

This Opinion is Not a  
Precedent of the TTAB

Mailed: November 2, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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*In re Productos Verde Valle, S.A. de C.V.*

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Serial No. 87137207  
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Alan S. Nemes of Husch Blackwell LLP,  
for Productos Verde Valle, S.A. de C.V.

Parker Howard, Trademark Examining Attorney, Law Office 117,  
Travis Wheatley, Acting Managing Attorney.

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Before Zervas, Taylor and Hightower,  
Administrative Trademark Judges.

Opinion by Taylor, Administrative Trademark Judge:

Productos Verde Valle, S.A. de C.V. (“Applicant”) seeks registration on the Principal Register of the standard character mark SONIA for “sauces; chili sauce; hot sauce,” in International Class 30.<sup>1</sup>

The Trademark Examining Attorney has refused registration of Applicant’s mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), based on a likelihood

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<sup>1</sup> Application Serial No. 87137207 was filed on August 12, 2016, based upon Applicant’s allegation of a *bona fide* intention to use the mark in commerce under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b).

of confusion with the mark in U.S. Registration No. 5167500,<sup>2</sup> SONIA SONI LIFE IS A RECIPE (in standard characters) for, in relevant part, “spices, spice blends; spice rubs” in International Class 30.<sup>3</sup> The registration includes the following statement: “The name(s), portrait(s), and/or signature(s) shown in the mark identifies ‘SONIA SONI,’ whose consent(s) to register is made of record.”

When the refusal was made final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal was resumed. Both Applicant and the Examining Attorney filed briefs.

We affirm the refusal to register.

#### I. Likelihood of Confusion

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the issue of likelihood of confusion. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973); *see also In re Majestic Distilling Company, Inc.*, 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003). In any likelihood of confusion analysis, two key considerations are the similarities between the marks and the similarities between the goods. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976) (“The fundamental inquiry mandated by §2(d) goes to the cumulative effect of differences in the essential characteristics of

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<sup>2</sup> Issued March 21, 2017.

<sup>3</sup> The registration also includes services classified in International Class 41 that were not cited as a bar to registration.

the goods and differences in the marks.”). These factors, and any other relevant *du Pont* factors in the proceeding now before us, will be considered in this decision.

#### A. The Goods

It is well settled that the goods of Registrant and Applicant need not be identical or competitive, or even be offered through the same channels of trade, to support a holding of likelihood of confusion. It is sufficient that the respective goods are related in some manner, and/or that the conditions and activities surrounding the marketing of the goods 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 Coach Servs. Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1723 (Fed. Cir. 2012) (citation omitted); *Hilson Research, Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993). The issue here, of course, is not whether purchasers would confuse the goods, but rather whether there is a likelihood of confusion as to the source of these goods. *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1439 (TTAB 2012); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984).

In making our determination regarding the relatedness of the goods, we must look to the goods as identified in the application and the cited registrations. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys., Inc. v. Houston Computers Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)); *In re Giovanni Food Co.*, 97 USPQ2d 1990, 1991 (TTAB 2011).

Applicant's goods are identified as "sauces; chili sauce; [and] hot sauce" and Registrant's goods are identified as "spices, spice blends; [and] spice rubs." The Examining Attorney maintains that the goods are related because they are of a type commonly offered by the same entity under the same mark, are often sold and sought at the same retail sources, and are complementary because sauces and spices may be used together for seasoning food. The Examining Attorney also maintains that sauces often include spices.

In support of this position, the Examining Attorney made of record web pages from various websites showing use of the same mark for both sauces and spices. The uses include:

- McCormick ([www.mccormick.com](http://www.mccormick.com))<sup>4</sup> showing sauces with spices as a key ingredient and spices sold under the MCCORMICK mark and sauces and spices sold under the ZATARAIN'S mark;
- Target ([www.target.com](http://www.target.com))<sup>5</sup> showing sauces sold under the ZATARAIN'S mark;
- Tony Chachere's ([www.tonychachere.com](http://www.tonychachere.com))<sup>6</sup> showing spices sold under the TONY CHACHERE'S mark;
- Cajun Grocer ([www.cajungrocer.com](http://www.cajungrocer.com))<sup>7</sup> showing sauces sold under the TONY CHACHERE'S mark;

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<sup>4</sup> May 24, 2017 Office Action; TSDR pp. 8-12. Complete URLs may be found in the cited TSDR records.

<sup>5</sup> *Id.* at 13.

<sup>6</sup> *Id.* at 14.

<sup>7</sup> *Id.* at 15-16.

- Dean & DeLuca (www.deananddeluca.com)<sup>8</sup> showing chili dipping sauce and spices sold under the DEAN & DELUCA mark;
- Goode Company (www.goodecompany.com)<sup>9</sup> showing barbeque sauce and steak seasoning sold under the GOODE CO. mark;
- IKEA (www.ikea.com)<sup>10</sup> showing sauces and spice mix sold under the IKEA mark;
- John Henry's Food Products (www.johnhenrysfoodproducts.com)<sup>11</sup> showing sauces and spice rubs sold under the JOHN HENRY'S mark; and
- Williams Sonoma (www.williamssonoma.com)<sup>12</sup> showing cooking sauces and spices sold under the WILLIAMS-SONOMA mark.

We find this evidence sufficient to show that Applicant's "sauces; chili sauce; [and] hot sauce" are related and complementary to Registrant's "spices, spice blends; [and] spice rubs," such goods all being flavorings for food that are often sold by the same source under the same mark. The evidence also shows that spices may be a key ingredient in sauces, or may be interchangeable in a recipe, for example, using hot sauce instead of chili powder.

We find Applicant's argument that the evidence does not show use of "Registrant's mark on Applicant's goods" unavailing. As stated, the goods need not be identical; rather, they need only be related in such a manner that they could be encountered by

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<sup>8</sup> August 11, 2017 Office Action; TSDR pp. 7-10.

<sup>9</sup> *Id.* at 11-12.

<sup>10</sup> *Id.* at 13-16.

<sup>11</sup> *Id.* at 17-20.

<sup>12</sup> *Id.* at 21-28.

the same consumer under situations that would lead to the mistaken belief that they originate from the same source. *Coach Servs. v. Triumph Learning*, 101 USPQ2d at 1723.

We likewise find unpersuasive Applicant's argument that the goods are unrelated because Applicant's goods are sold as Mexican food while Registrant's goods are sold as Indian spices. As noted, the question of likelihood of confusion is based on the goods in the respective application and cited registration, and there are no limitations as to cuisine in either. An applicant may not restrict the scope of its goods or the scope of the goods covered in the cited registration by extrinsic argument or evidence. *See, e.g., In re Midwest Gaming & Entertainment LLC*, 106 USPQ2d 1163, 1165 (TTAB 2013); *In re La Peregrina Ltd.*, 86 USPQ2d 1645, 1647 (TTAB 2008); *In re Bercut-Vandervoort & Co.*, 229 USPQ 763, 764-65 (TTAB 1986). In addition, certain spices may be used in both Mexican and Indian cuisine.

The *du Pont* factor of the relatedness of the goods thus strongly favors a finding of likelihood of confusion.

#### B. Channels of Trade/Classes of Purchasers

Because there are no limitations as to channels of trade or classes of purchasers in Applicant's or Registrant's identifications of goods, we must presume that Applicant's and Registrant's goods move, or will move, in all channels of trade usual for these goods, including online and in grocery and specialty food stores and are, or will be, purchased by the usual classes of purchasers which, in this case, include ordinary consumers. *See In re Viterra Inc.*, 671 F.3d 1358, 101 USPQ2d 1905, 1908

(Fed. Cir. 2012); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992). We accordingly find the channels of trade and classes of consumers to be the same.

The third *du Pont* factor weighs heavily in favor of a finding of likelihood of confusion.

#### C. Conditions of Purchase

The fourth *du Pont* factor assesses the “conditions under which and buyers to whom sales are made, i.e., ‘impulse’ vs. careful, sophisticated purchasing.” *du Pont*, 177 USPQ at 567. Although neither Applicant nor the Examining Attorney addressed this factor in their briefs, the record reflects that both sauces and spices are relatively inexpensive items that are subject to purchase without a great deal of care. This factor thus slightly favors a finding of likelihood of confusion.

#### D. The Number and Nature of Similar Marks Used on Similar Goods

When present, we must consider evidence of “[t]he number and nature of similar marks in use on similar goods.” *du Pont*, 177 USPQ at 567. In this regard, the Federal Circuit has stated that evidence of the extensive registration and use of a term by others can be “powerful” evidence of weakness. *Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 116 USPQ2d 1129, 1136 (Fed. Cir. 2015); *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 115 USPQ2d 1671, 1674 (Fed. Cir. 2015).

Applicant has made of record various third-party applications and registrations for marks containing the letters “S,” “O,” “N,” and “A,”<sup>13</sup> arguing that Registrant’s

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<sup>13</sup> February 9, 2018 Request for Reconsideration, Ex. A; TSDR 35-49. At the time the registrations were made of record, the “registrations” for the marks SONA (Ser. No.

mark already coexists with other marks in the food classes containing terms visually and phonetically similar to SONIA and, thus, the cited mark is entitled only to a narrow scope of protection. Applicant also made of record corresponding internet evidence showing use on the face of the internet excerpts of these third-party marks.<sup>14</sup> The applications and registrations are summarized in table format in Applicant's brief and reproduced below:<sup>15</sup>

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87501805) and SONIA'S SWEETS (Ser. No. 87267914) were actually applications, although the marks have since registered. Because the record on an application must be complete prior to the appeal, *see* Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d), and since SONA registered post appeal, the registration has no probative value and has not been considered. *See In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1089 (TTAB 2016); *Interpayment Services Ltd. v. Doctors & Thiede*, 66 USPQ2d 1463, 1467 n.6 (TTAB 2003) (applications are only probative to show that the application has been filed). We add, however, that Applicant timely submitted evidence of third-party use of SONA as a mark, which has been considered. The SONIA'S SWEETS mark, however, registered prior to appeal and the registration has been considered.

The TSDR citations in this opinion are to the downloaded .pdf format.

<sup>14</sup> February 9, 2018 Request for Reconsideration, Exs.B-I; TSDR 50-96.

<sup>15</sup> Applicant's br. pp. 4-5; 7 TTABVUE 9-10.



<b>TM/AN/RN/ Disclaimer</b>	<b>Status/Key Dates</b>	<b>Full Goods/Services</b>	<b>Owner Information</b>
<u>SONYA</u>  RN: 2701090 SN: 76200238	Renewed March 25, 2013  Int'l Class:31 First Use:February, 1996  Filed: January 25, 2001 Application Published: February 26, 2002 Registered: March 25, 2003 Last Renewal: March 25, 2013	(Int'l Class: 31) fresh fruits, namely apples	Nevis Fruit Company Limited (New Zealand Limited Liability Company) Dunstan Road, Rd 2 Alexandra New Zealand
<u>SOHNA</u>  RN: 3579235 SN: 77472606	Registered 8 & 15 September 28, 2015 Filed: May 12, 2008 Application Published: December 9, 2008 Registered: February 24, 2009	(Int'l Class: 29) preserved, dried and cooked fruit and vegetables consisting of canned fruit, dried fruits and frozen vegetables; processed vegetables and fruits consisting of canned fruit, dried fruits, frozen vegetables and fruit juices; processed meat consisting of sweetmeats; processed nuts consisting of dried nuts; meat paste; vegetable paste; canned fruits; vegetable oils; cooking oil; edible oils; frozen vegetables; vegetable-based snack foods consisting of frozen vegetables; packaged meals consisting primarily of meat, fish, poultry or vegetables being ready to eat curries and canned curries; fried pulses; pickles; dried lentils; dried beans; processed beans; processed lentils; and processed split peas	Punjab Trading Inc. (CANADA CORP.) 6885 Davand Drive Mississauga, Ontario, L5t1l5 Canada
<u>SOHNA</u>  RN: 3575365 SN: 77472598	Registered 8 Accepted September 30, 2015 Filed: May 12, 2008 Application Published: December 2, 2008 Registered: February 17, 2009	(Int'l Class: 30) corn flour; wheat flour; pulse flour; rice flour; flour blends; flour blends consisting primarily of wheat flour, corn flour, rice flour, pulse flour, barley flour, buckwheat flour or soya flour	Punjab Trading Inc. (CANADA CORP.) 6885 Davand Drive Mississauga, Ontario, L5t1l5

TM/AN/RN/ Disclaimer	Status/Key Dates	Full Goods/Services	Owner Information
			Canada
<u>SANIA</u> RN: 4782294 SN: 85747306	Registered July 28, 2015	(Int'l Class: 29) edible oils; edible fats; margarine; shortening; vegetable ghee being edible fats; vanaspati being edible fats; hydrogenated vegetable oils; prepared nuts; processed cashew kernels; processed peanuts; peanut butter; preserved fruit; raisins; tinned fruits; potato chips; preserved mushrooms; tofu; preserved beans; albumen for food; eggs; milk; milk beverages with milk predominating; milk products excluding ice cream, ice milk and frozen yogurt; cheese; yogurt; crustaceans, not live; shellfish, not live; fish, preserved; meat; poultry, not live; meat extracts; soups; fruit jellies; jams; cranberry sauce compote; jellies for food; preserved potato chips; dried and cooked fruits and vegetables; preserved onions; sardines; caviar and tomato puree	Wilmar International Limited (SINGAPORE COMPANY) 56 Neil Road Singapore 088830, Singapore
<u>SONIA'S SWEETS</u> SN: 87267914 Disclaimer: "SWEETS"	Allowed - Intent to Use Notice of Allowance Issued July 18, 2017 Filed: December 14, 2016 Application Published: May 23, 2017	(Int'l Class: 30) bakery goods and dessert items, namely, cakes, cookies, pastries, candies, and frozen confections for retail and wholesale distribution and consumption on or off the premises	Sonia M Loposky (UNITED STATES CITIZEN) 10043 Downeys Wood Ct Burke, Virginia 22015 United States (States)
<u>SONA</u> SN: 87501805	Notice of Allowance Issued January 23, 2018; Statement of Use Processing Complete Feb.5, 2018	(Int'l Class: 30) beverages made with tea base	Sona Beverages, Inc. (TEXAS CORP.) 408 Buckeye Trail Austin, Texas 78746 United States of America

The registrations for SOHNA and SANIA have little probative value because they have a different commercial impression from SONIA. We simply are unpersuaded by Applicant's assertion that the marks SOHNA and SANIA are visually and phonetically similar to the given name SONIA central to the likelihood of confusion issue here.

As regards the evidence of third-party uses, although Applicant has not presented specific evidence concerning the extent and impact of these uses, it nevertheless presented “evidence of these marks being used in internet commerce” for food and beverage items, some of which are related and/or complementary to the goods identified in the application and cited registration. *Jack Wolfskin v. New Millennium Sports*, 116 USPQ2d at 1136; *see also Rocket Trademarks Pty Ltd. v. Phard S.p.A.*, 98 USPQ2d 1066, 1072 (TTAB 2011) (internet printouts “on their face, show that the public may have been exposed to those internet websites and therefore may be aware of the advertisements contained therein”). Here, the third-party uses of the marks SONYA, SOHNA, SANIA, and SONIA’S SWEETS mirror the marks in the third-party registrations. Applicant has additionally submitted evidence of third-party use of SONA as a mark identifying tea-based beverages and soy sauce, which we also find not as similar to SONIA as is Applicant’s mark, which is identical.

The remaining third-party uses and registrations of the marks SONYA for apples and SONIA’S SWEETS for tea and soy sauce do not evidence such a widespread and significant use of the name “SONIA,” or its phonetic equivalent “SONYA,” in the food and food flavoring industries that we can conclude that the cited mark is so weak that the public would be able to distinguish the source of Registrant’s goods from those of Applicant by the differences in their respective marks. *Cf. Jack Wolfskin v. New Millennium Sports*, 116 USPQ2d at 1136 n.2 (at least 14 relevant third-party uses or registrations of record); *Juice Generation*, 115 USPQ2d at 1672 n.1 (at least 26 relevant third-party uses or registrations of record); *see also Primrose Ret. Cmtys.*,

*LLC v. Edward Rose Senior Living, LLC*, 122 USPQ2d 1030, 1039 (TTAB 2016) (weakness found based on at least 85 actual uses of ROSE-formative marks for similar services and eight similar third-party registrations). We accordingly find this *du Pont* factor neutral.

There is also third-party registration evidence of record for multiple sets of marks including the name Mary or Jenny or Linda or Michael or Robert or Johnny for various food-related goods and services.<sup>16</sup> Applicant argues with respect to this evidence that it is common for marks featuring a first name to coexist with other marks with the same first name.

These registrations also have little probative value. First, none include the name “SONIA” (or a very similar name or term), alone or in combination with other matter, as do Applicant’s and the cited marks. More importantly, we obviously are not privy to the records in those cases and, in any event, the approval of those applications and subsequent registration of those marks cannot control the result of this appeal, which must be decided on its own facts and record. *See In re USA Warriors Ice Hockey Program, Inc.* 122 USPQ2d 1790, 1793 n.10 (TTAB 2017). Here, Applicant has failed to show any commercial weakness in the common term SONIA and thus we accord Registrant’s mark the usual degree of protection to which inherently distinctive marks are entitled.

#### E. The Similarity/Dissimilarity of the Marks

We now consider the *du Pont* factor of the similarity or dissimilarity of the marks

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<sup>16</sup> February 9, 2018 Request for Reconsideration, Ex. J; TSDR 97-143.

and compare them, as we must, in their entireties in terms of sound, appearance, meaning and commercial impression. See *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005). However, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of the mark, provided the ultimate conclusion rests on a consideration of the marks in their entireties. *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985). That is, “[t]he proper test is not a side-by-side comparison of the marks, but instead ‘whether the marks are sufficiently similar in terms of their commercial impression’ such that persons who encounter the marks would be likely to assume a connection between the parties.” *Coach Servs. v. Triumph Learning*, 101 USPQ2d at 1721; see also *San Fernando Electric Mfg. Co. v. JFD Electronics Components Corp.*, 565 F.2d 683, 196 USPQ 1, 3 (CCPA 1977); *Spoons Restaurants Inc. v. Morrison Inc.*, 23 USPQ2d 1735, 1741 (TTAB 1991), *aff’d mem.*, 972 F.2d 1353 (Fed. Cir. 1992). The proper focus is on the recollection of the average customer, who retains a general rather than specific impression of the marks. *L’Oreal v. Marcon*, 102 USPQ2d at 1438; *Winnebago Industries, Inc. v. Oliver & Winston, Inc.*, 207 USPQ 335, 344 (TTAB 1980); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975). Here, the average customer includes ordinary consumers seeking food flavorings in the nature of sauces and spices.

We find, on comparison, that Applicant’s mark SONIA is similar in appearance, sound, and connotation to the cited standard character mark SONIA SONI LIFE IS A RECIPE. SONIA is the entirety of Applicant’s mark. Registrant’s mark is

comprised of the name SONIA SONI and the slogan LIFE IS A RECIPE. Because LIFE IS A RECIPE imparts a connotation that simply highlights use of the spices sold under the cited mark, SONIA SONI is the more prominent portion of Registrant's mark. The first name SONIA is a notable component of SONIA SONI given its location as the first part of the mark and, thus, the first word to appear on any label or to be articulated when pronouncing the mark. *See Presto Products Inc. v. Nice-Pak Products, 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"); *see also Palm Bay v. Veuve Clicquot*, 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); *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 must first notice the identical lead word).

Both Applicant's and Registrant's marks are in standard characters and, as such, their display is not limited to any particular font, style, size, or color. We therefore must consider that both marks might be used in any stylized display, including the same or similar lettering style, size, and font, and/or with Registrant emphasizing the given name SONIA by, for example, displaying it in a larger and bolder typeface. *See In re Viterra*, 101 USPQ2d at 1909-10; *Citigroup Inc. v. Capital City Bank Group, Inc.*, 637 F.3d 1344, 98 USPQ2d 1253, 1259 (Fed. Cir. 2011).

Applicant argues that its mark suggests a given name while the cited mark "combines a given name with a nickname or surname as well as an aphorism that

suggests a life philosophy.” We find the argument unavailing. Consumers viewing Applicant’s mark are likely to believe that Applicant’s mark is simply a shortened version of Registrant’s mark, because of “the penchant of consumers to shorten marks.” *In re Bay State Brewing Co.*, 117 USPQ2d 1958, 1961 (TTAB 2016) (citing *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 219 (CCPA 1978) (Rich, J., concurring: “the users of language have a universal habit of shortening full names — from haste or laziness or just economy of words”)). Applicant’s argument that the phrase LIFE IS A RECIPE carries added distinction because it is the name of Registrant’s website is likewise unavailing. Consumers may not be aware of Registrant’s website or, even if they are, the mere existence of the website does not distinguish Registrant’s mark from Applicant’s mark.

Moreover, likelihood of confusion is not necessarily avoided between otherwise confusingly similar marks merely by adding or deleting other distinctive matter. If an important portion of both marks is the same, then the marks may be confusingly similar notwithstanding some differences. *See, e.g., Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002) (finding that, even though applicant’s mark PACKARD TECHNOLOGIES, with “TECHNOLOGIES” disclaimed, does not incorporate every feature of opposer’s HEWLETT PACKARD marks, a similar overall commercial impression is created); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1271 (TTAB 2009) (holding VANTAGE TITAN for MRI diagnostic apparatus, and TITAN for medical ultrasound device, likely to cause confusion, noting that the marks are more similar than they are different and that

the addition of applicant's "product mark," VANTAGE, to the registered mark would not avoid confusion); *In re U.S. Shoe Corp.*, 229 USPQ 707, 709 (TTAB 1985) (holding CAREER IMAGE (stylized) for clothing and retail women's clothing store services, and CREST CAREER IMAGES (stylized) for uniforms, likely to cause confusion, noting that CAREER IMAGE would be perceived by consumers as a shortened form of CREST CAREER IMAGES).

We recognize that in comparing the marks, we must consider Registrant's mark in its entirety. Thus, we have taken into account all of the differences in appearance, sound, and meaning between them. We nonetheless find that despite these differences, given the similarities between the marks in sound, appearance and meaning due to the shared term SONIA, the marks engender similar overall commercial impressions.

Accordingly, the similarity between the marks is a factor that weighs in favor of a finding of likelihood of confusion.

#### F. Prior Decisions

Both Applicant and the Examining Attorney have relied on a number of prior decisions, including an unpublished one,<sup>17</sup> to bolster their positions with regard to the likelihood of confusion issue. While our decision is made within the confines of established statutes, rules and case precedent, as previously stated, it is axiomatic

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<sup>17</sup> While applicants may cite to non-precedential decisions, such decisions are not binding on the Board and the Board does not encourage this practice. *In re Fiat Grp. Mktg. & Corporate Commc'ns S.p.A.*, 109 USPQ2d 1593, 1596 n.6 (TTAB 2014); *In re Procter & Gamble Co.*, 105 USPQ2d 1119, 1121 (TTAB 2012); *In re Luxuria s.r.o.*, 100 USPQ2d 1146, 1151 n.7 (TTAB 2011); *Corporacion Habanos SA v. Rodriquez*, 99 USPQ2d 1873, 1875 n.5 (TTAB 2011).



that each case must be decided on its own facts. *See In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001) (“Even if some prior registrations had some characteristics similar to [Applicant’s] application, the PTO’s allowance of such prior registrations does not bind the Board or this court.”); *In re Merrill Lynch, Pierce, Fenner & Smith Inc.*, 828 F.2d 1567, 4 USPQ2d 1141, 1142 (Fed. Cir. 1987). We are therefore obligated and have assessed the registrability of Applicant’s mark on its own merits and have carefully considered the arguments and evidence of record in this case, even if not specifically addressed in the decision.

### III. Conclusion

When we consider the entire evidentiary record, the relevant likelihood of confusion factors, and all of the arguments relating thereto, we find the marks sufficiently similar for confusion to be likely when used in connection with related and complementary goods in the same trade channels sold to the same consumers. We thus conclude that prospective purchasers familiar with the registered mark SONIA SONI LIFE IS A RECIPE for “spices, spice blends [and] spice rubs” would be likely to believe, upon encountering Applicant’s similar mark SONIA for “sauces, chili sauce; [and] hot sauce,” that such goods emanate from, or are sponsored by or affiliated with, the same source.

**Decision:** The refusal to register Applicant’s mark SONIA under Section 2(d) of the Act is affirmed.