

**THIS OPINION IS NOT A  
PRECEDENT OF  
THE T.T.A.B.**

Mailed: December 27, 2010

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**Trademark Trial and Appeal Board**

---

Holder Suisse S.A.  
v.  
Paule and Gerard Koumetz

---

Consolidated Opposition Nos.:  
91181892 to application Serial No. 77102556;  
91181896 to application Serial No. 77102540;  
91186200 to application Serial No. 77395849;  
91186198 to application Serial No. 77395818.<sup>1</sup>

---

Dwayne K. Goetzel of Meyertons, Hood, Kivlin, Kowert &  
Goetzel, P.C. for Holder Suisse S.A.

Laurent C. Vonderweidt and David A. Robinson of Law Offices  
of Laurent C. Vonderweidt for Paule and Gerard Koumetz.

---

Before Zervas, Walsh and Cataldo,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicants, Paule and Gerard Koumetz, seek to register  
on the Principal Register the marks displayed below.

PAULETTE (in standard characters)<sup>2</sup>

---

<sup>1</sup> These proceedings were consolidated in a Board interlocutory order issued on November 28, 2008.

<sup>2</sup> Application Serial No. 77102556 was filed on February 8, 2007, based upon applicants' assertion of a bona fide intent to use the mark in commerce.

PAULETTE MACARON (in standard characters)<sup>3</sup>

**paulette**<sup>4</sup> and



Application Serial Nos. 77102556, 77102540 and 77395849 recite "bakery goods" in Class 30 and "retail bakery shops" in Class 35; application Serial No. 77395818 recites "bakery goods" in Class 30.

As grounds for opposition, opposer, Holder Suisse S.A., alleged that applicants' marks, when used in connection with

---

<sup>3</sup> Application Serial No. 77102540 was filed on February 8, 2007, based upon applicants' assertion of a bona fide intent to use the mark in commerce. The application contains the following statement: "PAULETTE MACARON does not identify a living individual."

<sup>4</sup> Application Serial NO. 77395849 was filed on February 13, 2008, based upon applicants' assertion of September 5, 2007 as a date of first use of the mark anywhere and in commerce in connection with the recited goods and services. The application contains the following statements: "The mark consists of the word 'paulette' in lowercase stylized lettering with the double 't' appearing as two sides of a macaron" and "Color is not claimed as a feature of the mark."

<sup>5</sup> Application Serial No. 77395818 was filed on February 13, 2008 based upon applicants' assertion of September 5, 2007 as a date of first use of the mark anywhere and in commerce in connection with the recited goods. The application contains the following statements: "The mark consists of the word 'paulette' in lowercase stylized lettering below a double 't' appearing as two sides of a macaron" and "Color is not claimed as a feature of the mark."

the recited goods and services, so resemble opposer's mark PAUL, previously used and registered in typed or standard characters on the Principal Register for "coffee, tea, cocoa, sugar, flour and bread, pastry, ices" in Class 30 and "restaurant, cafeteria and take out restaurant services" in Class 42<sup>6</sup> that confusion is likely among consumers as to the source of the parties' goods and services.<sup>7</sup>

In their answers to the notices of opposition, applicants denied the salient allegations thereof.<sup>8</sup>

### **The Record**

By operation of Trademark Rule 2.122, 37 C.F.R. §2.122, the record in this case includes the pleadings and the files of the involved applications. In addition, during its assigned testimony period, opposer submitted a notice of reliance upon copies of its pleaded registration prepared by the United States Patent and Trademark Office (USPTO)

---

<sup>6</sup> Registration No. 2282436 issued on October 5, 1999. Section 8 affidavit accepted; Section 15 affidavit acknowledged. Renewed.

<sup>7</sup> Opposer further asserted claims of dilution in its notices of opposition and also asserted a claim that applicants' PAULETTE MACARON mark in their application Serial No. 77102540 is merely descriptive of the goods and services identified thereby. However, opposer did not pursue these claims at trial or present arguments with regard thereto in its brief. Accordingly, these claims are deemed waived. In addition, opposer argues in its brief (p. 21) that applicants made "significant, material misrepresentations to the trademark office with respect to the origin and meaning of the PAULETTE mark." To the extent opposer seeks to argue a claim of fraud in its brief, such claim was neither pleaded nor tried and will be given no consideration.

<sup>8</sup> In addition, applicants asserted "affirmative defenses" that are more in the nature of amplifications of their denials of the allegations contained in the notices of opposition, and have been so construed.

showing current status and title thereto; printed publications and printouts from Internet websites that are available to the general public; dictionary definitions; opposer's written discovery requests to applicants and applicants' responses thereto.

During their assigned testimony period, applicants submitted a notice of reliance upon printed publications and printouts from Internet websites that are available to the general public; official records; their written discovery requests to opposer and opposer's responses thereto.

Opposer and applicants filed main briefs on the case, and opposer filed a reply brief.

#### **Opposer's Standing and Priority**

Because opposer has properly made its pleaded registration of record, and further has shown that it is not a mere intermeddler, we find that opposer has established its standing to oppose registration of applicants' marks. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842 (Fed. Cir. 2000); and *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982).

Moreover, because opposer's pleaded registration is of record, Section 2(d) priority is not an issue in this case as to the mark therein and goods and services covered thereby. *See King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108 (CCPA 1974).

### **Likelihood of Confusion**

Our likelihood of confusion determination under Section 2(d) is based on an analysis of all of the facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue. See *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). See also *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Majestic Distilling Company, Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003); and *In re Dixie Restaurants Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997).

#### The Goods and Services

Turning first to a comparison of the goods and services, it is well established that the goods or services of the parties need not be similar or competitive, or even offered through the same channels of trade, to support a holding of likelihood of confusion. It is sufficient that the respective goods or services of the parties are related in some manner, and/or that the conditions and activities surrounding the marketing of the goods or services are such that they would or could be encountered by the same persons under circumstances that could, because of the similarity of the marks, give rise to the mistaken belief that they originate from the same source. See *Hilson Research, Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423

(TTAB 1993); and *In re International Telephone & Telegraph Corp.*, 197 USPQ 910, 911 (TTAB 1978).

It is further settled that we must consider the goods and services as they are identified in opposer's pleaded registration and applicants' involved applications. *Octocom Systems, Inc. v. Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990) ("The authority is legion that the question of registrability of an applicant's mark must be decided on the basis of the identification of goods [or services] set forth in the application regardless of what the record may reveal as to the particular nature of an applicant's goods [or services], the particular channels of trade or the class of purchasers to which the sales of goods [or services] are directed").

In this case, the goods in opposer's pleaded registration include "coffee, tea, cocoa, sugar, flour and bread, pastry, ices" in Class 30, while all four of applicants' involved applications recite "bakery goods" in Class 30. Based upon the common meanings of these terms, "bread" and "pastry" are widely understood to be "bakery products." To dispel any doubt on this point, "pastry" is defined as "a sweet baked food made of dough, esp. the shortened paste used for pie crust and the like"<sup>9</sup> and

---

<sup>9</sup> *Dictionary.com Unabridged*, Random House, Inc. (2010). The Board may take judicial notice of dictionary definitions, including online dictionaries which exist in printed format. See

"bread" is defined as "a kind of food made of flour or meal that has been mixed with milk or water, made into a dough or batter, with or without yeast or other leavening agent, and baked."<sup>10</sup> "Bakery" is defined as "a place where baked goods are made."<sup>11</sup> Based upon these definitions, applicants' "bakery goods" clearly include the "bread" and "pastry" recited in opposer's registration. In addition, "cocoa," "sugar" and "flour" are widely understood to be common ingredients in "bakery goods." As a result, we find that applicants' "bakery goods" identified in all four of their involved applications, include many of the goods identified in opposer's pleaded registration. Finally, applicants acknowledge in their brief that "both Applicant and Opposer sell macarons."<sup>12</sup>

In addition, applicants' involved application Serial Nos. 77102556, 77102540, and 77395849 recite "retail bakery shops" in Class 35. Because applicants' recitation of services contains no limitations as to the type of baked goods that may be produced in applicants' "retail bakery shops," we may not read limitations into the services, but rather must presume that they include all types of goods

---

*In re CyberFinancial.Net Inc.*, 65 USPQ2d 1789, 1791 n.3 (TTAB 2002). See also *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

<sup>10</sup> Id.

<sup>11</sup> Id.

typically produced thereby. *See Octocom Systems, Inc. v. Houston Computers Services Inc.*, 16 USPQ2d at 1787. Thus, we must presume that applicants' "retail bakery shops" produce all manner of baked goods including the "bread" and "pastry" identified in opposer's pleaded registration. As a result, we find that applicants' recited services are related to the goods identified in opposer's pleaded registration.<sup>13</sup>

In view of the related nature of opposer's goods and applicants' goods and services, this *du Pont* factor favors opposer.

#### Channels of Trade

Because we have found that the opposer's goods are related to applicants' goods and services, and because there are no recited restrictions as to their channels of trade or classes of purchasers, we must assume that the goods and services are available in all the normal channels of trade to all the usual consumers of such goods and services, and that the purchasers for opposer's goods as well as applicants' goods and services would overlap. *See Interstate Brands Corp. v. McKee Foods Corp.*, 53 USPQ2d 1910

---

<sup>12</sup> Applicants' brief, p. 22. The parties agree that "macaron" is an alternate spelling of "macaroon."

<sup>13</sup> Having found that applicants' recited goods and services are related to opposer's goods, we need not consider whether they also are related to the services recited in opposer's pleaded registration.

(TTAB 2000). See also *Octocom Systems, Inc. v. Houston Computers Services Inc.* 16 USPQ2d at 1787; and *Paula Payne Products v. Johnson Publishing Co.*, 473 F.2d 901, 177 USPQ 76, 77 (CCPA 1973) ("Trademark cases involving the issue of likelihood of confusion must be decided on the basis of the respective descriptions of goods."). Thus, we must presume that the parties' goods include low-cost bakery items subject to impulse purchase with little or no deliberation that may be encountered together in bakeries, supermarkets or other venues in which baked goods are sold. It is well settled that purchasers of casual, low cost ordinary consumer items are held to a lesser standard of purchasing care and are more likely to be confused as to the source of the goods. See *Specialty Brands, Inc. v. Coffee Bean Distributors, Inc.*, 748 F.2d 669, 223 USPQ 1281 (Fed. Cir. 1984).

In view of these authorities, we are not persuaded by applicants' arguments or evidence that seek to limit the parties' goods to a certain price range or impose trade channel limitations not recited in either party's recitations of goods or services.

We find that, as a result of the foregoing, this *du Pont* factor also favors opposer.

Applicants' Marks and Opposer's Mark

We turn then to the first *du Pont* factor, i.e., whether applicants' marks and opposer's mark are similar or dissimilar when viewed in their entirety in terms of appearance, sound, connotation and overall commercial impression. See *Palm Bay Imports, Inc. v. Veuve Clicquot, supra*. 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 or services offered under the respective marks is likely to result.

Strength of Opposer's PAUL Mark

We begin our determination by evaluating the strength of opposer's PAUL mark in its Registration No. 2282436. This mark registered on October 5, 1999 on the Principal Register and carries with it a presumption of inherent distinctiveness. In addition, opposer has introduced evidence in the form of articles and advertisements from various printed publications<sup>14</sup> in support of its contention that "the PAUL mark has been used for over 100 years in Europe and is famous worldwide."<sup>15</sup> Because this factor

---

<sup>14</sup> Opposer's Notice of Reliance, Exhibit G.

<sup>15</sup> Opposer's brief, p. 20.

plays a dominant role in cases featuring a famous or strong mark we turn first to a consideration of the factor of fame. *Kenner Parker Toys Inc. v. Rose Art Industries, Inc.*, 963 F.2d 350, 22 USPQ2d 1453 (Fed. Cir. 1992).

Upon careful review of the record in this case, we are not persuaded that opposer's mark is famous. It is the duty of a plaintiff asserting that its mark is famous to clearly prove it.

Opposer's evidence of fame, consisting of advertisements and articles from newspapers, magazines and the Internet, demonstrates that opposer has enjoyed a measure of recognition of its goods and services under its pleaded PAUL mark. However, such evidence falls short of demonstrating widespread recognition of its PAUL mark among the general public in the United States. Evidence of opposer's fame in Europe is not relevant to the question of whether its PAUL mark is famous in the United States. In addition, opposer provides no testimony or evidence of direct consumer recognition or sales or marketing figures such that we may ascertain opposer's market share vis-à-vis others in its field.

Accordingly, we find on this record that the evidence falls short of establishing that opposer's pleaded PAUL mark is famous for purposes of our likelihood of confusion determination. Nonetheless, the record supports a finding

that opposer's mark is strong, to the extent we must recognize that it is an inherently distinctive mark, also in view of opposer's evidence of media coverage and, as discussed more fully below, the lack of evidence of relevant third-party uses in the record.<sup>16</sup>

Registration of Similar Marks

Applicants, for their part, argue that "the mark PAUL is a very commonly used mark for bakery goods, restaurant services, and other food products."<sup>17</sup> In support of this contention, applicants submitted copies of the following, use-based, third-party registrations that are currently valid and subsisting:<sup>18</sup>

MAMA PAULTETTA'S for "whole wheat gourmet cookies, white chocolate chip and pecans; no refined sugar" (Registration No. 2611152);

---

<sup>16</sup> Opposer also argues that the Holder Group, of which opposer assertedly is a part, "owns the famous LADUREE mark, which is referred to in the printed publications provided by Applicant as being the originator of macaroons, and the inspiration for the very product sold by Applicant." However, opposer has neither pleaded nor proven ownership of the LADUREE mark. Accordingly, opposer's assertions with regard thereto will be given no consideration. We hasten to add that opposer's ownership of the dissimilar LADUREE mark, even if proven, would not be relevant to our determination herein.

<sup>17</sup> Applicants' brief, p. 15.

<sup>18</sup> Applicants' Notice of Reliance, Exhibit D.

In addition, applicants submitted copies of pending applications and registrations that are cancelled. The expired registrations and pending and abandoned applications are of no probative value. See *Action Temporary Services Inc. v. Labor Force Inc.*, 870 F.2d 1563, 10 USPQ2d 1307, 1309 (Fed. Cir. 1989) ("[A] cancelled registration does not provide constructive notice of anything"); and *Interpayment Services Ltd. v. Docters & Thiede*, 66 USPQ2d 1463 (TTAB 2003) (applications show only that they have been filed).

PAULY for "natural cheese, process cheese, cream cheese, and sour cream" (Registration No. 3116653);



(GOURMET FAST FOOD disclaimed) for "restaurant services" (Registration No. 2582419);



(AMERICAN BISTRO disclaimed) for "catering" (Registration No. 3602960);

K-PAUL'S CATERING EXPEDITION (CATERING disclaimed) for "restaurant and catering services" (Registration No. 2488753) and K-PAUL'S LOUISIANA KITCHEN (2f in part as to LOUISIANA KITCHEN) (Registration No. 1425255) both owned by the same entity;

THE ST. PAUL for "restaurant services" (Registration No. 1670667); and

PAUL REVERE'S for "restaurant services" (Registration No. 1199996).

Applicants' evidence of third-party registrations is entitled to limited probative value. The registrations are not evidence of use of the marks shown therein. Thus, they are not proof that consumers are familiar with such marks so as to be accustomed to the existence of the same or similar

marks in the marketplace. See *Smith Bros. Mfg. Co. v. Stone Mfg. Co.*, 476 F.2d 1004, 177 USPQ 462 (CCPA 1973); and *Richardson-Vicks, Inc. v. Franklin Mint Corp.*, 216 USPQ 989 (TTAB 1982). In addition, we note that the marks as well as the goods and services recited in the third-party registrations are less similar to opposer's PAUL mark and goods than are the marks and goods and services recited in the involved applications.<sup>19</sup> The inclusion of additional wording and/or design elements in the marks in the third-party registrations results in those marks having different commercial impressions from opposer's PAUL mark. Thus, the presence of such marks on the register, and applicants' making them of record, does not detract from the strength of opposer's mark. In view of the foregoing, applicants' argument that the mark PAUL is a weak mark entitled to only a narrow scope of protection is not well-taken.

Applicants' Mark in Application Serial No. 77102556

We turn then to a comparison of opposer's PAUL mark and applicants' PAULETTE mark in their application Serial No. 77102556. PAULETTE, in standard characters, is highly similar in appearance and sound to opposer's PAUL mark, in typed or standard characters, in that applicants' mark wholly incorporates that of opposer. Thus, applicants'

---

<sup>19</sup> For the same reasons discussed above, applicants' evidence of state registrations and listings of businesses with PAUL and PAULETTE-formative names has little probative value.

PAULETTE mark merely adds a syllable to opposer's PAUL mark, with the result that the marks are more similar than dissimilar in appearance and sound.

With regard to the connotation or meaning of the marks, we note that PAULETTE is defined as the "French feminine diminutive of PAUL."<sup>20</sup> As a result, the marks are highly similar in meaning, the former being the feminine, diminutive version of the latter.

In view thereof, we find that opposer's PAUL mark is highly similar to applicants' PAULETTE mark in appearance, sound and connotation, and that overall the marks convey highly similar commercial impressions.

Applicants' Mark in Application No. 77102540

Next we turn to a comparison of opposer's PAUL mark and applicants' PAULETTE MACARON mark in their application Serial No. 77102540. In comparing the marks, we find that PAULETTE is the dominant element of applicants' mark, and accordingly it is entitled to more weight in our analysis. It is a well-established principle that, in articulating reasons for reaching a conclusion on the issue of likelihood of confusion, 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

---

<sup>20</sup> Opposer's Notice of Reliance, Exhibit 3.

entireties. *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985).

In applicants' PAULETTE MACARON mark, the term "MACARON" is disclaimed, and the term is at best highly descriptive of applicants' "bakery goods" and "retail bakery shops" and is subordinate to PAULETTE. As discussed above, PAULETTE is the feminine diminutive form of opposer's PAUL mark. Thus, the marks are highly similar in appearance, sound and meaning. The presence of the highly descriptive term MACARON in applicants' mark is not sufficient to create a commercial impression that is separate and distinct from that of opposer's mark.

In view thereof, we find that opposer's PAUL mark is highly similar to applicants' PAULETTE MACARON mark in appearance, sound and connotation, and that overall the marks convey highly similar commercial impressions.

Applicants' Mark in Application Serial No. 77395849

Now we turn to a comparison of opposer's PAUL mark and applicants' mark, displayed below, in their application Serial No. 77395849.

**paulette**

As discussed above, applicants' mark wholly incorporates opposer's PAUL mark as its first of two syllables, with the result that the marks are highly similar in appearance and

sound. The meaning of applicants' mark remains the feminine diminutive form of that of opposer.

In addition, the description of applicants' mark indicates that the mark consists, in part, of a "double 't' appearing as two sides of a macaron." However, the stylized presentation of the two letters "t" in applicants' mark is not sufficient to create a connotation that is separate from that of opposer's PAUL mark. First, the stylization is so slight that viewers may not recognize that the letters "t" are intended to convey the design of a macaron. Second, even if viewers recognize the stylization as a macaron, these are applicants' goods that are offered in their bakery shops. As a result, the stylization merely adds a highly descriptive connotation to applicants' mark that is subordinate to that created by **paulette**.

In view thereof, we find that opposer's PAUL mark is highly similar to applicants' **paulette** mark in appearance, sound and connotation, and that overall the marks convey highly similar commercial impressions.

Applicants' Mark in Application Serial No. 777395818

Finally, we turn to our comparison of opposer's PAUL mark with applicants' displayed below,



which consists of the word 'paulette' in lowercase stylized lettering below a double 't' appearing as two sides of a macaron." As discussed above in connection with applicants' other PAULETTE marks, the word PAULETTE is highly similar in appearance, sound and connotation to opposer's PAUL mark. Further as discussed above in connection with applicants'

**paulette** mark, the stylized letters "t" in the shape of a macaron, while adding to the overall commercial impression of the mark, nonetheless display a stylized depiction of a bakery product that is, at best, highly descriptive of applicants' goods and services.

Nor do we find that the addition of the circular background design in applicants' mark is sufficient to distinguish it from opposer's mark. The word portion of applicants' mark clearly is the dominant portion thereof. The circular black background does not significantly add to the overall commercial impression of applicants' mark. In addition, when a mark contains both a word and a design, then the word is normally accorded greater weight inasmuch it would be used by purchasers to request the goods or

services. *In re Appetito Provisions Co.*, 3 USPQ2d 1553 (TTAB 1987).

Thus, the dominant portion of applicants' mark is highly similar to opposer's PAUL mark and that, taken as a whole, the parties' marks are far more similar than dissimilar in appearance, sound, and connotation, and convey highly similar overall commercial impressions.

In view thereof, this *du Pont* factor favors opposer as to all four of applicants' involved marks.

#### Actual Confusion

Another *du Pont* factor discussed by applicants is the asserted lack of instances of actual confusion. Applicants assert that the absence of actual confusion for over four years at the time of briefing in spite of both parties and their marks receiving substantial press coverage<sup>21</sup> suggests no likelihood of confusion. However, applicants' evidence, while sufficient to establish that both parties have received press exposure, is not sufficient to establish that the same segments of the public have been so exposed to the parties' marks that there has been a significant opportunity for actual confusion to have occurred, such that the absence of confusion is meaningful. *See In re Opus One Inc.*, 60 USPQ2d 1812, 1817 (TTAB 2001); and *In re Jeep Corp.*, 222 USPQ 333 (TTAB 1984).

---

<sup>21</sup> Applicants' Notice of Reliance, Exhibits E and G.

Moreover, it is not necessary to show actual confusion in order to establish likelihood of confusion. See *Weiss Associates Inc. v. HRL Associates Inc.* 902 F.2d 1546, 223 USPQ 1025 (Fed. Cir. 1990). Thus, while evidence of actual confusion strongly supports a finding of likelihood of confusion, the absence thereof does not require a finding of no likelihood of confusion. See *In re Majestic Distilling Company, Inc.*, 315 F.3d 1311, 65 USPQ2d 1201, 1205 (Fed. Cir. 2003) ("The lack of evidence of actual confusion carries little weight.")

Accordingly, this *du Pont* factor must be considered to be neutral or to only slightly favor applicants.

Bad Faith

Another *du Pont* factor discussed by the parties is whether applicants acted in bad faith in seeking registration of their involved marks. We note, however, that there is little or no evidence in the record from which we may infer that applicants acted in bad faith in adopting their marks. Mere knowledge of the existence of opposer's mark does not, in and of itself, constitute bad faith. See *Action Temporary Services Inc. v. Labor Force Inc.*, 870 F.2d 1563, 10 USPQ2d 1307 (Fed. Cir 1989); and *Ava Enterprises, Inc. V. Audio Boss USA, Inc.*, 77 USPQ2d 1783 (TTAB 2006). Opposer simply has not shown that applicants intentionally

sought to trade on opposer's good will in selecting their marks.

Thus, this *du Pont* factor is neutral.

### Summary

We have carefully considered all of the evidence pertaining to the relevant *du Pont* factors, as well as all of the parties' arguments with respect thereto, including any evidence and arguments not specifically discussed in this opinion.

We conclude that consumers familiar with opposer's goods under its PAUL mark would be likely to believe, upon encountering applicants' involved marks for their recited goods and services, that the parties' goods and services originate with or are associated with or sponsored by the same entity. In making our determination, we have balanced the relevant *du Pont* factors. The factors of the similarity between the marks and the relatedness of the goods and services weigh strongly in opposer's favor. To the extent that any of applicants' points raise a doubt about our conclusion, all doubt on the issue of likelihood of confusion must be resolved in favor of the prior user and against the newcomer. *See San Fernando Mfg. Co. v. JFD Electronics Components Corp.*, 565 F.2d 683, 196 USPQ 1, 2 (CCPA 1977).

**Opposition Nos. 91181892; 91181896; 91186200; and 91186198**

DECISION: The opposition to registration of applicants' application Serial Nos. 77102556; 77102540; 77395849; and 77395818 is sustained on the ground of priority and likelihood of confusion, and registration to applicants is refused as to all four registrations.