

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bondwell LLC

Serial No.: 87661822

Mark: BONDWELL

Examiner: Fong Hsu

Law Office 117

APPLICANT'S RESPONSE TO OFFICE ACTION DATED FEBRUARY 8, 2018

Applicant's amendment of the list of goods is below.

Applicant respectfully disagrees with the Examiner's likelihood of confusion refusal based on one prior registered mark. The competing marks are different in appearance, sound, and commercial impression, and the degree of care exercised by consumers of Applicant's and Registrants' goods is heightened to a degree that consumers will readily distinguish the marks. Moreover, the specifically narrowed goods provided by both Applicant and Registrant are not generally known to emanate from a single source.

1. Amendment to List of Goods

Applicant amends the list of goods in class 14 as follows:

"*Jewelry; namely, wedding rings.*" Applicant believes that the amendment should be acceptable, and that the description of Goods as amended is sufficiently specific, definite, and clear. See 37 C.F.R. § 2.71(a); T.M.E.P. § 1402.01, 1402.06

2. The Marks are Dissimilar and the Goods are Unrelated

Applicant respectfully contends that BONDWELL ("Applicant's Mark") for "Jewelry; namely, WEDDING RINGS" ("Applicant's Goods") does not resemble in sound, appearance or meaning



("Cited Mark") for "Caps; shirts; sweat shirts; T-shirts; tank tops" ("Cited Goods"). Nor is registration of Applicant's Mark likely to cause confusion, or to cause mistake, or to deceive.

An examination of the relevant factors under TMEP §1207 and *In re E.I. du Pont de Nemours & Co.*, 177 USPQ 563, 567 (C.C.P.A. 1973), warrants the conclusion that Applicant's Mark cannot be said to so resemble the Cited Mark that it is likely to cause confusion, or to cause mistake, or to deceive given careful consideration of the differences between: (i) the parties' respective goods; (ii) the

marks themselves, especially in light of the differences in sound, appearance, and commercial impression; and (iii) the sophistication of the relevant consumers.

A. The Goods are Unrelated

Applicant's goods are in class 14 and are identified as "Jewelry; namely, wedding rings." In contrast, the cited goods are "Caps; shirts; sweat shirts; T-shirts; tank tops." Registrant goods are essentially shirts and caps exclusively. In contrast, Applicant's amended goods (wedding rings) are unequivocally different than the registrant's goods. In addition to having distinguishable lines of business, goods of the type identified in the Application and Registrations are sold to different classes of consumers through different channels of trade.

Applicant's Goods are not for clothing Purposes

Applicant has further amended its goods to "Jewelry; namely, wedding rings." This limitation of its goods further distinguishes Applicant's Goods from Registrant's Goods and Applicant's Mark is plainly distinguishable from the Cited composite Mark. Indeed, in at least one case, the Board held that, without a showing of the specific limitation in third-party registrations, an amendment to a list of goods was enough to obviate a likelihood of confusion. *In re Vafiadis*, Serial No. 78509712 (T.T.A.B. January 24, 2007) (nonprecedential) (applicant amended its goods to mineral water distributed in the dental field – "None of the third-party registrations includes 'mineral water distributed in the dental field.'" Therefore, we do not find the examining attorney's evidence persuasive on this point.")

B. The Marks Have an Entirely Different Commercial Impressions

Applicant's Mark is a mark comprised of eight letters, BONDWELL. The Cited composite Mark consists of the words "BONDWELL OUTFITTERS" to the left of which is a line, and to the left of the line is the design of a hot air balloon. On the basket of the hot air balloon is the letter "B".

The Marks Are Different in Appearance, Sound and Meaning

Here, Applicant's Mark is just BONDWELL. The Cited composite Mark, on the other hand, is composed of designs (a line and a hot air balloon image) and additional wording OUTFITTERS in it. When compared, Applicant's Mark and the Cited Mark convey highly dissimilar commercial impressions.

BONDWELL



because of additional elements in the registered mark, namely, a hot air balloon design with letter B in it as a predominant part of the composite mark along additional wording OUTFITTERS its evident that the cited composite mark is understandably distinguishable from the Applicant's Mark, especially in the light of goods which run in very different channels. The difference in the overall appearance, sound and commercial impression is highly significant here and no confusion should be found.

C. Sophistication of the Relevant Consumer

Given the commercial reality, it is not just unlikely, but almost inconceivable that the respective relevant consumers would mistakenly believe that the parties' goods originate from the same source or that a connection or sponsorship exists when faced with the Cited Mark versus Applicant's Mark. In determining whether the parties' goods are so related that a likelihood of confusion will result from registration of BONDWELL, the practicalities of the commercial world should be guiding. Consumers seeking to utilize the Cited Goods exercise great care when choosing a wedding ring and shirts or caps, which is likely to minimize the likelihood of confusion. *See, e.g., In re N.A.D., Inc.*, 754 F.2d 996, 999-1000, 224 U.S.P.Q. 969, 971 (Fed. Cir. 1985) (no likelihood of confusion between NARCO and NARKOMED because only sophisticated purchasers exercising great care would purchase the relevant goods). Here, Applicant's Goods are also purchased by sophisticated consumers, but consumers seeking wedding rings, not clothing, precisely shirts or caps. As a result, consumer confusion is not likely to result from the registration of Applicant's Mark.

D. Applicant was not able to find evidence of use online of the cited Registrant's mark

Applicant has conducted extensive research and was not able to find the evidence of use of the Cited Registrant's mark. It appears that the mark is no longer in use and has been abandoned.

For all the foregoing reasons, Applicant respectfully requests that the Examining Attorney find that BONDWELL, when used in connection with Applicant's Goods, is not likely to cause consumer confusion with the Cited Mark, and approve the mark for publication.