

The examining attorney has refused registration on the basis of likelihood of confusion with Reg. No. 5248392; however, there is no *per se* rule that restaurant services and alcoholic beverages are related, and there must be “something more” to support a finding of likelihood of confusion. TMEP 1207.01(a)(ii)(A). In this case, there is no additional factor supporting such a conclusion. In fact, the evidence suggests that consumers would not conclude that the owner of Reg. No. 5248392 owns any restaurants.

The Ben Myerson Candy Co., Inc. d/b/a Wine Warehouse (<http://winewarehouse.com/>) owns U.S. Trademark Reg. No. 5248392 for the TANGLEWOOD mark covering wine and sparkling wine. The company is a wine distributor and does not own or operate any restaurants. As such, it would be highly unlikely that consumers would assume that the “Tanglewood” restaurant is somehow affiliated with Wine Warehouse. Furthermore, “Tanglewood” was the name of a single, sparkling wine product apparently offered by Wine Warehouse from 1992 (according to the claimed date of first use) until some time after 2014, which is the last date on which Wine Warehouse submitted a specimen for this mark to the USPTO. It is not Wine Warehouse’s house brand.

Furthermore, this mark appears to have been abandoned. Our office has conducted extensive research and was unable to find any reference to TANGLEWOOD wine in connection with Wine Warehouse on the company’s website, in its product catalogue, or anywhere on Google. We also reached out to counsel for Wine Warehouse to determine whether the mark was still in use, and we received no response.

Based on these facts, the applicant respectfully requests withdrawal of the Section 2(d) refusal on the grounds that there is no special factor warranting the conclusion that the applicant's TANGLEWOOD restaurant and the TANGLEWOOD wine (which is no longer on the market) are related.