

This Opinion Is Not A
Precedent Of The TTAB

Mailed:
August 22, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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The National Spiritual Assembly of the Baha'is of the United States
v.
Second International Baha'i Council

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Opposition No. 91173793
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Christopher M. Dolan and Joshua S. Frick of Barnes & Thornburg LLP
for The National Spiritual Assembly of the Baha'is of the United States.

Neal Chase for Second International Baha'i Council, pro se.¹

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Before Kuhlke, Bergsman and Adlin,
Administrative Trademark Judges.

Opinion by Kuhlke, Administrative Trademark Judge:

¹ Applicant acted in this proceeding through its “Guardian and President” Neal Chase. Patent and Trademark Office Rule 11.14(e)(3), 37 C.F.R. § 11.14(e)(3); Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 114.01 (2019).

Applicant, Second International Baha'i Council ("SIB"), seeks registration of the mark UHJ in standard characters for "Evangelical and Ministerial Services," in International Class 45.²

Opposer, The National Spiritual Assembly of the Baha'is of the United States ("NSA"), has opposed registration of Applicant's mark on the ground that, as used in connection with Applicant's services, the mark so resembles Opposer's previously used and registered mark THE UNIVERSAL HOUSE OF JUSTICE, for a variety of goods and services including religious services and publications, as to be likely to cause confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). In addition, Opposer asserts as a separate ground that Applicant's mark falsely suggests a connection with the institution the Universal House of Justice in violation of Trademark Act Section 2(a), 15 U.S.C. §§ 1052(a).³ By its answer, Applicant admits, inter alia, the allegation that Opposer is the owner of its pleaded registration and denies the remaining salient allegations. Only Opposer filed a brief.

I. RECORD

The record includes the pleadings and, by operation of Trademark Rule 2.122(b)(1), 37 C.F.R. § 2.122(b)(1), the file of the application subject to the notice of

² Serial No. 78634558, filed May 23, 2005, based on a claim of first use of the mark on November 28, 1921 and first use the mark in commerce on January 9, 1951 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

³ The Notice of Opposition also includes the claims of non-ownership, nonuse and fraud. In its brief, Opposer affirmatively stated it is not going forward with these claims. In view thereof, these claims are no longer in issue. *Cf. Alcatraz Media, Inc. v. Chesapeake Marine Tours, Inc.*, 107 USPQ2d 1750, 1753 (TTAB 2013) (petitioner's pleaded descriptiveness and geographical descriptiveness claims not argued in brief deemed waived), *aff'd*, 565 F.App'x 900 (Fed. Cir. 2014) (mem.).

opposition. Opposer submitted the testimony depositions of: 1) Geoffrey N. Wilson, Opposer's General Counsel; 2) Dr. Robert Stockman, Opposer's expert witness on the Baha'i faith; 3) Dr. Gary T. Ford, Opposer's expert witness for a consumer perception survey, all with accompanying exhibits.⁴ In addition, Opposer submitted notices of reliance on, inter alia, excerpts from Opposer's websites offering various printed publications and religious instruction; excerpt from the Oxford Concise Dictionary of World Religions; online articles; excerpts from Applicant's website; a printout of Opposer's pleaded registration No. 799540 from the USPTO Trademark Document and Retrieval System which shows that it is subsisting and owned by Opposer; and various discovery responses.⁵ The notice of reliance also includes Opposer's Requests for Admissions which are deemed admitted by virtue of Applicant's failure to respond to them. Opp. Brief, 111 TABVUE 28. These admissions are discussed below.

Applicant did not submit any testimony or other evidence. Even though Applicant has filed no evidence, Opposer, as plaintiff in this proceeding, must nonetheless prove its standing and its claims by a preponderance of the evidence. *Young v. AGB Corp.*, 152 F.3d 1377, 47 USPQ2d 1752, 1754 (Fed. Cir. 1998); and *Cerveceria Centroamericana, S.A. v. Cerveceria India Inc.*, 892 F.2d 1021, 13 USPQ2d 1307, 1309 (Fed. Cir. 1989).

⁴ 102-106 TTABVUE.

⁵ 96 -100 TTABVUE.

II. SECTION 2(d) CLAIM

Section 2(d) of the Trademark Act prohibits the registration of a mark that “[c]onsists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.” 15 U.S.C. § 1052(d). To prevail on its Section 2(d) claim, Petitioner must prove, by a preponderance of the evidence, that it has priority with respect to its asserted THE UNIVERSAL HOUSE OF JUSTICE mark vis-à-vis Applicant’s UHJ mark, and that Applicant’s use of its mark in connection with the services identified in its application is likely to cause confusion, mistake, or deception as to the source or sponsorship of those services. *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1848 (Fed. Cir. 2000).

A. Standing and Priority

Opposer’s pleaded and proven registration is summarized below:

Registration No. 799540 for the typed mark THE UNIVERSAL HOUSE OF JUSTICE for “publications-namely, pamphlets,” in International Class 38, issued on November 30, 1965, renewed.

Because Opposer has made its pleaded registration properly of record, Opposer has established its standing to oppose registration of Applicant’s mark and its priority is not in issue with respect to the mark and goods in that registration. *See Empresa Cubana Del Tabaco v. Gen. Cigar Co.*, 753 F.3d 1270, 111 USPQ2d 1058 (Fed. Cir. 2014); *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999); *Lipton*

Indus., Inc. v. Ralston Purina Co., 670 F.2d 1024, 213 USPQ 185 (CCPA 1982); and *King Candy Co., Inc. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108 (CCPA 1974). In addition, Opposer established prior use of the mark THE UNIVERSAL HOUSE OF JUSTICE in connection with religious services, including evangelical and ministerial services, long prior to Applicant's filing date of May 23, 2005. See Wilson Dep. 102, TTABVUE 15-17, 82-83. See also Req. for Admissions 25-27, Notice of Reliance, 100 TTABVUE 21.

B. The Parties

Opposer is "the national representative of the Baha'i Administrative Order" in the United States. Opp. Brief, 111 TTABVUE 15; Stockman Dep., 106 TTABVUE 21-23. The Universal House of Justice is the head of the Baha'i faith and was formed in 1963. 106 TTABVUE 21-23. It is composed of nine members elected by the National Spiritual Assemblies (NSA) of the Baha'is around the world. Wilson Dep., 102 TTABVUE 13-14. The seat of the Universal House of Justice is in Haifa, Israel. 102 TTABVUE 15. It is responsible for "ensuring the propagation and protection of the Baha'is faith." *Id.* Mr. Wilson testifies as follows:

They distribute the writings of the sacred literature of the Baha'is Faith. They answer questions that come up from the Baha'is all over the world about the import and the meaning of the writings and how they apply to individuals in their daily lives. They also hold sacred holy places there, maintain the sacred holy places where the founders of the Baha'is Faith lie in their memorial places, resting places I should say. And all of the various holy places that surround the Haifa area where Baha'u'llah and his followers were taken back in the 1860s, late 1869 I believe was the year that they first were moved there by the Persian government and the Ottoman Empire.

And they interpret those writings, they take care of the sacred holy places, and they basically guide the affairs of the Baha'is Faith throughout the world. And they are viewed as free from error in their decisions about the administration of the Baha'is Faith.

And they also allow pilgrims to come there every year. You have to be invited to go on pilgrimage. And the pilgrims come and spend nine days visiting the holy places, listening to talks and presentations by various members of the Universal House of Justice about the current state of affairs with the Baha'is Faith. ...

The Universal House of Justice directs the growth and development of the Baha'i community worldwide, maintains and elucidates the Baha'i sacred texts, communicates with NSAs around the world, develops and disseminates international goals and plans, creates and monitors social and economic development projects, keeps and collects statistics, manages funds, and clarifies Baha'i laws. The Universal House of Justice is charged with exerting a positive influence on the general welfare of humankind.

102 TTABVUE 15-17.

NSAs and the Universal House of Justice are “part and parcel of the same administrative structure.” 102 TTABVUE 33. Opposer, as the national representative, is authorized by the Universal House of Justice as the sole administrative authority of the Baha'i Faith in the United States. 111 TTABVUE 14, 16; Wilson Dep., 102 TTABVUE 36. As succinctly described by Opposer, it “is the national representative of the Baha'i Administrative Order and is authorized by the Universal House of Justice as the sole administrative authority of the Baha'i Faith in the United States. Opp. Br., 111 TTABVUE 14.

Opposer has been providing religious services, religious guidance, religious information and instruction and ministerial services in connection with the mark

THE UNIVERSAL HOUSE OF JUSTICE. *See, e.g.*, 102 TTABVUE 90 (“NSA is a religious organization and ... it uses publications in connection with various religious service to perform its mission. ... These publications bearing the mark [THE UNIVERSAL HOUSE OF JUSTICE] are used in connection with [Opposer’s] religious information, guidance, instruction, and services. For example, publications bearing the mark are used in connection with classes that provide religious guidance to members.”).

As noted above, Applicant did not provide any evidence. Mr. Wilson testifies that Applicant and Neal Chase (Applicant’s founder) have never been affiliated with Opposer. 102 TTABVUE 112, 113. In addition, Opposer submitted an excerpt from Applicant’s website that shows use of the applied-for mark UHJ and includes the following text:

The descendant of King David must be the President – Executive Branch – of Baha’u’llah’s Universal House of Justice so we can recognize the true UHJ from fakes, frauds, and imitations.

The Official Website of the Universal House of Justice.

Wilson Dep. Exh. 47, 104 TTABVUE 2.

C. Likelihood of Confusion

Our likelihood of confusion determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors set forth in *In re E. I. du Pont de Nemours and Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). *See also, In re Majestic Distilling Co.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003). Two key considerations are the similarities between the marks and the

similarities between the goods and services. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24 (CCPA 1976).

1. Relatedness of the Goods and Services, Channels of Trade, and Classes of Purchasers

Opposer has established common law rights in the mark THE UNIVERSAL HOUSE OF JUSTICE for various religious services, including ministerial services, which are identical to Applicant's recited services. *Wilson Dep.*, 102 TTABVUE 79. In addition, we find that Opposer's publications and pamphlets, as identified in its registration, are related to Applicant's "evangelical and ministerial" services. It is well recognized that confusion may be likely to occur from the use of the same or similar marks for goods, on the one hand, and for services involving those goods, on the other. *See, e.g., In re Detroit Athletic Co.*, 903 F.3d 1297, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (holding DETROIT ATHLETIC CO. for sports apparel retail services and DETROIT ATHLETIC CLUB for clothing likely to cause confusion). The identification in the registration is not limited by subject matter and, therefore, includes religious guidance, religious information, religious instruction and ministerial services. The nature and scope of a party's goods or services must be determined on the basis of the goods or services recited in the application or registration. *See, e.g., Stone Lion Capital Partners, L.P. v. Lion Capital LLP*, 746 F.3d 1317, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014); *Octocom Sys., Inc. v. Houston Computer Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990). The record shows through Opposer's own use that pamphlets and publications are

commonly used in a complementary manner with evangelical and ministerial services. Wilson Dep., 102 TTABVUE 80.

With regard to the channels of trade and classes of consumers, because there are no limitations as to these factors in the identifications in the application and registration, we must presume that the identified goods and services move in all normal channels of trade, and that they are available to all classes of purchasers for those goods and services. *See, e.g., Levi Strauss & Co. v. Abercrombie & Fitch Trading Co.*, 719 F.3d 1367, 107 USPQ2d 1167, 1173 (Fed. Cir. 2013); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1638 (TTAB 2009) (“We have no authority to read any restrictions or limitations into the registrant’s description of goods.”). Thus, we must presume that Opposer’s listed publications and pamphlets would be disseminated in connection with religious activities, including evangelical and ministerial services. The ordinary channels of trade for Applicant’s services and Opposer’s publications and pamphlets include the Internet. Wilson Dep., 102 TTABVUE 111-112; 102 TTABVUE 60-68. With regard to the identical services, the record also establishes the trade channel for Opposer’s common law mark used in connection with its religious services includes over the Internet, via website and email. 102 TTABVUE 60-68; Stockman Dep., 106 TTABVUE 30.

In view of the above, the *du Pont* factors of the similarity of the goods and services, the channels of trade and classes of purchasers favor a finding of likelihood of confusion.

2. Conditions Under Which and Buyers to Whom Sales are Made

This factor examines the level of care taken in the purchase of the goods or services and the sophistication of the consumer. Opposer's arguments on this factor only go to other factors, i.e., relatedness of the goods and services, overlap in the channels of trade, and actual confusion. However, Applicant's services "evangelical and ministerial" services, inherently indicate some level of care in the ultimate user or adopter of such services and we find this factor weighs somewhat in favor of Applicant.

3. Fame

Before we compare the marks, we address the fifth *du Pont* factor, the fame of Opposer's mark. In the likelihood of confusion context, fame "varies along a spectrum from very strong to very weak." *Joseph Phelps Vineyards, LLC v. Fairmount Holdings, LLC*, 857 F.3d 1323, 122 USPQ2d 1733, 1734 (Fed. Cir. 2017). A famous mark is one that has extensive public recognition and renown. *Bose Corp. v. QSC Audio Prods., Inc.*, 293 F.3d 1367, 63 USPQ2d 1303, 1305 (Fed. Cir. 2002). Fame, if it exists, plays a dominant role in the likelihood of confusion analysis. *Kenner Parker Toys Inc. v. Rose Art Indus. Inc.*, 963 F.2d 350, 22 USPQ2d 1453, 1456 (Fed. Cir. 1992). In view of the extreme deference that is accorded a famous mark in terms of the wide latitude of legal protection it receives, and the dominant role fame plays in the likelihood of confusion analysis, it is the duty of the party asserting that its mark is famous to prove it clearly. The commercial strength of a mark "may be measured indirectly, among other things, by the volume of sales and advertising expenditures of the goods or services traveling under the mark, and by the length of time those

indicia of commercial awareness have been evident.” *Bose Corp. v. QSC Audio Prods., Inc.*, 63 USPQ2d at 1305.

Opposer argues that its mark THE UNVIERSAL HOUSE OF JUSTICE is inherently distinctive and has been used extensively in connection with its religious services and publications and pamphlets for over fifty-five years. *Wilson Dep.*, 102 TTABVUE 77-78. The record shows the prominence and importance of The Universal House of Justice to people interested in goods and services relating to the Baha’i faith. This includes existing and prospective members, international organizations, including the United Nations, and religious organizations, including the Vatican. *Wilson Dep.*, 102 TTABVUE 18-30. For over 55 years, this relevant group of people is regularly exposed to the mark throughout the year. 102 TTABVUE 62-86. In the context of likelihood of confusion, “the proper legal standard for evaluating the fame of a mark under the fifth *DuPont* factor is the class of customer and potential customers of a product or service, and not the general public.” *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689, 1694 (Fed. Cir. 2005). We find that the mark THE UNVIVERSAL HOUSE OF JUSTICE is famous within this group both for its publications and pamphlets and for its religious services. Accordingly, Opposer’s mark THE UNIVERSAL HOUSE OF JUSTICE is entitled to a broad scope of protection or exclusivity of use. This *du Pont* factor weighs in favor of Opposer.

4. Third-Party Use of Similar Marks for Similar Goods and Services

Under the sixth *du Pont* factor, a mark’s commercial strength may be curtailed by third-party use of similar marks with similar goods or services. *Jack Wolfskin*

Austrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U., 797 F.3d 1363, 116 USPQ2d 1129 (Fed. Cir. 2015); *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 115 USPQ2d 1671, 1674-75 (Fed. Cir. 2015). There is no evidence of third-party use (aside from Applicant's) of Opposer's mark, which has been in use for over 55 years. In view thereof, this factor is neutral.

5. Similarity of the Marks

We now consider the similarity or dissimilarity of Applicant's mark UHJ and Opposer's mark THE UNIVERSAL HOUSE OF JUSTICE when compared in their entireties in terms of appearance, sound, connotation and commercial impression. *Detroit Athletic*, 128 USPQ2d at 1048. "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988)); *Steelcase*, 219 USPQ at 436. "The 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. Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012) (quotation omitted). The marks must be considered in their entireties, but "in articulating reasons for reaching a conclusion on the issue 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 consideration of the marks in

their entireties.” *Detroit Athletic*, 128 USPQ2d at 1051 (quoting *In re Nat’l Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985).

Opposer argues that the marks are identical in meaning because UHJ “is recognized and used extensively as an acronym and synonym for Opposer’s Mark, THE UNIVERSAL HOUSE OF JUSTICE.” 111 TTABVUE 24. Similarity in meaning can be sufficient to find likely confusion. *See Hancock v. American Steel & Wire Co.*, 203 F.2d 737, 97 USPQ 330, 332-33 (CCPA 1953) (TORNADO and CYCLONE for fencing confusingly similar); *see also Standard Oil Co. v. Standard Oil Co.*, 252 F.2d 65, 116 USPQ 176, 182 (10th Cir. 1958) (“The use of a designation which causes confusion because it conveys the same idea, or stimulates the same mental reaction, or has the same meaning is enjoined on the same basis as where the similarity goes to the eye or the ear. Confusion of origin of goods may be caused alone by confusing similarity in the meaning of the designations employed.”).

Mr. Wilson testified that the relevant public recognizes the acronym UHJ as synonymous with The Universal House of Justice. Wilson Dep., 102 TTABVUE 93, 98. *See also* Stockman Dep., 106 TTABVUE 36. Mr. Wilson presented evidence showing UHJ ubiquitously used by members as the acronym for The Universal House of Justice. Wilson Dep. Exhs. 37, 40, 42, 43, 44, 45, 103 TTABVUE 288-615. For example, in one publication titled Baha’i Biz, a member of The Universal House of Justice is described as a “UHJ member.” Wilson Dep., 102 TTABVUE 95; Exh. 37, 103 TTABVUE 288. In other examples, members sent emails making inquiries on various topics and referring to The Universal House of Justice as UHJ. Ex. 42, 103

TTABVUE 386 (“... I would also be willing to volunteer in any capacity at the Atlanta Conference. I will be completely understanding if the guidance set by UHJ ultimately prevents me from attending the conference, and I humbly will respect that decision”) and Exh. 43, 103 TTABVUE 559 (“Attached is the 2003 Annual Report. Per our conversation last week, please have this posted on the Administrative website under NSA/UHJ communications.”). In other examples between members and non-members inquiring about membership, UHJ is used as the acronym. *Id.* at 389-91, 411. As Mr. Wilson testified:

... I also investigated whether people who are not Baha’is but are interested in the Baha’i Faith, use the term “UHJ” to refer to the Universal House of Justice. Our National Statistics Office reported to me that many such people do use the term “UHJ” to describe the Universal House of Justice. I have personally reviewed this information and have observed that it is not uncommon for people who are not Baha’is, but are interested in the Baha’i Faith, and prospective members of the Baha’i Faith to use the term “UHJ” to refer to the Universal House of Justice.

Wilson Dep., 102 TTABVUE 102.

We find that the relevant consumers will refer to Opposer’s goods and services as UHJ because they will shorten THE UNIVERSAL HOUSE OF JUSTICE to UHJ. “[U]sers of language have a universal habit of shortening full names – from haste or laziness or just economy of words. Examples are: automobile to auto; telephone to phone; necktie to tie; gasoline service station to gas station.” *In re Abcor Dev. Corp.*, 588 F.2d 511, 200 USPQ 215, 219 (CCPA 1978) (J. Rich, concurring).

[C]ompanies are frequently called by shortened names, such as Penney’s for J.C. Penney’s, Sears for Sears and Roebuck (even before it officially changed its name to Sears

alone), Ward's for Montgomery Ward's, and Bloomies for Bloomingdales.

Marshall Field & Co. v. Mrs. Fields Cookies, 25 USPQ2d 1321, 1333 (TTAB 1992); *see also In re Mighty Leaf Tea*, 601 USPQ2d 1342, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010) (affirming Board decision that ML is likely to be perceived as a shortened version of ML MARK LEES, and noting that “the presence of an additional term in the mark does not necessarily eliminate the likelihood of confusion if some terms are identical”); *Anheuser-Busch, LLC v. Innvopak Sys. Pty Ltd.*, 115 USPQ2d 1816, 1819 (TTAB 2015) (“While Opposer’s beer was originally sold under the BUDWEISER brand, customers soon began to abbreviate the mark, calling for BUDWEISER beer just by the name ‘BUD.’”).

The consumer perception that UHJ means UNIVERSAL HOUSE OF JUSTICE is exemplified by the survey submitted through the testimony of Opposer’s expert witness Mr. Ford. Ford Dep., 105 TTABVUE. The survey universe consists of members of the Baha’i faith in the United States. We find this universe appropriately represents Applicant’s and Opposer’s relevant consumers. Although the identifications are not limited by type of religion, the survey universe need not envelope all possible types encompassed by the identification. It is sufficient to focus on the most relevant consumers. Moreover, there is nothing in the record to rebut the methodology or conclusions of the survey.

While the objective of the survey, in part, was to determine whether the relevant public perceives the designation UHJ as a close approximation of The Universal House of Justice, which reflects the first element of a claim under Section 2(a), the

analysis for that particular element of a 2(a) claim is “akin to that required for a likelihood of confusion under § 2(d).” *The Pierce-Arrow Society v. Spintek Filtration, Inc.*, 2019 WL 3834985 (TTAB 2019) (quoting *Bos. Athletic Ass’n v. Velocity, LLC*, 117 USPQ2d 1492, 1497 (TTAB 2015). The survey reveals that a significant portion of the relevant public (40%) view UHJ as synonymous with The Universal House of Justice. Mr. Ford testified that “It’s inescapable that [a substantial number of the relevant consumers would presume that a connection exists between applicant on the one hand and NSA and The Universal House of Justice on the other hand]. They already think UHJ is Universal House of Justice and associated with the Baha’i faith. If the applicant is allowed to use those letters, then people will assume that there’s a connection between the applicant’s organization and the actual Universal House of Justice.” Ford Dep., 105 TTABVUE 78.

Finally, by its deemed admissions, Applicant admits that UHJ is the acronym for UNIVERSAL HOUSE OF JUSTICE, the relevant public recognize UHJ as referring to The Universal House of Justice, members of the relevant public recognize UHJ as synonymous with the designation THE UNIVERSAL HOUSE OF JUSTICE, and Applicant intends members of the relevant public to associate UHJ with the words UNIVERSAL HOUSE OF JUSTICE. Notice of Reliance, 100 TTABVUE 21-23 (Req. Nos. 2, 9, 10, 11, 13).

In the context of evangelical and ministerial services, religious services and publications and pamphlets in the field of religion, in particular to those existing and prospective members of the Baha’i faith, UHJ and THE UNIVERSAL HOUSE OF

JUSTICE have the identical meaning. *See Standard Oil Co. v. Standard Oil Co.*, 116 USPQ at 179 (in petroleum industry letters S.O. mean Standard Oil and SOHIO is obviously a contraction of S.O. Ohio). We find that the identity in meaning that UHJ is the known and perceived equivalent of THE UNIVERSAL HOUSE OF JUSTICE in connection with the goods and services at issue outweighs the differences in sound and appearance. In view of the identity of connotation the marks have a similar overall commercial impression. This *du Pont* factor supports a finding of likelihood of confusion.

6. Variety of Goods and Services Sold under Opposer's Mark

Opposer has shown that it uses its mark, THE UNIVERSAL HOUSE OF JUSTICE, on religious services, religious guidance, providing religious information and instruction. *See, e.g.*, *Wilson Dep.*, 102 TTABVUE 80-84. Opposer also uses its mark in connection with publications in the field of religion both in print form and online. *See, e.g.*, *Wilson Dep. Exh. 36*, 103 TTABVUE 283 (printed publication) and *Wilson Dep.*, 102 TTABVUE 60-64 (testimony discussing availability of Opposer's publications on its website). Although Opposer argues this constitutes a wide variety of the goods and services, we do not find these uses to constitute a wide variety and, moreover, it has not been shown that use on these other goods and services makes it more likely that consumers would believe that Applicant's religious services emanate from Opposer. *UMG Recordings Inc. v. Mattel Inc.*, 100 USPQ2d 1868, 1884 (TTAB 2011). We find on this record that this factor is neutral.

7. Actual Confusion

Opposer asserts that Applicant's use of the UHJ mark on its website "has caused significant confusion and concern among the relevant public." 111 TTABVUE 32; 102 TTABVUE 114. He testified that "on several occasions members would come over to my office and ask about the phone call and ask what kind of advice should be shared with the person who had been ... confused." 102 TTABVUE 118-119. He also identified a printout of several email communications from Baha'i members to Opposer's secretariat, the Office of Community Administration. 102 TTABVUE 119, Exh. 42, 103 TTABVUE 318-355. In on example, a member references Applicant's website and attributes it to Opposer:

I just found the official website of the Universal House of Justice which among other points shows a genealogy chart for Moses, Jesus, Muhammad, Krishna, Buddha and Zoroaster, The Bab and Baha'ullah. <http://www.uhj.net> ... Check it out.

Id. at 331.

In another, a member apologizes for having been confused:

I am writing to express my apologies and concern over a site I accidentally visited a couple of months ago. I have included the e-mail for you to peruse as an attachment. ... It's fairly self-explanatory. I thought it was an official site. I went to the site with a question. The grandson of Abd'ul-Baha answered and I realized it was not the official site. ...

Id. at 338.

In another example, someone read an article on Applicant's website and attributed it to Opposer:

There has often been a lot of confusion about the subject of women on the UHJ and I recently came across something

that is confusing me even further, mostly because I would have thought it would constitute big news and it would appear that if it is true, very few people in the faith yet know about it. I found the article here: <http://UHJ.net/women-on-UHJ.html> ... If you have the ability to at least verify its authenticity, and if possible, explain why this news has not been made clear to the believers, but has, instead, been posted obscurely in a place that few I know of have thought to look, without any fanfare or notice, I would greatly appreciate it.

Id. at 354-55.

In general, the evidence reveals concern by members of the community that others may be confused, but there are a couple of instances that appear to be actual confusion. Opposer's witness testified unequivocally that there has been confusion, and Applicant has not submitted evidence to rebut this testimony. 102 TTABVue 114. However, because the purported instances of confusion are attenuated and vague, we find this *du Pont* factor to be neutral.

8. Intent

Under the 13th *du Pont* factor, we take into account "any other established fact probative of the effect of use," including bad faith adoption of the trademark. *Edom Lab., Inc. v. Glenn Lichter*, 102 USPQ2d 1546, 1533 (TTAB 2012). In the context of likelihood of confusion, bad faith means the intent to confuse. In support of its assertion that Applicant acted in bad faith, Opposer argues that Applicant "adopted the Applied-for Mark intending for the mark to be an acronym for the words 'Universal House of Justice,' intending for members of the relevant public to associate UHJ with the words 'Universal House or Justice,' and knowing that the relevant public recognizes UHJ as synonymous with the designation THE UNIVERSAL

HOUSE OF JUSTICE.” 111 TTABVUE 38. Opposer points to Applicant’s website which includes the excerpt shown above clearly stating it is the “The Official Website of the Universal House of Justice.” Wilson Dep. Exh. 47, 104 TTABVUE 2. In addition, Applicant’s website includes a picture of the Shrine of the Bab. Viewing this image members of the faith would assume Applicant’s website is authorized by Opposer. Stockman Dep., 106 TTABVUE 46.

Finally, as discussed above, Applicant, by its deemed admissions, admits that UHJ is the acronym for UNIVERSAL HOUSE OF JUSTICE, that the relevant public recognize UHJ as referring to The Universal House of Justice, members of the relevant public recognize UHJ as synonymous with the designation THE UNIVERSAL HOUSE OF JUSTICE, and Applicant intends members of the relevant public to associate UHJ with the words UNIVERSAL HOUSE OF JUSTICE. Notice of Reliance, 100 TTABVUE 21-23 (Req. Nos. 2, 9, 10, 11, 13).

The evidence tends to show that Applicant believes it is the proper representative of the UNIVERSAL HOUSE OF JUSTICE, but it is not clear that Applicant intends to confuse consumers that it is Opposer rather than to present itself as the correct representative of the UNIVERSAL HOUSE OF JUSTICE. We find this *du Pont* factor to be neutral.

9. Balancing of the Factors

We have considered all of the evidence and argument pertaining to the relevant *du Pont* factors. In balancing the relevant factors, we conclude that because the goods and services are related, the trade channels and classes of customers overlap, Opposer’s mark is well known, and the marks are similar, confusion is likely.

III. Conclusion

Because Opposer has shown, by a preponderance of the evidence, its standing and priority, and the existence of a likelihood of confusion, Opposer has established its claim under Section 2(d). In view of our decision on the likelihood of confusion claim we do not reach the claim of false suggestion of connection under Section 2(a). *See Multisorb Tech., Inc. v. Pactiv Corp.*, 109 USPQ2d 1170, 1171 (TTAB 2013) (the Board has “discretion to decide only those claims necessary to enter judgment and dispose of the case” because its “determination of registrability does not require, in every instance, decision on every pleaded claim”).

Decision: The opposition is sustained.