

REMARKS

Applicant's counsel thanks the Examining Attorney for the careful consideration given this application. Registration of Applicant's mark has been refused on the grounds of an asserted likelihood of confusion with the marks in US Registration Nos. 2886183 for POWERONE for certain software goods in Class 9; 2867297 for POWER ONE for rechargeable batteries in Class 9; and 1154641 for POWER ONE for primary batteries in Class 9. In order to minimize any likelihood of confusion with these prior marks, Applicant has carefully amended its listing of goods to exclude from its listing of goods all of the goods in all three of these prior registrations, so that there is now no overlap between Applicant's goods/services and the goods/services of the prior registrations, thus avoiding any likelihood of confusion.

The lack of any likelihood of confusion is further confirmed by a number of additional reasons, as follows:

1. U.S. trademark law states that, as a general rule, consumers are more inclined to focus on the first word, prefix or syllable in any trademark or service mark. See *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); see also *Mattel Inc. v. Funline Merch. Co.*, 81 USPQ2d 1372, 1374-75 (TTAB 2006); *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) ("it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered" when making purchasing decisions)). Thus, U.S. Trademark Law says that the initial portion of the mark is more important and is given more consideration than the other portions of the mark. Since the initial portion of Applicant's mark (DELL EMC) is completely different from the initial portion of these other marks (POWER ONE), this law indicates that there is no likelihood of confusion between the marks.
2. Secondly, the initial portion of Applicant's mark is DELL EMC; this component is very unique and distinctive and is accordingly the dominant component of Applicant's mark. When you compare the dominant DELL EMC component of Applicant's mark with the entirety of the cited marks (POWERONE/POWER ONE) it is clear that there is no likelihood of confusion. There is no similarity in appearance, sound, meaning or connotation; therefore, due to these dramatic differences, it is clear that the marks are substantially different and distinct, such that there is no likelihood of confusion.
3. Applicant's mark begins with the word DELL; the DELL mark is so well known in the computer and software fields in the U.S. that it certainly qualifies as a famous mark under U.S. law. Due to this fame, every American consumer which sees Applicant's DELL EMC POWER ONE mark will immediately connect the goods/services with Dell Inc.; there is no chance that they would connect the goods/services with the relatively unknown owners of the cited registrations. This further demonstrates no likelihood of confusion.
4. Applicant also notes that these three prior POWER ONE registrations have been able to coexist together on the Federal Register without a likelihood of confusion for over 15 years; if these virtually identical POWER ONE marks have been able to coexist without a likelihood of confusion, then Applicant's POWER ONE-type mark should also be able to coexist with them without a likelihood of confusion. Applicant also points out that there are a number of other POWER ONE marks in Class 9 all of

which are coexisting or have coexisted together without a likelihood of confusion, including US Registration Nos. 1633799; 1637465; 3083410 (live mark from 2006 to 2016); 3083411 (live mark from 2006 to 2016); 3288891 (live mark from 2007 to 2014); Application Nos. 87695729 and 87695735 (published for opposition on December 11, 2018); Application No. 88428295 (published for opposition on September 10, 2019); Application No. 88428331 (published for opposition on September 17, 2019). Since all of these other POWER ONE marks have been able to coexist together without a likelihood of confusion, Applicant's POWER ONE mark should also be able to coexist without a likelihood of confusion.

5. In summary, for all the reasons above, there is no likelihood of confusion between Applicant's mark and the cited registrations.

Applicant has also amended its listing of goods/services as helpfully suggested by the Examiner to resolve the clarity issues; Applicant has also disclaimed POWER as requested by the Examiner.

Since all open items have now been resolved, it is requested that this application be passed to publication.