This is in response to an office action wherein the Examining Attorney has refused registration of the applied-for mark GRACE on the stated ground of a likelihood of confusion with the mark in U.S. Registration No. 1995539.

Applicant respectfully disagrees with the Examining Attorney's position and, for the reasons set forth below, believes that its mark is not likely to be confused with the marks in either cited registration.

The likelihood of confusion between two marks must be determined by a two-step analysis. First, the marks must be compared for similarities in appearance, sound, connotation and commercial impression. *In re E.I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973). Second, the goods and/or services of the respective marks must be compared to determine if they are related or if the activities surrounding their marketing are such that confusion of origin is likely. *In re August Storck KG*, 218 U.S.P.Q. 823 (T.T.A.B. 1983).

When comparing two marks, they must be considered in their entireties for purposes of confusion analysis under Section 2(d). Because marks must be considered as the public views them, in their entireties, likelihood of confusion cannot be predicated on dissection of a mark, that is, only one part of a mark. *Opryland USA, Inc. v. Great American Music Show, Inc.*, 23 U.S.P.Q.2d 1471, 1473 (Fed. Cir. 1992). The commercial impressions of the two marks must be considered in their entireties, similarities should not be overemphasized, and significant differences should not be neglected. *Worthington Foods. Inc. v. Kellogg Co.*, 732 F. Supp. 1417, 1439 (S.D. Ohio 1990) (the analysis "must not focus on certain prominent features that both parties' marks have in common, to the exclusion of others which cause the parties' marks as a whole to

create in the minds of consumers different impressions"); *Colgate-Palmolive Co. v. Carter-Wallace. Inc.*, 167 U.S.P.Q. 529,530 (C.C.P.A. 1970). Thus, the sight, sound, and meaning of the marks in their entireties must be considered when evaluating the marks' overall commercial impressions. *Jack Wolfskin Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1371, 116 USPQ2d 1129, 1134 (Fed. Cir. 2015).

The determination of the issue of likelihood of confusion should be based on an analysis of all of the probative facts in evidence that are relevant to the *du Pont* factors. *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003).

Furthermore, to support a finding of likelihood of confusion, the examining attorney must provide evidence showing that the goods of the respective parties are related. *In re White Rock Distilleries Inc.*, 92 USPQ2d 1282 (TTAB 2009); TMEP § 1207.01(a)(vi).

Comparing the goods of the respective parties in this instance, the Examining Attorney has contended that Applicant's mark for its applied-for Class 9 and 18 goods is likely to cause confusion with the cited registrant's mark for its goods.

However, as a part of this response, Applicant requests that the Examining Attorney amend its identification of goods to read in its entirety as follows:

Class 9:

Computer bags, computer carry cases, battery packs and protective covers, cases and sleeves all specially adapted for computers, namely, laptop computers, notebook computers, notepad computers, tablet and electronic personal organisers and accessories used with all of the foregoing, and other portable or handheld

personal electronic devices, namely cameras, digital video recorders, digital audio players and mobile telephones and accessories used with all the foregoing; bags cases, packs and covers designed to provide protection against rain and other inclement weather and specially adapted for computers and other portable or handheld personal electronic devices, namely cameras, digital recorders, digital audio players and mobile telephones; stands specially adapted for holding portable and handheld personal devices, namely, computers, tablets, mobile phones, cameras, digital video recorders, digital audio players; computer stylus.

Class 18:

Sports bags; shoulder bags; carry-all and carry-on bags; waist packs; backpacks; overnight bags; travel bags; rucksacks; luggage; attache cases; beach bags; garment bags for travel; school bags; hand bags; suitcases; luggage tags; plastic luggage labels; shoulder straps; shoulder strap protectors; leather shoulder belts.

In contrast, the cited registrant's goods are limited to: "tote bags, all-purpose sports bags, golf umbrellas, umbrellas, leather briefcase-type portfolios, suitcases, garment bags for travel, travel bags, credit and business card cases."

Applicant's Class 9 goods, as amended, and the goods of the cited registrant do not overlap and are not appreciably related. Although the cited registrant's goods include tote bags, all-purpose sports bags, and garment bags for travel these types of bags are not appreciably related to Applicant's computer bags and cases. Applicant respectfully submits a reasonable, well-informed and circumspect consumer, in selection of goods such as the Class 9 goods of Applicant and the Class 18 goods of the cited registrant, is

not likely to be confused into thinking that Applicant's goods under its mark and the cited registrant's goods under its mark originate from the same or related sources.

Moreover, Applicant's Class 18 goods, as amended, and the Class 18 goods of the cited registrant are for the most part unrelated. Applicant respectfully submits a reasonable, well-informed and circumspect consumer, in selection of goods such as the Class 9 goods of Applicant and the Class 18 goods of the cited registrant, is not likely to be confused into thinking that Applicant's goods under its mark and the cited registrant's goods under its mark originate from the same or related sources.

Based on the foregoing, Applicant respectfully requests that the Examining Attorney withdraw the refusal under the Section 2(d), 15 U.S.C. Section 1052(d), and allow the application to proceed to publication.