

Registration of the applied-for mark was refused because of an alleged likelihood of confusion with the mark in U.S. Registration No. 4538715, ONEDGE. Applicant respectfully disagrees with the Examiner's conclusion and respectfully requests withdrawal of the refusal.

Applicant's use and registration of its mark ONEEDGE is not likely to lead to confusion, mistake or deception with the cited mark. Applicant's mark and the cited mark have different overall commercial impressions and are different in appearance, sound and connotation. Further, the goods are sufficiently distinct so that there is no likelihood of confusion.

A. THE MARKS HAVE DIFFERENT OVERALL COMMERCIAL IMPRESSIONS

- Registrant's mark is: ONEDGE
- Applicant's mark is: ONEEDGE

I. APPEARANCE

The cited mark is a combination of 2 words, ON and EDGE, and is viewed as ONEDGE.

Applicant's mark is a combination of 2 words, ONE and EDGE, and is viewed as ONEEDGE.

It is clear that the words appear very differently and there is no likelihood of confusion.

II. SOUND

The cited mark, ONEDGE, is pronounced [on or awn] [ej].

The Applicant's mark, ONEEDGE, is pronounced [wuhn] [ej].

(See excerpts from dictionary.com, attached for the Examiner's convenience). Clearly, the marks as a whole, are pronounced differently and there is no likelihood of confusion.

III. CONNOTATION

The connotation of the cited mark is that of being tense or eager.

²² **on edge** ,

- a (of a person or a person's nerves) acutely sensitive; nervous; tense.
- b impatient; eager:

The contestants were on edge to learn the results.

(Excerpt from dictionary.com is also attached for the Examiner's convenience).

The connotation of applicant's mark is entirely different. It connotes one line or one border. (See attached definitions from dictionary.com attached).

The connotations of each mark are different, and there is no likelihood of confusion.

In view of the above, Applicant respectfully submits that there is no likelihood of confusion between Applicant's mark and the cited mark when viewing the marks in their entireties due to the differences in appearance, sound and connotation.

B. GOODS/SERVICES ARE DIFFERENT

It is possible that the first Du Pont factor may be dispositive of the issue. For instance, it was proper for the Board to rely only on the dissimilarity of the marks in granting a summary judgment of dismissal of an opposition, finding no likelihood of confusion between opposer's FROOT LOOPS breakfast cereal and applicant's FROOTEE ICE with a picture of an elephant for flavored ice. The Federal Circuit affirmed the conclusion of the Board that even if opposer could establish the strength of its mark, the first Du Pont factor showing a clear dissimilarity of the marks "simply outweighs all of the [other Du Pont factors] which might be pertinent to this case." In this case, Applicant respectfully submits that the clear dissimilarity of the marks supports a finding of no likelihood of confusion.

Nevertheless, Applicant asserts that the goods/services of the Applicant and the goods of the Registrant and are distinct.

The issue of whether or not two products/services are related does not revolve around the question of whether a term can be used that describes them both, or whether both can be grouped in the same general category. See, *Viacom International Inc. v. Komm*, 46 USPQ2d 1233 (TTAB 1998); *Electronic Data Systems Corp. v. EDSA Micro Corp.*, 23 USPQ2d 1460, 1463 (TTAB 1992); *In re Cotter and Co.*, 179 USPQ 828 (TTAB 1973). Thus, just because both Applicant and Registrant use the terms "software in their ID of goods does not make them similar, related or complimentary.

Applicant has limited its ID to specifically exclude Registrant's goods. Moreover, Applicant's goods/services are for management of deployed devices that contain cellular module components. These devices can be, for example, crates for shipping produce or COPD respirators, or a plethora of other items. Applicant's goods/services make management of these deployed items possible so that a company (produce company or healthcare device company, or other companies, for example) can take action to change, fix, or improve the operation of the devices moving around the country.

The price of Applicant's goods/services are in the tens of cents per connected device per month, depending on what the customer subscribes to. For example, if there are 20 million crates shipping lettuce, at approximately 10 cents each (as an example), can be \$2 million per month.

Applicant's customers are device and solution designers for smart meters, healthcare, telematics, logistics, fleet management, smart agriculture, oil & gas, etc. These are extremely experienced and sophisticated consumers who are not making impulse purchases. They would not be confused as to the origin of the goods/services.

Registrant's goods have nothing to do with management of deployed devices. Registrant's goods are for displaying output to a television set or other monitors such as those on smart phones and tablets.

Due to the differences in the function/purpose of Registrant's goods, the consumers, channels of trade and pricing are different.

C. CONCLUSION

In light of the above, Applicant respectfully submits that the use and registration of its mark ONEEDGE is not likely to lead to confusion, mistake or deception with the cited mark. Applicant respectfully requests that the refusal to register be withdrawn.