

REMARKS

On October 17, 2020, the United States Patent and Trademark Office (the “Office”) issued an Suspension Notice in connection with Applicant’s Application to register the mark VECTIV for use in connection with “Footwear; Soles for footwear; Soles sold as an integral component of footwear” in International Class 25. (Ser. No. 88911907; the “Application”). The Office determined suspension was appropriate based on two prior-pending applications (the “Cited Applications”), both owned by Vectivbio AG, because the Cited Applications could serve as a bar to registration of the Application under Section 2(d) of the Lanham Act if they are perfected to registration. For the convenience of the Office and the Examining Attorney reviewing this response, Applicant has reproduced the relevant details of the Cited Applications in the chart below:

Mark	Ser. No.	Goods/Services
VECTIV	88468920	<p>Class 1: Plant extracts for medical and pharmaceutical research purposes</p> <p>Class 5: Nutritional additives for medical purposes in the nature of natural food extracts derived from herbs, fruits, spices, vegetables, algae, fungi; nutritional food additives for medical purposes in the nature of natural food extracts derived from meat, fish, poultry and game, meat extracts, fruit and canned vegetables, dried and cooked, jellies, jams, compotes, eggs, milk and milk products, edible oils and fats; phytopharmaceuticals for the treatment of autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; plant extracts for medical purposes; pharmaceutical for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; sanitary preparations for medical use; dietetic food, namely, herbs, fruits, spices, vegetables, algae, fungi; dietetic food, namely, food for babies; adjuvants for medical purposes; amino acids for medical purposes; anaesthetics; analgesics; vermifuges; antibiotics; biological preparations for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; chemical active components for medical use, namely, chemical preparations for treating genetic conditions, rare diseases and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; chemical reagents for medical or veterinary purposes; chemico-pharmaceutical preparations for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular,</p>

		<p>cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; ferments for pharmaceutical purposes; hormones for medical purposes; medical infusions for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; medicines for the treatment of gum disease, caries, toothache and wound healing of the gums; medicines for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; radiological contrast substances for medical purposes; steroids</p> <p>Class 10: Medical diagnostic apparatus for detecting diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; Surgical apparatus and instruments for medical or veterinary use; Surgical and medical apparatus and instruments for use in orthopedic surgery; Medical and surgical apparatus and instruments, namely, orthopedic apparatus and instruments for diagnostic and therapeutic use; Medical and surgical apparatus, medical instruments for use in treating genetic conditions, rare diseases and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; orthopaedic articles, namely, orthopedic devices for diagnostic and therapeutic use; orthopaedic articles, namely, vertebral orthopedic apparatus; suture materials; therapeutic and assistive devices adapted for the disabled, namely, motion sensing apparatus and assisted machines for the rehabilitation of hands and wrists, feet and ankles, knees, spine affected by neuromuscular diseases, disorders, or injuries for home or clinical use; massage apparatus; Medical and surgical apparatus and instruments, namely, orthopedic fixation device used in orthopedic transplant and/or implant surgery</p> <p>Class 42: Scientific research, technological development of new products for others; medical research; scientific and industrial research in the fields of biotechnology, biology, rare diseases and conditions, genetic conditions and treatments of rare diseases and conditions; industrial research in the field of biomedical and phytopharmaceutical engineering;</p>
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		<p>pharmaceutical laboratory services; pharmaceutical research and development; scientific services, namely, development of drugs, active agents and vaccines; scientific services, namely, development of food supplements; development of pharmaceutical preparations and medicines; development of pharmaceuticals and medicines and plant extracts for use in pharmaceutical preparations and medicines</p> <p>Class 44: Consulting on medicines, namely, medical and pharmaceutical consultation</p>
VECTIVBIO	88468906	<p>Class 1: Plant extracts for medical and pharmaceutical research purposes</p> <p>Class 5: Nutritional additives for medical purposes in the nature of natural food extracts derived from herbs, fruits, spices, vegetables, algae, fungi; nutritional food additives for medical purposes in the nature of natural food extracts derived from meat, fish, poultry and game, meat extracts, fruit and canned vegetables, dried and cooked, jellies, jams, compotes, eggs, milk and milk products, edible oils and fats; phytopharmaceuticals for the treatment of autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; plant extracts for medical purposes; pharmaceutical for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; sanitary preparations for medical use; dietetic food, namely, herbs, fruits, spices, vegetables, algae, fungi; dietetic food, namely, food for babies; adjuvants for medical purposes; amino acids for medical purposes; anaesthetics; analgesics; vermifuges; antibiotics; biological preparations for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; chemical active components for medical use, namely, chemical preparations for treating genetic conditions, rare diseases and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; chemical reagents for medical or veterinary purposes; chemico-pharmaceutical preparations for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases,</p>

		<p>disorders and conditions; ferments for pharmaceutical purposes; hormones for medical purposes; medical infusions for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; medicines for the treatment of gum disease, caries, toothache and wound healing of the gums; medicines for the treatment of human diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; radiological contrast substances for medical purposes; steroids</p> <p>Class 10: Medical diagnostic apparatus for detecting diseases, disorders and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; Surgical apparatus and instruments for medical or veterinary use; Surgical and medical apparatus and instruments for use in orthopedic surgery; Medical and surgical apparatus and instruments, namely, orthopedic apparatus and instruments for diagnostic and therapeutic use; Medical and surgical apparatus, medical instruments for use in treating genetic conditions, rare diseases and conditions, namely, autoimmune, immune, viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and intestinal, bowel diseases, disorders and conditions; orthopaedic articles, namely, orthopedic devices for diagnostic and therapeutic use; orthopaedic articles, namely, vertebral orthopedic apparatus; suture materials; therapeutic and assistive devices adapted for the disabled, namely, motion sensing apparatus and assisted machines for the rehabilitation of hands and wrists, feet and ankles, knees, spine affected by neuromuscular diseases, disorders, or injuries for home or clinical use; massage apparatus; Medical and surgical apparatus and instruments, namely, orthopedic fixation device used in orthopedic transplant and/or implant surgery</p> <p>Class 42: Scientific research, technological development of new products for others; medical research; scientific and industrial research in the fields of biotechnology, biology, rare diseases and conditions, genetic conditions and treatments of rare diseases and conditions; industrial research in the field of biomedical and phytopharmaceutical engineering; pharmaceutical laboratory services; pharmaceutical research and development; scientific services, namely, development of drugs, active agents and vaccines; scientific services, namely, development of food</p>
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		<p>supplements; development of pharmaceutical preparations and medicines; development of pharmaceuticals and medicines and plant extracts for use in pharmaceutical preparations and medicines</p> <p>Class 44: Consulting on medicines, namely, medical and pharmaceutical consultation</p>
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Applicant disagrees with the Office’s conclusion and, for the reasons detailed in this Response, requests that the Office allow the Application to proceed to publication.

A determination of likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1502(d), is made on a case-by-case basis using the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A.). *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085 (Fed. Cir. 2000)). Two *du Pont* factors that are considered particularly important to a likelihood of confusion analysis include the similarity of the marks and the relatedness of the goods and services. TMEP § 1207.01.

The relatedness of goods and services must be determined solely by how those goods and services are recited in the specific applications or registrations at issue. *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369 (Fed. Cir. 2012); TMEP § 1207.01(a)(iii). The question is not whether the goods and services are identical, but rather whether consumers would perceive the goods and services “as related enough to cause confusion about the source or origin of the goods and services.” *In re St. Helena Hosp.*, 774 F.3d 747, 752 (Fed. Cir. 2014). If those goods and services are not related or if consumers would be unlikely to encounter those goods or services together, then confusion is not likely, “even if the marks are identical.” TMEP § 1207.01(a)(i); *see also Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d at 1371 (finding no likelihood of confusion between Coach Services, Inc’s COACH mark for clothing and fashion accessories and Triumph Learning, LLC’s COACH for computer products and printed educational materials.). Finally, likelihood of confusion may also depend on the sophistication of the relevant consumers, and “[t]he more sophisticated the consumer, the less likely they are to be misled by similarity in marks.” *Medici Classics Productions LLC v. Medici Group LLC*, 590 F. Supp. 2d 548, 557 (S.D.N.Y. 2008) (quoting *TCPIP Holding Co., Inc. v. Haar Communications, Inc.*, 244 F.3d 88, 101 (2d Cir. 2001)).

Because the Cited Applications have not yet matured to registration, the Office did not conclude (or explain the reasons for concluding) that Applicant’s Mark was likely to be confused with the cited VECTIV and VECTIVBIO marks (collectively, the “Cited Marks”). Applicant must therefore assume for the purposes of this response that the Office identified the Cited Applications as potential bars to registration based solely on the shared wording “VECTIV.” Applicant respectfully submits, however, that regardless of this shared element, each party’s respective goods and services are so totally removed from one another that there is no potential for likelihood of confusion under and circumstances.

To begin, the Office has previously allowed registration of countless coexisting identical or nearly identical marks on the Principal Register when those marks identify distinct goods and services. Several representative examples are listed below. Printouts of status and title copies from the USPTO TSDR database are attached as Exhibit A to make these registrations of record.

RICARDO

Reg. No. 6088237

Owner: RICARDO BEVERLY HILLS, INC.

Goods:

“Attaché cases; Back packs; Cosmetic bags sold empty; Garment bags for travel; Handbags; Luggage; Purses; Toiletry bags sold empty; Tote bags; Travel bags; Wallets” in Class 18

RICARDO

Reg. No. 4915877

Owner: Ricardo Media Inc.

Goods and Services:

“Publications, namely, magazines and books in the culinary field” in Class 16

“Kitchen utensils and accessories, namely, household containers for food, cooking pots, saucepans, corkscrews, kettles, cake molds, dishes, carafes, potpourri dishes, glass beverageware, cooking strainers, cheese graters, knife blocks, salt shakers, pepper shakers, butter dishes and lunch boxes” in Class 21

“Oven mitts” in Class 24

“Aprons” in Class 25

“Production of television programs in the culinary field” in Class 41

RICARDO

Reg. No. 4906588

Owner: Ricardo Media Inc.

Goods:

“Forks, knives and spoons” in Class 8

NERDY

Reg. No. 5887989
Owner: MULTINEX Co., Ltd.

Goods and Services:

“Clothing, namely, shirts, dresses, skirts, pants, t-shirts, jackets, sweaters, vests, sweatshirts, shorts, belts, coats, jerseys, scarves, socks, sweat pants, sweatbands, swim suits, tank tops, underwear, wind-resistant jackets, hats, footwear, gloves, jumpers” in Class 25

“On-line retail store services featuring a wide variety of consumer goods of others; Import-export agency services; Wholesale store services for clothing; Retail store services for clothing; Wholesale store services for footwear; Retail store services for footwear” in Class 35

NERDY

Reg. No. 5308262
Owner: Varsity Tutors, LLC

Services:

“On-line matching services for connecting individuals having experience on a wide variety of subject matter and topics of general interest to the consuming public with consumers that desire individualized training in such subject matter and topics” in Class 35

WALNUTT

Reg. No. 5800733
Owner: Walnut Technology Limited

Goods:

“Protective helmets; backpacks for photography equipment, namely, cameras, lenses, filters, tripods, and flash lamps” in Class 9

“Electronically motorized skateboards” in Class 12

“Clothing, namely, T-shirts, sweatshirts, shirts, and wristbands” in Class 25

“Skateboards; backpacks for skateboards” in Class 28

WALNUT

Reg. No. 4177999
Owner: Walnut Studiolo, LLC

Goods:

“Water bottle holders for bicycles; Saddle bags for bicycles; Pannier bags for bicycles; Bicycle handlebar grips; Bicycle grip tape; Baskets and bags adapted for bicycles; Bicycle lock holder for bicycles; Luggage specially adapted for use on bicycles; Bicycle handle bar bags” in Class 12

WALNUT

Reg. No. 6061488
Owner: Walnut Studiolo, LLC

Goods:

“leather pouches and bags, leather cases, leather leads, leather leashes, leather wallets and credit card holders, business card cases, wine carrying cases; none of the foregoing including carrying cases, cases or covers for cell phones, smart phones, mobile telephones, mobile computers, tablet computers, laptops, portable media players or other mobile personal electronic devices” in Class 18

WALNUT

Reg. No. 6061488
Owner: Walnut Studiolo, LLC

Goods:

“leather pouches and bags, leather cases, leather leads, leather leashes, leather wallets and credit card holders, business card cases, wine carrying cases; none of the foregoing including carrying cases, cases or covers for cell phones, smart phones, mobile telephones, mobile computers, tablet computers, laptops, portable media players or other mobile personal electronic devices” in Class 18

FAYA

Reg. No. 5467046
Owner: Faya Corporation

Goods and Services:

“Bags, namely, backpacks, tote bags, book bags, sports bags” in Class 18

“Headwear, namely, baseball caps, hats and visors; clothing, namely, t-shirts, sports shirts, button-up shirts, sweat shirts, jackets, vests” in class 25

“Cross-media advertising and marketing; Cross-media advertising and business management consultancy; Cross-media advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Cross-media branding services, namely, consulting, development, management and marketing of brands for businesses and/or individuals; all of the aforementioned services not in the field of or relating to the Caribbean Basin” in Class 35

“Customized imprinting of company names and logos on the goods of others, namely, on promotional merchandise, apparel and corporate gifts” in Class 40

“Computer technology consultancy, namely, webpage design; creation, design, development of computer software, business applications, website, mobile applications” in Class 42

Faya Fashion

“FASHION” Disclaimed
Reg. No. 4538096
Owner: LISSE, CHRISTINE

Goods:

“clothes, namely, knitted goods for little animals; collars for animals, dog leads” in Class 18

<p>CIVIL WAR Reg. No. 4704080 Owners: OREGON STATE UNIVERSITY and UNIVERSITY OF OREGON</p> <p>Goods: “Clothing, namely, shorts, polo shirts, hats, headbands, wristbands, slippers, sweatshirts, sweatpants, boxers, T-shirts, jackets, and gloves” in Class 25</p>	<p>CIVIL WAR Reg. No. 4114934 Owner: Matthew Pasquerella DBA Stomp Under Foot, Inc.</p> <p>Goods: “Electronic effects pedals for use with musical instruments; Foot pedals for use in connection with musical instruments; Guitar pedals; Sound effect pedals for musical instruments” in Class 15</p>	<p>The Civil Wars Reg. No. 4204553 Owner: The Civil Wars, LLC</p> <p>Goods: “Digital media, namely, downloadable audio and video recordings featuring musical performances; Pre-recorded CDs featuring musical performances; Sound recordings featuring musical performances” in Class 9</p>
<p>CIVIL WAR Reg. No. 4522436 Owners: OREGON STATE UNIVERSITY and UNIVERSITY OF OREGON</p> <p>Services: “Education-related entertainment services, namely, conducting collegiate athletic events in the fields of baseball, basketball, cross country, football, golf, soccer, softball, track and field, volleyball, and wrestling, arranging and conducting live musical performances” in Class 41</p>		

<p>APOCALYPSE Reg. No. 5450063 Owner: Bear Archery, Inc.</p> <p>Goods: “Archery bows; Crossbows” in Class 28</p>	<p>APOCALYPSE Reg. No. 5355041 Owner: New Vision Enterprises Inc</p> <p>Goods: “Dietary supplements; Nutritional supplements for sports and pre-workout use” in Class 5</p>	<p>APOCALYPSE Reg. No. 4319033 Owner: Six Flags Theme Parks, Inc.</p> <p>Services: “entertainment services, namely, amusement and theme park attractions and services” in Class 41</p>	<p>APOCALYPSE Reg. No. 4273158 Owner: Smoke Inn, LLC</p> <p>Goods: “Cigars” in Class 34</p>
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SAGE

Reg. No. 3238564
Owner: SAGE SOFTWARE, INC.

Goods and Services:

“Computer software for use in managing accounting and business information, retrieving accounting and business information, viewing accounting and business information, managing contacts and performing accounting functions in the fields of business management, information services, and research systems; computer software for use in electronic commerce to allow users to perform electronic business transactions via a global computer network, electronic mail, Internet website hosting, Internet website development, and Internet access; and accompanying user manual documentation for use with all of the above” in Class 9

“Business management services for the promotional products and business forms industries” in Class 35

“Electronic commerce payment services, namely electronically capturing and processing payment transactions” in Class 36

“Electronic transmission of data and documents via computer terminals; and electronic mail services” in Class 38

“Computer consulting services for business; computer services, namely, designing and implementing network web pages for others; and customized software development and programming” in Class 42

SAGE

Reg. No. 4445953
Owner: Telco Solutions, Inc.

Goods:

“Software for use in generating and managing subpoenas, service of warrants and service of court orders, all for law enforcement purposes” in Class 9

SAGE

Reg. No. 4445954
Owner: Telco Solutions, Inc.

Services:

“Software as a service (SAAS) services featuring software used in generating and managing subpoenas, service of warrants and service of court orders, all for law enforcement purposes” in Class 42

BIRDSNEST Reg. No. 4852787 Owner: ROVA, LLC	BIRD'S NEST Reg. No. 1756652 Owner: COOK MEDICAL TECHNOLOGIES LLC	BIRDS NEST Reg. No. 4543522 Owner: The Thunderbirds
Services: “Providing temporary use of non-downloadable computer software for use in gathering, evaluating and reporting business data, statistics and analytics” in Class 42	Goods: “vena cava filters” in Class 10	Services: “entertainment, namely, live music concerts” in Class 41

As evidenced by these registrations, the similarity of marks is not dispositive of likelihood of confusion. The Office has allowed registration of identical or highly similar marks even where goods and services are arguably related or even overlapping, as demonstrated by the coexisting registrations for SAGE (Reg. No. 3238564) and SAGE (Reg. Nos. No. 4445953, 4445954) that all identify software. In fact, the SAGE registration owned by Sage Software, Inc. (Reg. No. 3238564) was even cited in a likelihood of confusion refusal during the application process for the Telco Solutions, Inc. SAGE registrations. Telco Solutions, Inc. overcame these refusals by arguing that, regardless of the similarity between the marks, the goods and services were sufficiently different enough to warrant registration.

Similarly, the shared “VECTIV” element in Applicant’s Mark and the marks of the Cited Applications is not dispositive of likelihood of confusion. There are additional factors that must be considered, including the relatedness of goods and services. In this case, Applicant’s goods are so wholly unrelated to those in the Cited Applications that likelihood of confusion is impossible.

The Cited Applications identify goods and services specifically related to the biopharmaceutical, biotechnology, and medical industries. It is highly unlikely that consumers would understand biopharma, medical, and biotechnology goods and services to be related to shoes and, more broadly, clothing in general. There is no evidence that the goods and services identified in the Cited Applications are commonly sold in the same trade channels as Applicant’s identified footwear goods, and consumers simply would not encounter these types of goods and services together. TMEP § 1207.01(a)(i); *see also Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d at 1371. Further, the biopharmaceutical, biotechnology, and medical industries are highly specialized and technical. Consumers within these industries are likely to be sophisticated purchasers and therefore would not be misled by any similarities between Applicant’s VECTIV mark and the Cited Marks. *Medici Classics Productions LLC*, 590 F. Supp. at 557 (“[t]he more sophisticated the consumer, the less likely they are to be misled by similarity in marks.”).

Ultimately, the Applicant’s identified goods and the goods and services identified in the Cited Applications are so totally dissimilar and in such completely distinct industries that consumers encountering the marks would not confuse them under any circumstances, even if the marks are identical or highly similar. Trademarks do not exist in a vacuum; they must be analyzed in connection with specific goods and services. TMEP § 1207.01. Regardless of whether Applicant’s VECTIV mark is similar to the cited VECTIV and VECTIVBIO marks, there are no other factors that would support a finding of likelihood of confusion in this case, and the Office has not provided any evidence at this stage that would support likelihood of confusion.

CONCLUSION

As demonstrated by the foregoing, the differences between Applicant’s identified goods and the goods and services identified in the Cited Applications obviate any potential likelihood of confusion. Applicant therefore respectfully requests that the Office allow the Application to proceed to publication.