The examining attorney has refused registration of applicant's VENTURE mark, arguing that it is confusingly similar to registration 4095112 for LIFEVENTURE, for, in relevant part, ""Locks and padlocks; combination locks and padlocks; all being metallic," "Electric locks and padlocks fitted with an alarm; electric combination locks and padlocks fitted with an alarm; personal security alarms," and "locks and padlocks; combination locks and padlocks; all being non-metallic" (the "Registered Mark") For the reasons set forth below, Applicant's mark, when used on or in connection with the identified goods, is clearly distinguishable from the Registered Mark and thus not likely to cause confusion or to cause mistake or to deceive. Applicant's mark and the Registered Mark are significantly different in terms of appearance, sound, and commercial impression and therefore not likely to cause confusion. Application of E.I DuPont DeNemours & Co., 476 F.2d 1357 (C.C.P.A. 1973).

The mere fact that marks share elements, even dominant elements, does not compel a conclusion of likely confusion. General Mills, Inc. v. Kellogg Co., 824 F .2d 622 (8th. Cir.**Error! Bookmark not defined.** 1987). The proper comparison is not between appearances alone but rather between the overall commercial impression of the marks as consumers would view and remember them. Long John Distilleries, Ltd. v. Sazerac Co., 426 F.2d 1406 (C.C.P.A. 1970) (no likelihood of confusion between LONG JOHN and FRIAR JOHN; marks have a common portion but convey different commercial impressions). In this case, the additional element LIFE in the Registered Mark is unexpected and serves to differentiate it from Applicant's mark, particularly given that the formative LIFE is part of the one-word Registered Mark rather than a separate mark. Indeed, if anything, Applicant's mark is more similar to a third-party mark ADVENTURE AWAITS, Reg. No. 4719305, for, among other things, "bicycle locks," (see attached registration) because VENTURE is much more similar to ADVENTURE

than it is to LIFEVENTURE, which differs substantially in terms of both visual impression and pronunciation.

"[T]wo marks may be extremely similar or even identical in one aspect (sound, appearance or connotation), and yet not be confusingly similar because of significant differences in one or more of the other two aspects." Kabushiki Kaisha Hattori Seiko v. Satellite Int'l Ltd., 29 U.S.P.Q.2d 1317, 1318 (T.T.A.B. 1991), aff'd without opinion, 979 F.2d 216 (Fed. Cir. 1992) (citation omitted); TMEP § 1207.0l(b)(i).

In fact, where, as here, the compared marks' overall impressions are sufficiently distinct, relatively minor differences in the marks themselves can be enough to avoid a likelihood of confusion. Spot Paint & Varnish Co., 280 F.2d 158 (C.C.P.A. 1960) (EASY and EASYTINT); Monarch Licensing, Ltd. v. Ritam Int'l, Ltd., 24 U.S.P.Q.2d 1456 (S.D.N.Y. 1992) (OOZ BALL and OOZE); In re Hamilton Bank, 222 U.S.P.Q. 174 (T.T.A.B. 1984) (KEYCHECK, KEYBANKER and KEY); Plus Prods. v. Star-Kist Foods, Inc., 220 U.S.P.Q. 541 (T.T.A.B. 1983) (PLUS and MEAT PLUS); Industrial Adhesive Co. v. Borden, Inc., 218 U.S.P.Q. 945 (T.T.A.B. 1983) (BOND-PLUS and WONDER BOND PLUS); Melaro v. Pfizer, Inc., 214 U.S.P.Q. 645 (T.T.A.B. 1982) (SILK and SILKSTICK); Standard Brands, Inc. v. Peters, 191 U.S.P.Q. 168 (T.T.A.B. 1975) (CORN-ROYAL and ROYAL); Basic Vegetable Prods. Inc. v. General Foods Corp., 165 U.S.P.Q. 781(T.T.A.B.1970) (MAGIC and SOUR MAGIC). In this case, the Registered Mark contains the term LIFE, which distinguishes it both verbally and visually from Applicant’s mark.

Conclusion

As demonstrated above, Applicant's mark is clearly distinguishable from the Registered Marks and thus not likely to cause confusion or to cause mistake or to deceive. Applicant's mark and the Registered Mark are significantly different in terms of appearance, sound, and commercial impression. Likelihood of confusion is synonymous with "probable" confusion-it is not enough that confusion is merely "possible." American Steel Foundries v. Robertson, 269 U.S. 372 (1926). "Many consumers are ignorant or inattentive, so some are bound to misunderstand no matter how careful a producer is." August Storck Kg v. Nabisco, Inc., 59 F.3d 616, 618 (7th Cir. 1995). Confusion between Applicant's mark and the Registered Mark, although theoretically possible, is clearly not probable; therefore, applicable law dictates that Applicant's mark is entitled to registration. American Steel Foundries, 269 U.S. 372.