

Applicant respectfully submits that there is no likelihood of confusion with the Cited Marks. Accordingly, Applicant requests that the Examining Attorney withdraw the likelihood of confusion refusal based on the Cited Marks and approve the Mark for publication in the Official Gazette.

#### THERE IS NO LIKELIHOOD OF CONFUSION

U.S. Registration No. 4883401

Applicant has amended its international class 25 goods and deleted the rest of the overlapping goods and services to avoid likelihood of confusion.

Applicant humbly argues that under Du Pont factor number 4 “the relatedness or un-relatedness of the goods or services as described in an application or registration, or in connection with which a prior mark in use” should be taken into consideration in to which Applicant’s amendment diminishes any and all likelihood of confusion between Applicant’s mark and the cited marks.

Likewise, Applicant’s amended class 25 goods which are now unrelated to Registrant’s goods. If the goods or services in question are not related, even if they are marketed in such a way that they would be encountered by the same person in situations that would create the incorrect assumption that they originate from the same source, confusion is not likely. (Local Trademarks, Inc. v. Handy Boys, Inc., 16 U.S.P.Q.2d 1156, 1158 (T.T.A.B. 1990); Quartz Radiation Corp. v. Comm/Scope Co., 1 U.S.P.Q.2d 1668, 1669 (T.T.A.B. 1986); See TMEP § 1207.01(a)(i). This is true even if the marks are identical in appearance. Local Trademarks, Inc., 16 U.S.P.Q.2d at 1156.

In view of the foregoing reason, the Applicant respectfully requests the Examining Attorney to withdraw the refusal of Applicant’s Michael mark.