressions if they want broader protection. When conducting trademark clearances, Companies should perform phonetic and linguistic searches, not just exact spelling checks, and pressure-test how their messaging may strengthen or dilute distinctiveness. Strong brands are not just marketable; they are also entitled to stronger legal protection.

If you have any questions regarding the content of this article, please contact your Masuda Funai relationship attorney or any member of Masuda Funai's Intellectual Property and Technology Practice Group.

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