

This Opinion is Not a  
Precedent of the TTAB

Mailed: July 29, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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*Volvo Trademark Holding AB*

*v.*

*Wolvol Inc.*  
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Opposition No. 91207836

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Leigh Ann Lindquist of Sughrue Mion PLLC for  
Volvo Trademark Holding AB

Michael Smaila and Michael Steinmetz  
of Garson, Segal, Steinmetz, Fladgate LLP for Wolvol Inc.

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Before Zervas, Lynch and English,  
Administrative Trademark Judges.

Opinion by Lynch, Administrative Trademark Judge:

Wolvol Inc. (“Applicant”) seeks registration on the Principal Register of WOLVOL in standard characters,<sup>1</sup> for “Computer screens; Computer touchscreens; Electronic writing tablets; Laptop computers; Laptops; Notebook and laptop computers;

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<sup>1</sup> Application Serial No. 85453974 was filed on October 23, 2011 based on use of the mark in commerce as of October 1, 2011 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

Notebook computers; Overlays specially adapted for touchscreen displays; PC tablet; Tablet computer” in Int. Class 9.

Volvo Trademark Holding AB (“Opposer”) opposes registration of Applicant’s mark based on alleged dilution under Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c), and likelihood of confusion under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), with 22 of Opposer’s registered VOLVO and VOLVO-formative marks for vehicles and a variety of other goods and services. Opposer submitted a TSDR printout for each registration.<sup>2</sup>

In its amended Answer, Applicant denies the salient allegations in the Notice of Opposition. The opposition is fully briefed.

#### I. Evidentiary Record

The record includes the pleadings and pursuant to Trademark Rule 2.122(b), 37 C.F.R. § 2.122(b), the file of the opposed application. Opposer introduced the testimony deposition on written questions of Monica Dempe, its managing director and trademark manager, with 77 accompanying exhibits.<sup>3</sup> Opposer also submitted a First Notice of Reliance<sup>4</sup> on Internet materials consisting of magazine and newspaper articles referring to VOLVO, a Second Notice of Reliance consisting of Internet

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<sup>2</sup> 1 TTABVUE (Notice of Opposition). Citations refer to TTABVUE, the Board’s online docketing system. The parties also should have cited to TTABVUE when referring to the evidence and other parts of the record. *See Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014).

<sup>3</sup> 30-58 & 60 TTABVUE.

<sup>4</sup> 61-64 TTABVUE.

materials about books, movies, and songs referring to VOLVO,<sup>5</sup> and a Third Notice of Reliance on third-party registrations of marks for computer goods in International Class 9 and vehicles in International Class 12.<sup>6</sup> Applicant did not submit any evidence.

## II. Standing

Opposer must prove standing by showing a real interest in the outcome of the proceeding and a reasonable basis for believing that it would suffer damage if the mark is registered. *See* 15 U.S.C. § 1063; *Empresa Cubana Del Tabaco v. Gen. Cigar Co.*, 753 F.3d 1270, 111 USPQ2d 1058, 1062 (Fed. Cir. 2014). Opposer's pleaded registrations, for which Opposer has proven status and title, establish its standing. *See Coach Servs. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1727-28 (Fed. Cir. 2012); *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1844 (Fed. Cir. 2000).

## III. Priority

Because Opposer has made its registrations of record, which Applicant has not counterclaimed to cancel, priority is not an issue as to the marks and goods or services covered by the registrations. *See Top Tobacco LP v. N. Atl. Op. Co.*, 101 USPQ2d 1163, 1169 (TTAB 2011) (citing *King Candy, Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 82 USPQ 108 (CCPA 1974)). *See also Massey Junior Coll., Inc. v. Fashion Inst. of Tech.*, 492 F.2d 1399, 181 USPQ 272, 275 n.6 (CCPA 1974) ("prior use need not be

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<sup>5</sup> 65 TTABVUE.

<sup>6</sup> 66 TTABVUE.

shown by a plaintiff relying on a registered mark unless the defendant counterclaims for cancellation.”); *Itel Corp. v. Ainslie*, 8 USPQ2d 1168, 1169 (TTAB 1988) (“because of the existence of opposer’s valid and subsisting registration, it need not prove prior use as to the services recited therein”).

#### IV. Likelihood of Confusion

The determination under Section 2(d) involves an analysis of all of the probative evidence of record bearing on a likelihood of confusion. *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973) (setting forth factors to be considered, hereinafter referred to as “*DuPont* factors”); *see also In re Majestic Distilling Co.*, 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003). A likelihood of confusion analysis often focuses on 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 the goods and differences in the marks.”). Opposer bears the burden of proving its claim of likelihood of confusion by a preponderance of the evidence. *Cunningham*, 55 USPQ2d at 1848. A finding of likely confusion must be made with respect to at least one item in the application to establish likely confusion as to that single class of goods. *Tuxedo Monopoly, Inc. v. General Mills Fun Grp.*, 648 F.2d 1335, 209 USPQ 986, 988 (CCPA 1981).

A. The Goods, Trade Channels and Classes of Consumers

In comparing the marks, goods, trade channels and classes of consumers, we focus on Opposer's Registration Number 3803216 ('216 Registration) for the mark VOLVO in standard characters for goods and services that include computers and video screens in International Class 9. We consider the mark and goods in this registration most relevant to the likelihood of confusion analysis. *See In re Max Capital Grp. Ltd.*, 93 USPQ2d 1243, 1245 (TTAB 2010).

"[L]ikelihood of confusion can be found 'if the respective goods are related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that they emanate from the same source.'" *Coach Servs.*, 101 USPQ2d at 1722 (internal citations omitted). Our comparison of the goods is based on the identifications in the application and Opposer's '216 Registration. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014); *Octocom Sys., Inc. v. Houston Comput. Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Because the computers and video screens identified in the '216 Registration do not contain any purchaser, type or trade channel restrictions, and thus are unrestricted, Opposer's identification of goods encompass all types of those goods. *See, e.g., In re Hughes Furniture Indus., Inc.*, 114 USPQ2d 1134, 1137 (TTAB 2015) ("Applicant's broadly worded identification of 'furniture' necessarily encompasses Registrant's narrowly identified 'residential and commercial furniture.'"); *In re Linkvest S.A.*, 24 USPQ2d at 1716 (TTAB 1992) ("Registrant's goods are broadly identified as computer

programs recorded on magnetic disks, without any limitation as to the kind of programs or the field of use. Therefore, we must assume that registrant's goods encompass all such computer programs including those which are for data integration and transfer.”). Therefore, Opposer's goods are legally identical in part to the various types of computers and computer screens Applicant has identified.

Because the goods in the application and Opposer's '216 Registration are legally identical in part, we presume that they travel through the same channels of trade to the same classes of purchasers, considerations under the third *DuPont* factor. See *American Lebanese Syrian Assoc. Charities Inc. v. Child Health Research Inst.*, 101 USPQ2d 1022, 1028 (TTAB 2011) (where the services were legally identical, “the marketing channels of trade and targeted classes of consumers and donors are the same”); see also *In re Viterra*, 671 F.3d 1358, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (finding Board entitled to rely on this legal presumption in determining likelihood of confusion). While Applicant attempts to narrow the goods in the '216 Registration so as to distinguish their trade channels from Applicant's, we cannot accept this argument. *Stone Lion Capital Partners*, 110 USPQ2d at 1162 (“It was proper, however, for the Board to focus on the application and registrations rather than on real world conditions, because ‘the question of registrability of an Applicant's mark must be decided on the basis of the identification of goods set forth in the application.’” (quoting *Octocom Sys.*, 16 USPQ2d at 1787)). The identification of “computers” and “video screens” in the '216 Registration is unrestricted, see *Packard Press, Inc. v. Hewlett-Packard Co.*, 227 F.3d 1352, 56 USPQ2d 1351, 1357 (Fed. Cir. 2000), and

therefore we cannot consider asserted actual marketplace conditions based on the alleged types of computers and video screens that Opposer actually sells. *See Detroit Athletic Co.*, 903 F.3d 1297, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (“As described above, the registration does not set forth any restrictions on use and therefore ‘cannot be narrowed by testimony that the applicant’s use is, in fact, restricted to a particular class of purchasers.’”).

These factors weigh strongly in favor of a finding of likely confusion.

#### B. The Fame of Opposer’s Marks

The fame of a mark under the fifth *DuPont* factor rests on the extent to which “a significant portion of the relevant consuming public . . . recognizes the mark as a source indicator.” *Joseph Phelps Vineyards, LLC v. Fairmont Holdings, LLC*, 857 F.3d 1323, 122 USPQ2d 1733, 1734 (Fed. Cir. 2017) (citing *Palm Bay Imps. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689, 1694 (Fed. Cir. 2005)). This factor involves assessing the mark “along a spectrum from very strong to very weak.” *Id.* (internal citations omitted). A famous mark receives broader legal protection in the likelihood of confusion analysis. *See Palm Bay Imps.*, 73 USPQ2d at 1694 (strong marks “enjoy wide latitude of legal protection” and are “more attractive as targets for would-be copyists”). The protection accorded a famous mark does not extend only to products that are identical or closely related to those for which the mark is famous. *Recot, Inc. v. Becton*, 214 F.3d 1322, 54 USPQ2d 1894, 1897-98 (Fed. Cir. 2000) (holding that the Board erred in limiting fame of FRITO LAY only to human food products, as fame extends beyond the particular field and “must

always be accorded full weight”). Where a mark is famous, that fame plays a dominant role in the likelihood of confusion analysis. *Weider Publ’ns, LLC v. D & D Beauty Care Co.*, 109 USPQ2d 1347, 1353 (TTAB 2014).

The fame of a mark may be measured indirectly by the volume of sales and advertising expenditures in connection with the goods and services sold under the mark, and other factors such as length of use of the mark; widespread critical assessments of the goods or services sold under the mark; notice by independent sources of the goods and services identified by the marks; and the general reputation of the goods and services. *Id.* at 1354; *see also Bose Corp. v. QSC Audio Prods. Inc.*, 293 F.3d 1367, 63 USPQ2d 1303, 1308 (Fed. Cir. 2002) (recognizing indirect evidence as appropriate proof of strength).

Opposer has submitted evidence bearing on each of these factors, and each weighs in favor of finding that Opposer’s VOLVO marks have significant commercial strength. In addition to its large number of registrations, and long use of its marks in the United States since the 1950s,<sup>7</sup> Opposer submitted a wide variety of evidence of significant consumer exposure to its marks.<sup>8</sup> For example, Opposer advertises and promotes its VOLVO marks in most types of media. According to Ms. Dempe, VOLVO goods and services are advertised and promoted:

[i]n virtually every way possible, including but not limited to national and international magazines and newspapers, local and regional television and radio commercial, direct mail, on the Internet, in product and sales brochures, signage, trade shows, dealer meetings and sponsorships

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<sup>7</sup> 30 TTABVUE 22-23 (Dempe testimony).

<sup>8</sup> Our analysis of the strength of Opposer’s marks includes all of the marks.

such as the Volvo Ocean Race and other events. Volvo dealers also advertise Volvo branded products through local and regional print publications, especially magazines and newspapers, on outdoor billboards, in radio commercials, television commercials and through direct mail. In addition, Volvo dealers have their own website where Volvo branded goods are promoted.<sup>9</sup>

The record includes corroborating examples. Opposer's confidential advertising and promotional expenses are included in the record, and reflect a very substantial expenditure in the five-year period prior to trial.<sup>10</sup> Opposer also provided confidential evidence of considerable sales figures under the marks from 2004 to 2015, with specific information pertaining to VOLVO cars, other VOLVO products excluding cars, VOLVO trucks, VOLVO car parts and accessories, VOLVO Penta engines, and VOLVO truck parts.<sup>11</sup> *See, e.g., Chanel, Inc. v Makarczyk*, 110 USPQ2d 2013, 2020 (TTAB 2014). These figures suggest widespread consumer exposure to the marks.

The record also contains evidence of unsolicited media attention for goods and some services under the VOLVO marks through national publications such as Forbes, Car and Driver, USA Today, The Wall Street Journal, The New York Times and The Washington Post, among others.<sup>12</sup> The evidence includes profiles of VOLVO vehicles, articles and reviews about them, and articles on major sporting events sponsored under the VOLVO mark.<sup>13</sup> The record reflects that Opposer has arranged for use of

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<sup>9</sup> 30 TTABVUE 63-64 (Dempe testimony).

<sup>10</sup> 30 TTABVUE 64-65; 29 TTABVUE 7-13 (Dempe testimony) (confidential).

<sup>11</sup> 30 TTABVUE 62-65, 71-72; 29 TTABVUE 7-13 (Dempe testimony) (confidential).

<sup>12</sup> 61-64 TTABVUE.

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

the VOLVO mark in connection with sponsorship of sailing, golf and cultural events.<sup>14</sup> There are numerous books about VOLVO vehicles, and books and songs that include VOLVO in their titles.<sup>15</sup> The evidence establishes the fame of the VOLVO marks, even to the point of having pop culture significance. *See, e.g., UMG Recordings, Inc. v. Mattel, Inc.*, 100 USPQ2d 1868, 1887 (TTAB 2011) (inferring public recognition of MOTOWN mark based on use of mark for almost 50 years, extensive nationwide sales of opposer's recordings as well as numerous concerts and television appearances featuring its music and artists and extensive nationwide promotion of mark through traditional advertising and sale of collateral goods); *Nike, Inc. v. Maher*, 100 USPQ2d 1018, 1024-27 (TTAB 2011) (finding opposer's JUST DO IT mark famous based on pervasive third-party press and media references, substantial advertising, publicity and nationwide sales and ownership of registrations).

Most of the fame evidence centers on VOLVO vehicles, and some relates to technology aspects in particular, like an NBC News article about VOLVO's safety technologies such as an infrared laser attached to a car windshield to monitor traffic,<sup>16</sup> a Huffington Post article on advanced steering and sensory technology featured in some VOLVO vehicles,<sup>17</sup> and a Fox News article captioned "Volvo Unveils New Hybrid Technology."<sup>18</sup> Considering the volume and nature of the fame evidence,

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<sup>14</sup> 30 TTABVUE 67-68 (Dempe testimony).

<sup>15</sup> 65 TTABVUE.

<sup>16</sup> 62 TTABVUE 178.

<sup>17</sup> 62 TTABVUE 166-67.

<sup>18</sup> 62 TTABVUE 206.

we find that the fame of VOLVO extends beyond just vehicles and transfers to computer and video screen goods that we find most relevant to this proceeding. *Cf. Recot*, 54 USPQ2d at 1897 (erroneous to find that fame “extends no further than the products with which the marks are currently used” because fame “is a dominant factor in the likelihood of confusion analysis for a famous mark, independent of the consideration of the relatedness of the goods”).

VOLVO is fanciful and conceptually strong as a mark to those unfamiliar with the dead language Latin. *Cf. Palm Bay Imports*, 73 USPQ2d at 1692 (only marks containing words from common, modern languages are translated); *In re Vacuumschmelze GMBH*, 201 USPQ 878 (TTAB 1979) (“foreign words may be meaningless to the public generally”). Opposer has stated that VOLVO means “I am rolling” in Latin.<sup>19</sup> As Latin is a not a living language, most relevant customers likely would be unaware of this meaning. Thus, the wording VOLVO probably would be perceived either as a fanciful term or, for those familiar with Latin, as a slightly suggestive word, at least in the context of vehicles and related goods and services.

Finally, as discussed in more detail below, the record includes no current third-party use or registration evidence of VOLVO or other similar marks in connection with similar goods and services that could detract from the strength of VOLVO.

The fame of Opposer’s marks weighs in favor of a finding of likelihood of confusion.

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<sup>19</sup> 30 TTABVUE 79 (Dempe testimony).

### C. Similarity of the Marks

With respect to the marks, we must compare them “in their entireties as to appearance, sound, connotation and commercial impression.” *Palm Bay*, 73 USPQ2d at 1691 (quoting *DuPont*, 177 USPQ at 567). The test assesses not whether the marks can be distinguished in a side-by-side comparison, but rather whether their overall commercial impressions are so similar that confusion as to the source of the goods offered under the respective marks is likely to result. *Coach Servs.*, 101 USPQ2d at 1721; *see also Edom Labs. Inc. v. Lichter*, 102 USPQ2d 1546, 1551 (TTAB 2012). Similarity in any one of the elements of sound, appearance, meaning, or commercial impression suffices to support a determination of likelihood of confusion. *See Krim-Ko Corp. v. The Coca-Cola Co.*, 390 F.2d 728, 156 USPQ 523, 526 (CCPA 1968) (“It is sufficient if the similarity in either form, spelling or sound alone is likely to cause confusion”); *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (“Similarity in any one of these elements may be sufficient to find the marks confusingly similar.”).

We compare the standard-character mark VOLVO in the ‘216 Registration to the applied-for standard-character mark WOLVOL, bearing in mind that given the legally identical goods, “the degree of similarity necessary to support a conclusion of likely confusion declines.” *Century 21 Real Estate v. Century Life of Am.*, 970 F.2d 874, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992). Also, based on our earlier finding that VOLVO is a famous mark, we must consider that a famous mark “casts a long shadow which competitors must avoid.” *Kenner Parker Toys, Inc. v. Rose Art Ind., Inc.*, 963 F.2d 350, 22 USPQ2d 1453, 1456 (Fed. Cir. 1992).

Of the five letters in the registered VOLVO mark, WOLVOL shares four of them, and presents them in the same order. The V and the W at the respective beginnings of the marks and the common OLVO portion of the marks contribute to a similar overall sound. While the letters V and W do not make the identical sound, their sounds are somewhat similar. Opposer contends that the “L” at the end of WOLVOL “is almost silent.”<sup>20</sup> In assessing how the marks sound, we are mindful that “there is no correct pronunciation of a trademark, and consumers may pronounce a mark differently than intended by the brand owner.” *Viterra*, 101 USPQ2d at 1912. Some consumers may pronounce WOLVOL as characterized by Opposer, while others may pronounce the “L” more distinctly. Regardless of any potential phonetic variation in this regard, we find the overall sound of the marks to be similar.

As to the appearance of the marks, the placement of the same letters, OLVO, after the first letter in each mark creates a resemblance. While there are some differences in how the marks look, overall, the shared string of OLVO letters especially, in connection with the other lettering, forms a general visual similarity that is not overcome by the differences between the marks.

Finally, as previously mentioned, Ms. Dempe testified that VOLVO means “I am rolling” in Latin,<sup>21</sup> the ‘216 Registration contains a translation to this effect, and the parties point to no other evidence about the connotations and commercial impressions of VOLVO or WOLVOL. While Applicant argues that consumers then would

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<sup>20</sup> 81 TTABVUE 21 (Opposer’s Brief).

<sup>21</sup> 30 TTABVUE 79 (Dempe testimony).

recognize the meaning of VOLVO, but perceive WOLVOL as a fanciful word, as we noted earlier, most relevant customers likely would perceive VOLVO as a fanciful word as well. Thus, we find that the connotations and commercial impressions of the marks are not a significant point of distinction.

Applicant has criticized Opposer's omission of expert testimony, survey evidence, or consumer testimony regarding the similarity of the marks; such evidence is not required for us to find that marks are similar. In addition, Applicant cites numerous cases where no likelihood of confusion was found because the marks were considered dissimilar, and argues the cases are analogous to this case. However, the comparison of specific marks at issue in a case is highly fact-specific and unique to the marks involved and the interplay with other *DuPont* factors such as fame and relatedness of the goods, so we do not consider the cited cases persuasive on this point.

In light of the renown of the VOLVO mark and the identical goods at issue, given the similarity in appearance and sound of the marks, this *DuPont* factor weighs in favor of a finding of likely confusion.

#### D. Degree of Care in Purchasing

Applicant contends, without pointing to supporting evidence, that Opposer's goods "are special purchases costing significant sums of money," such that consumers would purchase with care and deliberation.<sup>22</sup> We rely on the relevant identified goods in the '216 Registration and in the application, which encompass computers and screens

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<sup>22</sup> 88 TTABVUE 25 (Applicant's Brief).

that could range from fairly inexpensive ordinary consumer goods to the more expensive variety. *See Stone Lion Capital Partners*, 110 USPQ2d at 1163 (“Accordingly, the Board properly considered all potential investors for the recited services, including ordinary consumers seeking to invest in services with no minimum investment requirement. Although the services recited in the application also encompass sophisticated investors, Board precedent requires the decision to be based ‘on the least sophisticated potential purchasers.’”). Given the ubiquity of computers and related equipment in everyday life, consumers of these products would exercise nothing more than ordinary care when purchasing them. *See In re Linkvest*, 24 USPQ2d at 1716 (“the growing tendency is for computers and computer programs to be purchased and operated by the general public. Business, home and educational use of computers has expanded the computer market to encompass many poorly informed and unsophisticated purchasers”). While we do not have price information for computers and video screens specifically, the confidential information regarding the pricing of vehicle parts under the mark confirms that some prices are quite low.<sup>23</sup> *See Eveready Battery Co. v. Green Planet, Inc.*, 91 USPQ2d 1511, 1516 (TTAB 2009) (“purchasers of casual, low cost ordinary consumer items exercise less care in their purchasing”). Considering the identified goods and the relevant evidence, we find that ordinary consumers purchasing these goods would exercise an ordinary degree of care.

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<sup>23</sup> 29 TTABVUE 11 (Dempe testimony) (confidential).

E. Other *DuPont* Factors

The parties briefly argue a couple of other *DuPont* factors. First, Opposer contends that it is entitled to a broader scope of protection under the sixth factor because “[t]here is no evidence of record showing any third party use of VOLVO in any field.”<sup>24</sup> Applicant asserts, without pointing to any evidence in the record, that seven registered marks exist, VOLT, VOLETERRA, VOLANTE, VOLITO, VOLLERT, VOLAGE, and LOVOL, supposedly for products “more closely associated with Opposer’s core business.”<sup>25</sup> According to Applicant, its mark therefore can coexist with Opposer’s marks. Applicant’s argument carries no weight given that it did not introduce any evidence to support its argument. As noted above, we have found Opposer’s VOLVO mark both commercially and conceptually strong.

Second, Opposer acknowledges the lack of actual confusion evidence in the record, but correctly notes that given Applicant’s failure to introduce any evidence, “there is nothing of record to determine if Applicant has had sufficient use of the WOLVOL Mark for any opportunity for instances of actual confusion to occur.”<sup>26</sup> *See Cunningham*, 55 USPQ2d at 1847 (approving TTAB finding that “it could not conclude there had even been an opportunity for actual confusion”). Accordingly, we consider this factor neutral.

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<sup>24</sup> 81 TTABVUE 29 (Opposer’s Brief).

<sup>25</sup> 88 TTABVUE 26 (Applicant’s Brief). We note that one of these marks was the subject of a prior Board proceeding, and Applicant appended the non-precedential case to its Brief. However, this does not suffice to introduce evidence of a third-party registration into the record.

<sup>26</sup> 81 TTABVUE 29 (Opposer’s Brief).

## V. Conclusion

Based on the similarity between Opposer's famous mark and Applicant's mark for legally identical goods that travel in the same channels of trade to the same classes of purchasers who will use ordinary care in their purchases, we conclude that a likelihood of confusion exists.

Given this determination, we need not reach Opposer's dilution claim.

**Decision:** The opposition is sustained based on Opposer's claim of likelihood of confusion.