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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Shameless Swimwear, L.L.C.

Serial Nos. 85262472 and 85262496¹

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Managing Attorney).

Before Kuhlke, Wolfson and Greenbaum, Administrative Trademark Judges.

Opinion by Wolfson, Administrative Trademark Judge:

Shameless Swimwear, L.L.C. (“applicant”) seeks registration on the Principal Register of the marks SHAMELESS SWIMWEAR² and SHAMELESS COUTURE³ (both in standard characters) for goods ultimately identified in the applications as follows:

¹ Although these cases are not consolidated, they present related questions of law and fact. Accordingly, we have issued a single opinion determining both applications.

² Application Serial No. 85262472 for the mark SHAMELESS SWIMWEAR was filed on March 9, 2011, based on an allegation of applicant’s first use and first use in commerce as of March 7, 2011. The application includes the following disclaimer: No claim is made to the exclusive right to use “SWIMWEAR” apart from the mark as shown.

³ Application Serial No. 85262496 for the mark SHAMELESS COUTURE was filed on March 9, 2011, based on an allegation of applicant’s bona fide intent to use the mark in commerce. The application includes the following disclaimer: No claim is made to the exclusive right to use “COUTURE” apart from the mark as shown.

SHAMELESS SWIMWEAR:

“swimwear, namely, high-end, haute couture bathing suits, bikinis, monokinis and cover-ups” in International Class 25.

SHAMELESS COUTURE:

“women’s clothing, namely, high-end bathing suits, bikinis, monokinis, cover-ups, tops, shirts, blouses, dresses, skirts, pants, sweaters, scarves” in International Class 25.

The Trademark Examining Attorney has refused registration of applicant’s marks under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), having determined that registration would lead to a likelihood of confusion in view of the goods recited in Reg. No. 2259492 for the mark SHAMELESS (in standard character format). These goods are: “clothing, namely, tops, shirts, dresses, skirts, pants, sweaters, and knit shirts” in International Class 25.⁴

After the examining attorney made the refusals final, applicant appealed to this Board. We affirm.

Applicable Law

Our determination under Trademark Act Section 2(d) is based on an analysis of the probative facts in evidence that are relevant to the factors bearing on a likelihood of confusion. See *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973); see also *Palm Bay Imp., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir.

⁴ Registered July 6, 1999; renewed.

2003); and *In re Dixie Rests. Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997). In considering the evidence of record on these factors, we keep in mind that “[t]he fundamental inquiry mandated by Section 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.” *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976); *see also In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999).

A. Comparison of the Marks

In comparing the marks, we must consider the marks in their entirety as to appearance, sound, connotation and commercial impression, to determine the similarity or dissimilarity between them. *Palm Bay*, 73 USPQ2d at 1692. The test, under the first *du Pont* factor, is not whether the marks can be distinguished when subjected to a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impression that confusion as to the source of the goods offered under the respective marks is likely to result. Because the similarity or dissimilarity of the marks is determined based on the marks in their entirety, the analysis cannot be predicated on dissecting the marks into their various components; that is, the decision must be based on the entire marks, not just part of the marks. *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985). On the other hand, different features may be analyzed to determine whether the marks are similar. *Price Candy Company v. Gold Medal Candy Corporation*, 220 F.2d 759, 105 USPQ 266, 268 (CCPA 1955). In fact, there is nothing improper in stating that, for rational reasons, more or less

weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on a consideration of the marks in their entirety. *In re National Data Corp.*, 224 USPQ at 751. The focus is on the recollection of the average purchaser, who normally retains a general rather than a specific impression of trademarks. *See Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106 (TTAB 1975).

We have examined each mark independently to determine if it is sufficiently similar to the cited registration such that source confusion is likely to result.

SHAMELESS COUTURE

Applicant's mark SHAMELESS COUTURE incorporates the cited mark SHAMELESS in its entirety. Where a mark incorporates the entire registered mark of another, a likelihood of confusion has often been found. *See Coca-Cola Bottling Co. of Memphis, Tennessee, Inc. v. Joseph E. Seagram and Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (CCPA 1975) (applicant's mark BENGAL LANCER for club soda, quinine water and ginger ale is likely to cause confusion with BENGAL for gin); *Johnson Publishing Co. v. International Development Ltd.*, 221 USPQ 155, 156 (TTAB 1982) (applicant's mark EBONY DRUM for hairdressing and conditioner is likely to cause confusion with EBONY for cosmetics); *In re Cosvetic Laboratories, Inc.*, 202 USPQ 842 (TTAB 1979) (applicant's mark HEAD START COSVETIC for vitamins for hair conditioners and shampoo is likely to cause confusion with HEAD START for men's hair lotion and after-shaving lotion). For this reason, the marks are similar in appearance and pronunciation.

The marks are also similar in connotation and commercial impression. The examining attorney has provided the following dictionary definitions of the term “couture”:⁵

1. the occupation of a couturier; dressmaking and designing,
2. fashion designers or couturiers collectively,
3. the clothes and related articles designed by such designers.

+EXPAND⁶

-*adjective*

5. created or produced by a fashion designer: *couture clothes*,
6. being, having, or suggesting the style, quality, etc., of a fashion designer; very fashionable: *the couture look*.

We take judicial notice of the following definitions of “shameless” and “shame.”⁷ “Shameless” is defined as:

- 1: having no shame : insensible to disgrace <a *shameless* braggart>
- 2: showing lack of shame <the *shameless* exploitation of the natives>

“Shame” is defined as:

- 1a: a painful emotion caused by consciousness of guilt, shortcoming, or impropriety

⁵ From <http://dictionary.reference.com>, First Office action, June 13, 2011.

⁶ First Office action, June 13, 2011. The examining attorney did not “expand” the results of this listing; thus, there is no item numbered “4” in the definitions.

⁷ The Board may take judicial notice of dictionary evidence. *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co.*, 213 USPQ 594 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *see also* TBMP §704.12 (3d ed. 1st rev. 2012).

b: the susceptibility to such emotion <have you no *shame*?>

2: a condition of humiliating disgrace or disrepute : ignominy <the *shame* of being arrested>

3a: something that brings censure or reproach; *also* : something to be regretted : pity <it's a *shame* you can't go>

b: a cause of feeling shame

Although we consider applicant's mark in its entirety, greater significance is accorded to the word SHAMELESS. The term COUTURE is merely descriptive of a type of clothing, while the word SHAMELESS is arbitrary in relation to the goods. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1846 (Fed. Cir. 2000), *quoting*, *In re National Data Corp.*, 224 USPQ at 752 ("Regarding descriptive terms, this court has noted that the descriptive component of a mark may be given little weight in reaching a conclusion on the likelihood of confusion.").

The term SHAMELESS is also considered the dominant element in the mark because it is the first word in the mark. *See Presto Products v. Nice-Pak Products, Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) ("[I]t is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered"); *Palm Bay*, 73 USPQ2d at 1692 ("Veuve" is the most prominent part of the mark VEUVE CLICQUOT because "veuve" is the first word in the mark and the first word to appear on the label); and *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 23 USPQ2d 1698, 1700 (Fed. Cir. 1992) (upon encountering the marks, consumers will first notice the identical lead word).

Applicant argues that the inclusion of the word COUTURE in its mark imparts a “bizarre or incongruous meaning” to the mark, thereby distinguishing it from the cited registration:

The term "COUTURE" conjures images of high fashion, specifically, exclusive custom-fitted clothing, made to order for a specific customer, and made from high-quality, expensive fabric and sewn with extreme attention to detail.

...

This highly unique and distinctive impression of high fashion, refinement, and quality conveyed by the term "COUTURE" is afforded with a more distinguished, elevated significance particularly when coupled with the incongruous term "SHAMELESS", thus juxtaposing the refined, exclusive, and expensive qualities evoked by the term "COUTURE" with the flamboyant, outrageous, daring, and audacious characteristics of the term "SHAMELESS" to create a highly distinctive mark having a unique and distinguishable connotation in the minds of consumers. Thus, Applicant's presentation of the term "SHAMELESS" as a descriptor of the term "COUTURE" not only endows the mark with a distinctive and unique connotation, but also provides a particular emphasis incorporating a specific and palpable meaning to the term "COUTURE" in relation to Applicant's high-end, expensive goods such that the term has elevated significance and operates as an indicator of source.” (internal citations omitted).⁸

Applicant’s argument that there is an incongruity in the mark that provides a “specific and palpable meaning to the term ‘COUTURE’,” which imbues its mark with “elevated significance,” is not persuasive. Based on the above definition of “couture,” it is not improbable that the word is simply taken by a prospective buyer as meaning: this product was designed by a couturier and is not mass-produced.

⁸ Applicant’s Brief, p. 15.

Moreover, the word “couture” also refers to an occupation, and collectively to couturiers; it does not, however, describe a characteristic of a person as does the word “shameless.” Therefore, the alleged incongruity may be nonexistent to the extent each word retains its ordinary dictionary meaning. Finally, even accepting applicant’s argument that it would be incongruous for clothing to be both “refined, exclusive, and expensive” and “flamboyant, outrageous, daring, and audacious,” both applicant and registrant have listed identical goods in their identifications of goods, and registrant’s goods are not limited to “low-end” or non-couture fashion. The cited mark SHAMELESS could similarly evoke the same alleged incongruity, particularly should registrant’s goods be, in fact, high-end, fashionable designer clothing. *See In re Bercut-Vandervoort & Co.*, 229 USPQ 763, 764 (TTAB 1986) (an applicant may not restrict the scope of goods in an otherwise unrestricted registration by argument or extrinsic evidence).

Accordingly, we find the marks SHAMELESS and SHAMELESS COUTURE to be similar in appearance, pronunciation, connotation and commercial impression. This *du Pont* factor favors a finding of likelihood of confusion.

SHAMELESS SWIMWEAR

For the reasons stated above, applicant’s mark SHAMELESS SWIMWEAR is also similar to the cited mark SHAMELESS. The addition of the word “swimwear” to “shameless” is even less distinguishing than is the addition of the term “couture,” inasmuch as the term SWIMWEAR is the generic name for the goods. As such, it has no source-identifying value. Rather, it is the arbitrary term SHAMELESS that creates the commercial impression of applicant’s mark SHAMELESS SWIMWEAR.

Accordingly, the marks SHAMELESS and SHAMELESS SWIMWEAR are similar in appearance, pronunciation, connotation and commercial impression. This *du Pont* factor favors a finding of likelihood of confusion.

B. Similarity of Goods

We next turn our attention to a comparison of the similarity or dissimilarity of the goods described in the applications and cited registration. We base our evaluation on the goods as they are identified in the registration and applications. *Octocom Systems, Inc. v. Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002) (“This ‘relatedness of the goods’ factor compares the goods and services in the applicant’s application with the goods and services in the opposer’s registration.”). It is unnecessary for the respective goods to be identical or even competitive in order to find that they are related for purposes of our likelihood of confusion analysis, because the issue is not whether consumers would confuse the goods themselves, but rather whether they would be confused as to the source of the goods. *See Hewlett-Packard Co.*, 62 USPQ2d at 1005 (“Even if the goods and services in question are not identical, the consuming public may perceive them as related enough to cause confusion about the source or origin of the goods and services”); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984). The goods need only be sufficiently related that consumers would be likely to assume, upon encountering the goods under similar marks, that the goods originate from, are sponsored or authorized by, or are otherwise connected to the same

source. *See In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386 (TTAB 1991).

Applicant's goods are identified as high-end women's clothing. With respect to the mark SHAMELESS COUTURE, such goods include "tops," "shirts," "dresses," "skirts," "pants," and "sweaters." These goods are identical to the following goods identified in the cited registration: "tops," "shirts," "dresses," "skirts," "pants," and "sweaters."


With respect to the mark SHAMELESS SWIMWEAR, the goods are "high-end, haute couture bathing suits, bikinis, monokinis and cover-ups." These goods are related to the registrant's "clothing, namely, tops, shirts, dresses, skirts, pants, sweaters, and knit shirts." The examining attorney has submitted copies of use-based, third-party registrations that suggest that bathing suits, swimwear and clothing such as tops, shirts, dresses and pants may emanate from a single source. *See In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988) ("Third-party registrations which cover a number of differing goods and/or services, and which are based on use in commerce, although not evidence that the marks shown therein are in use on a commercial scale or that the public is familiar with them, may nevertheless have some probative value to the extent that they may serve to suggest that such goods or services are of a type which may emanate from a single source"), *aff'd*, 864 F.2d 149 (Fed. Cir. 1988); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785 (TTAB 1993) (evidence that four entities have registered their marks, totaling five registrations, both for goods of the type listed in applicant's

application and for goods of the type recited in registrant's registration suggest that these goods may come from a single source).

The third-party registrations of record in this case that show these types of goods being registered by a single entity include the following (for ease of reference, goods that are found in applicant's identifications of goods in either of its applications are **in bold**; goods found in registrant's identification are in *italics*; and goods found in both the application for the mark SHAMELESS COUTURE and the cited registration are in ***bold and italicized***. Note that only identical listings (e.g., "shirts" not "t-shirts") have been emphasized):

Reg. No. 3969059 for the mark TAHOE VICE for "**Bathing suits**; Gloves as clothing; Hats; Hooded sweat shirts; ***Shirts***; T-shirts; Tee shirts; Wearable garments and clothing, namely, ***shirts***."



Reg. No. 3963482 for the mark  for "clothing for men, women, and children, namely, ***shirts***, T-shirts, sweatshirts, ***sweaters***, ***tops***, tank tops, tights, rompers, ***pants***, bottoms, sweatpants, shorts, trousers, ***skirts***, ***dresses***, ***blouses***, halters, uniforms, suits, jogging suits, warm-up suits, blazers, ***bathing suits***, coats, jackets, vests, rainwear, jumpers, cardigans, undergarments, lingerie, corsets, camisoles, bustier, bras, undershirts, boxer shorts, pajamas, hosiery, socks, stockings, nightgowns, robes, headbands, wristbands, hats, caps, visors, ***scarves***, mufflers, gloves, belts, and suspenders."

Reg. No. 3967827 for the mark QUALITY PEOPLES for "Clothing in the nature of casual wear, beachwear, sportswear and clothing for swimming, and surfing, namely, wetsuits, swimsuits, ***bikinis***, short-sleeved shirts, long-sleeved shirts, bandanas, belts, jackets, vests, ***sweaters***, sweatshirts, sweatpants, gloves, mittens, ***scarves***, ***skirts***, ***pants***, ***dresses***, and shorts; rash guards, namely, rash shirts and rash vests; footwear in the nature

of sandals, tennis shoes and flip-flops, headwear in the nature of hats, caps, visors, and headbands.”


Reg. No. 3963621 for the mark JAKE POODLES for, *inter alia*, “Clothing, namely, **shirts**, shorts, **pants**, **dresses**, ponchos, coats, **bathing suits**, aprons, parkas, shoes and gloves; Rain gear, namely, boots, coats, slickers, suits and trousers; Headgear, namely, hats, caps and bandanas; Baby clothing, namely, cloth bibs and pajamas; Halloween costumes and costume masks sold as a unit.”

Reg. No. 3963657 for the mark UNSPOKEN for “Bras, Panties, Sleepwear, Sweat pants, **T-shirts**, **Bathing Suits**, Tank Tops, Bathrobes, Night Gowns, Negligees, **Pants**, Slips, Slippers, Bustiers, Corsets, Teddies, Hosiery, Body suits, Garter belts, Waist cinchers, Stockings, Robes, Sarongs, Wraps, Slippers and Socks.”

Reg. No. 3940934 for the mark MANIC PANIC (STYLIZED) for “Aprons; Bandanas; Bathing caps; **Bathing suits**; Beach cover-ups; Beach footwear; Beachwear; Beanies; Belts; **Bikinis**; **Blouses**; Bodices; Boxer shorts; Bustiers; Camisoles; Caps; Chemises; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Children's headwear; Coats; **Dresses**; Flip flops; Footwear; Gloves; Halloween costumes; Halloween costumes and masks sold in connection therewith; Hats; Headwear; Hosiery; Infant wear; Jackets; Jeans; Leggings; Lingerie; Loungewear; Masquerade costumes; Masquerade costumes and masks sold in connection therewith; Miniskirts; Mittens; Nighties; Nightshirts; Nightwear; Pajamas; Pullovers; Sandals and beach shoes; Saris; Sarongs; **Scarves**; **Shirts**; Slacks; Sleepwear; Socks; Sundresses; Sweat pants; Sweat shirts; Sweat suits; **Sweaters**; Swim caps; Swim trunks; Swim wear; Swimming caps; Swimsuits; **Swimwear**; T-shirts; Tank tops; Tankinis; Thongs; **Tops**; Trousers.”

Reg. No. 3961689 for the mark TEMPORARY ROMANCE for “Belts for clothing; **Bikinis**; **Blouses**; Boxer briefs; Bras; Caps with visors; Dress shirts; G-strings; Hats; Jeans; Lingerie; Neckties; **Pants**; **Scarves**; **Shirts**; Socks; T-shirts; Underwear.”



Reg. No. 3966229 for the mark  for “Clothing, namely T-shirts, sweatshirts, hooded sweatshirts, jackets, **shirts**, polo shirts; shorts, underwear, namely boxers, thongs; socks; **swimwear**, namely **bikinis** and **bathing suits**; wrist bands; headwear, namely, caps, hats, beanies, head bands, **scarves** and bandanas; footwear, namely, flip flops.”

Reg. No. 3973772 for the mark SAVAAN for “Swimwear, shorts, **pants**, tank-tops, **shirts**, t-shirts, tunics, **cover-ups**, hooded sweatshirts, **dresses**, footwear, headwear, jackets, **skirts**, socks, active wear, namely, tops with incorporated sports bra.”

Reg. No. 3974000 for the mark IVLW for “clothing, namely, t-shirts, **sweaters**, shorts, boardshorts, pants, **bikinis**, shoes, hats, jackets, bandanas.”

Reg. No. 3974192 for the mark HEAD HELD HIGH and Design for “Belts; **Bikinis**; Board shorts; Hats; Jackets; **Pants**; Polo shirts; Shoes; Shorts; Socks; **Sweaters**; T-shirts.”

Reg. No. 3974667 for the mark LAVENDER HILL for “**Bathing suits**; Capris; Coats; Denims; Dress suits; **Dresses**; Knit tops; Ladies' suits; Lingerie; **Pants**; Shorts; **Sweaters**; Sweatshirts.”

These registrations are evidence of the relatedness of applicant's swimwear with registrant's “tops, shirts, dresses, skirts, pants, sweaters, and knit shirts.”

In addition, the examining attorney has made of record copies of web pages from an Internet search that show several designers offering swimwear and other women's clothing under a single mark.⁹ In the first example, designer Calvin Klein advertises a “Calvin Klein Solids Crossover Swim Dress” on www.google.com, and

⁹ Denial of Request for Reconsideration, January 19, 2012.

what appears to be a coat, a dress, and a two-piece dress and jacket combination¹⁰ under the CALVIN KLEIN mark on www.zappos.com. In a second example, TOMMY HILFINGER swimwear and women's tops, shirts and blouses are shown at <http://usa.tommy.com/>. And at <http://www.swimoutlet.com/Anne-Klein>, there is a bathing suit shown alongside the copy: "Anne Klein™ swimwear has become synonymous with American style," while at www.anneklein.com, there are jackets, blazers, blouses, shirts, sweaters, tees, knits and camisoles being advertised under the ANNE KLEIN mark. This evidence demonstrates that women's bathing suits are related to other types of women's clothing.

This *du Pont* factor favors a finding of likelihood of confusion.

C. Trade Channels; Purchasers

Applicant argues that there is no likelihood of confusion because the goods are sold through different trade channels, at price points sufficiently different to avoid an overlap of prospective purchasers. In particular, applicant alleges that its goods "are marketed to fashion and style-conscious, sophisticated consumers having price concerns which are likely secondary or non-existent in comparison to their desire to obtain a premium piece from a particular designer or brand unlike the conditions surrounding typical consumers of similar goods or those of the Registrant."¹¹ Applicant further alleges that its customers are "prepared to pay

¹⁰ There are pictures of each of these items, but no written description. We presume from the pictures that the items are a coat, a dress, and a two-piece dress and jacket combination.

¹¹ Applicant's Brief p. 18.

prices well in excess of even high-end department stores for ultra-premium pieces.”¹²

Applicant’s reliance on the alleged disparity between the prices of the parties’ goods is misplaced. Because the goods identified in the cited registration, “clothing, namely, tops, shirts, dresses, skirts, pants, sweaters, and knit shirts,” are unrestricted in terms of price, style, channels of distribution or classes of consumers, they may include clothing sold in high-end retail or fashion outlets. Thus, while applicant may seek to attract and target more highly selective customers than those of registrant’s goods, the registration does not restrict registrant from selling goods at applicant’s price points or targeting highly selective customers. “[A]bsent restrictions in the application and registration, goods and services are presumed to travel in the same channels of trade to the same class of purchasers.” *Hewlett-Packard*, 62 USPQ2d at 1005; *see also*, *Bercut-Vandervoort*, 229 USPQ at 765 (“[T]he question of likelihood of confusion must be determined by an analysis of the marks as applied to the goods identified in the application vis-à-vis the goods recited in the registration, rather than what extrinsic evidence shows those goods to be.”) .

Moreover, the examining attorney’s search of the website “www.google.com” for “designer swimwear clothing” includes links to bathing suit retailers for suits ranging from around \$14 to a high of \$353.¹³ This evidence suggests that bathing suits at all price points are advertised and sold through similar trade channels to

¹² *Id.*, p. 20.

¹³ Denial of Request for Reconsideration, January 19, 2012.

the same classes of purchasers. Applicant's argument, comparing the market for "Burberry" brand blouses with registrant's market for blouses in an attempt to show that registrant and applicant sell their goods at markedly different price points, as well as applicant's evidence of the price of clothing purportedly sold by registrant under different, unrelated, marks, is irrelevant. Even assuming that registrant sells clothing under other marks at lower price points, registrant may intend its SHAMELESS line of clothing to be high-end and sold at higher price points, which would place them squarely in the same trade channels for purchase by the same classes of consumers as applicant's goods.

In view of the above, these *du Pont* factors weigh in favor of a finding of likelihood of confusion.

D. Balancing the factors.

Applicant's marks SHAMELESS COUTURE and SHAMELESS SWIMWEAR are similar to registrant's mark SHAMELESS. The goods are related and are likely to be sold in similar trade channels to the same classes of consumers. Accordingly, we find that applicant's registration of its marks is likely to cause confusion with the cited mark.

Decision: The refusals to registration of applicant's marks SHAMELESS COUTURE and SHAMELESS SWIMWEAR under Trademark Act Section 2(d) are affirmed.