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UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Itec Manufacturing, Ltd.

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Serial No. 78621722

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David W. Carstens of Carstens & Cahoon for Itec  
Manufacturing, Ltd.

Marcie R. Frum Milone, Trademark Examining Attorney, Law  
Office 116 (Michael W. Baird, Managing Attorney).

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Before Quinn, Kuhlke and Wellington, Administrative  
Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

Itec Manufacturing, Ltd. filed an application to  
register the mark PAL for "medical device, namely a patient  
lifting apparatus."<sup>1</sup>

The trademark examining attorney refused registration  
under Section 2(d) of the Trademark Act, 15 U.S.C.  
§1052(d), on the ground that applicant's mark, when applied  
to applicant's goods, so resembles the previously

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<sup>1</sup> Application Serial No. 78621722, filed May 3, 2005, alleging  
first use anywhere and first use in commerce on May 1, 2005.

registered marks PAL for "pumps for inflating patient support mattresses"<sup>2</sup>; PAL for "surgical and medical patient support devices for use in lithotomy procedures"<sup>3</sup>; and

**AIRPAL**

for "medical devices, namely, inflatable patient transfer and therapy pads"<sup>4</sup> as to be likely to cause confusion. The registrations are owned by three different entities.

When the refusals were made final, applicant appealed.<sup>5</sup> Applicant and the examining attorney filed briefs.

Applicant argues that there are differences between its mark and each of the cited marks, namely that the acronyms comprising the marks, or included as a feature of the cited mark in special form, have different meanings. Applicant further contends that its goods are different from the goods of each registrant. In urging that the

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<sup>2</sup> Registration No. 2046338, issued March 18, 1997; renewed.

<sup>3</sup> Registration No. 2213410, issued December 22, 1998; Section 8 affidavit accepted, Section 15 affidavit acknowledged.

<sup>4</sup> Registration No. 2369632, issued July 25, 2000; Section 8 affidavit accepted, Section 15 affidavit acknowledged.

<sup>5</sup> The examining attorney also issued a final refusal on the basis that as shown on the specimens the applied-for mark fails to function as a trademark. The examining attorney subsequently withdrew that refusal.

refusals be reversed, applicant submitted product information about its goods; excerpts from each of the registrants' websites relating to their respective products; and copies of third-party registrations of marks comprising, in whole or, in most instances, in part, the term PAL for goods in the medical field.<sup>6</sup>

The examining attorney maintains that in two instances, applicant's mark is identical to the cited marks, and in the other refusal, the marks are substantially similar. As to the goods, the examining attorney contends that they are closely related, perform related functions and are likely to travel in the same trade channels to the same classes of purchasers. More specifically, the examining attorney contends that applicant's identification of goods is broadly worded and,

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<sup>6</sup> Applicant originally only listed the third-party registrations in a response. In the Office action immediately thereafter, the examining attorney made no objection thereto. When applicant repeated the listing in its request for reconsideration, the examining attorney, in response, objected to the listing, indicating that the registrations were not properly made of record. See *In re Dos Padres Inc.*, 49 USPQ2d 1860, 1861 n.2 (TTAB 1998); and TBMP §1208.02 (2d ed. rev. 2004). Applicant, in its brief, argued that the examining attorney had waived her right to object when she failed to object to the initial list. Further, applicant attached copies of the listed third-party registrations to its brief. The examining attorney, in her brief, did not object to this evidence, but rather considered the third-party registrations as if properly made of record. In view thereof, the examining attorney is deemed to have stipulated the registrations into the record. We likewise have considered this evidence in reaching our decision on the merits.

as such, "it is presumed that the application encompasses all patient lifting apparatuses, including those identified by the registrants." According to the examining attorney, the goods are related to the extent that they are used to lift patients. The examining attorney introduced excerpts of websites in support of her contention that the goods are related. Also made of record are copies of third-party registrations that purportedly show that the same entity has adopted the same mark for the types of goods involved in this appeal.

Before turning to the individual refusals, the Board wishes to set forth some general guidelines that govern the analysis of the issue of likelihood of confusion in each instance.

Our determination of the issue of likelihood of confusion 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 & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). See also *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003). In any likelihood of confusion analysis, however, 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 (CCPA 1976). See also *In re Dixie Restaurants Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997). One of the other key factors in this appeal concerns the conditions under which and buyers to whom sales of the goods at issue are made.

As to the marks, we examine the similarities and dissimilarities of the marks in their appearance, sound, meaning, and commercial impression. *Palm Bay Imports Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005). The test 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 their entireties that confusion as to the source of the goods offered under the respective marks is likely to result.

With respect to the goods, it is not necessary that the respective goods be competitive, or even that they move in 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 originated from the same producer. *In re Melville Corp.*, 18 USPQ2d 1386 (TTAB 1991).

It is well settled that the question of likelihood of confusion must be determined based on an analysis of the goods recited in applicant's application vis-à-vis the goods identified in the cited registration. *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1690 n.4 (Fed. Cir. 1993); and *Canadian Imperial Bank v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1783 (Fed. Cir. 1992). Where the goods in the application at issue and/or in the cited registration are broadly identified as to their nature and type, such that there is an absence of any restrictions as to the channels of trade and no limitation as to the classes of purchasers, it is presumed that in scope the identification of goods encompasses not only all the goods of the nature and type described therein, but that the identified goods are offered in all channels of trade which would be normal therefore, and that they would be purchased by all potential buyers thereof. *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981).

We hasten to add, however, that a comparison of the goods in this appeal is complicated by what we view as the overly broad and somewhat ambiguous terms "device(s)" and/or "apparatus" in all but one of the involved

identifications of goods. Nevertheless, as indicated above, we must compare applicant's goods as set forth in the application with the goods as set forth in the cited registrations. However, given the somewhat vague nature of the term "device(s)" and/or "apparatus" in the identifications of goods, we are uncertain as to what the goods identified in the application and cited registrations are. Accordingly, we believe, in this particular situation, it is not improper to consider the extrinsic evidence showing what these "patient lifting apparatuses" (as characterized by the examining attorney) actually are. See *In re Trackmobile Inc.*, 15 USPQ2d 1152 (TTAB 1990).

The Board's language is instructive in this case:

[W]hen the description of goods for a cited registration is somewhat unclear, as is the case herein, it is improper to simply consider that description in a vacuum and attach all possible interpretations to it when the applicant has presented extrinsic evidence showing that the description of goods has a specific meaning to members of the trade. Cf. *In re Protective Controls, Inc.*, 185 USPQ 692, 694 (TTAB 1975) ("...[T]he identification of goods in the [cited] registration as 'monitoring instrument,' per se, is so indefinite and so all inclusive as to be meaningless in attempting to ascertain whether the respective monitoring apparatus [of applicant and registrant] relate to the same or disparate fields...[T]he better approach in this

particular situation...is to authorize publication of the mark for opposition."); *Acomb v. Polywood Plastics Corp.*, 187 USPQ 188, 190 (TTAB 1975) ("Judicial interpretation, as reflected by the decisions of this and other tribunals, has accorded a registration in which the goods are recited in a general rather than a specific nature a broad scope of protection sufficient to cover all types of the particular product or products enumerated therein. However, ...in the instant case, 'molded wood products consisting of particulate wood and resin' [the description of goods in the registration] is so broad and comprehensive as to be devoid of any information as to just what molded wood products are marketed by opposer.").

*Id.* at 1154.

When it comes to terms such as medical "device(s)" or "apparatus," we find "it is not proper to rely simply upon abstract reasoning to give this somewhat vague term a broad meaning absent countervailing extrinsic evidence showing that it is entitled to such a broad meaning." *Id.* In point of fact, all of the evidence of record herein indicates that the involved goods are very specific in nature as is often the case in the medical field. Given the ambiguous terms under consideration, we have reviewed the product information relating to applicant's goods and each of the registrant's goods. This exercise, we believe, has resulted in a much more informed decision on the du

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Pont factor involving the similarity between the goods. Moreover, the extrinsic evidence bearing on the specific nature of registrants' goods helps to explain the coexistence on the register of the three cited marks covering goods that, according to the examining attorney, are all "patient lifting apparatuses."

**Registration No. 2046338**

Applicant's mark PAL is identical to registrant's mark PAL. In an attempt to distinguish the marks, applicant states that its mark is an acronym for "Patient Assist Lift" whereas registrant's mark is an acronym for "Powered Air Loss." There is no evidence in the record regarding how relevant purchasers would perceive PAL; further, we must assume that purchasers will encounter the marks *per se*, without any explanation regarding the acronym's meaning. Thus, it is only speculation that purchasers would even know the meanings of the acronyms and, therefore, perceive any difference between the marks based on the purported different meanings.

The identity between the marks is a factor that weighs in favor of finding a likelihood of confusion.

With respect to the goods, we must compare applicant's "medical device, namely a patient lifting apparatus" to

registrant's "pumps for inflating patient support mattresses." We note, at the outset of considering this du Pont factor, that the greater the degree of similarity between applicant's mark and the cited registered mark, the lesser the degree of similarity between applicant's goods and registrant's goods that is required to support a finding of likelihood of confusion. *In re Opus One Inc.*, 60 USPQ2d 1812, 1815 (TTAB 2001). If the marks are the same, as in this case, it is only necessary that there be a viable relationship between the goods in order to support a finding of likelihood of confusion. *In re Concordia International Forwarding Corp.*, 222 USPQ 355, 356 (TTAB 1983).

The record includes product information about applicant's goods described as "products designed by rescuers for rescuers." According to the literature, applicant's product "acts like a body splint." Further, the literature indicates the following about the product:

It was designed by rescuers to reduce physical strain of workers and protect patients being lifted from any position. The PAL allows EMS personnel and healthcare workers to lift and transport patients while utilizing proper body mechanics, thereby reducing muscle strain and back injury.

The product may be used "in evacuating a patient from a variety of conditions" and "can also be used to aid in lifting a patient from any position--floor, car, recliner, bathtub, airplane, etc." Applicant specifically mentions that the product "is used to transfer patients to and from beds, wheelchairs and chairs."

Registrant's goods are explained in registrant's product literature submitted by applicant. Registrant's electrical pump is used in connection with an air mattress overlay to provide pressure relief to long-term patients.

The goods are distinctly different and are used for specifically different purposes. Registrant's goods are pumps used in connection with air mattresses, whereas applicant's goods are in the nature of a body splint. Registrant's product is used to relieve pressure on a patient's body when resting on an air mattress, while applicant's goods are used to transport patients.

Further, the involved goods would be purchased by medical entities (such as hospitals and rescue squads and nursing homes) that are sophisticated in the medical equipment field. Physicians buying such equipment also would be sophisticated in their purchasing decisions. The involved goods are unlikely to be bought on impulse, given that each product addresses very specific (and varied)

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medical needs, unlike certain other types of medical supplies (e.g., disposable exam gowns). See *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The specific differences between the goods and the sophistication of the relevant purchasers are factors that outweigh the identity between the marks.

This refusal to register is reversed.

**Registration No. 2213410**

Applicant's mark PAL is identical to registrant's mark PAL. Applicant again attempts, however, to point out the differences between the marks. Applicant states that its mark is an acronym for "Patient Assist Lift" while registrant's mark is an acronym for "Power Assisted Lithotomy." Again, there is no evidence of record that relevant purchasers would even know the different meanings of the acronyms, and thereby draw distinctions between the marks based on meaning.

The identity between the marks is a factor that weighs in favor of finding a likelihood of confusion.

With respect to the goods, we must compare applicant's "medical device, namely a patient lifting apparatus" to registrant's "surgical and medical patient support devices

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for use in lithotomy procedures." We again note that the greater the degree of similarity between applicant's mark and the cited registered mark, the lesser the degree of similarity between applicant's goods and registrant's goods that is required to support a finding of likelihood of confusion. *In re Opus One Inc.*, 60 USPQ2d at 1815. If the marks are the same, as in this case, it is only necessary that there be a viable relationship between the goods in order to support a finding of likelihood of confusion. *In re Concordia International Forwarding Corp.*, 222 USPQ at 356.

We take judicial notice of the dictionary definition of the term "lithotomy": "surgical removal of a stone or stones from the urinary tract." The American Heritage Dictionary of the English Language (4<sup>th</sup> ed. 2000).

Applicant submitted information about registrant's product. This information, which includes a photograph of the goods, shows that registrant's product is mounted on an operating room table for use during a surgical procedure. Applicant's "support devices" essentially are adjustable leg-positioning stirrups that permit "moving the patient's legs through the lithotomy safety zone."

Based on the present record, applicant and registrant's goods are only minimally related in that they

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are both used to "support" patients (but only in the broadest meaning of "support"). However, when we consider the meaning of "lithotomy" coupled with the specific nature of registrant's "support devices," it is apparent that there is a significant difference between applicant's "medical device, namely a patient lifting apparatus" and registrant's "surgical and medical patient support devices for use in lithotomy procedures." Further, the goods would be sold to medical professionals and healthcare entities such as hospitals and surgical facilities, and not to ordinary consumers.

This refusal to register is reversed.

**Registration No. 2369632**

As reproduced earlier in this opinion, registrant's mark is AIRPAL in special form. The term AIR in registrant's mark is merely descriptive or highly suggestive, given that registrant's goods are inflatable. Thus, we find that the dominant portion of registrant's mark is PAL; this is identical to the entirety of applicant's mark. It is well settled that one feature of a mark may be more significant than another, and it is not improper to give more weight to this dominant feature in determining the commercial impression created by the mark.

*In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985) ["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. Indeed, this type of analysis appears to be unavoidable."]. In sum, we find that the marks are similar in sound and appearance. As to meaning, the term "air," as indicated above, gives the mark a connotation that air is involved, resulting in a somewhat different meaning than applicant's mark. Likewise, the commercial impressions of the marks are somewhat different. Nevertheless, given the commonality of the term PAL, we find that the similarities between the marks in terms of sound and appearance outweigh the difference in meaning.

With respect to the goods, we must compare applicant's "medical device, namely a patient lifting apparatus" to registrant's "medical devices, namely, inflatable patient transfer and therapy pads."

Applicant submitted product literature about registrant's goods. The information indicates that the goods "may be used wherever a lateral transfer [of a patient] is necessary throughout the hospital." Registrant's product was "designed specifically to reduce

the risks associated with patient handling." Registrant's pad is inflated with an electrical pump, thereby lifting the patient, and the patient "is literally transferred on a cushioned film of air."

Although applicant's goods and registrant's goods are both used to transfer patients, the task is accomplished in very different manners. Registrant's goods are inflated to accomplish the transfer. Contrary to the examining attorney's contention, we do not believe that the vague terminology "devices" in either identification of goods should be read so broadly as to encompass the other. As shown by applicant's product literature, its goods are in the nature of a rigid body splint whereas registrant's goods are inflatable pads.

Once again, sophisticated purchasers such as hospitals would buy the goods.

The refusal to register is reversed.

#### General Comments

In comparing the goods involved in each of the refusals we have considered the evidence introduced by the examining attorney in an attempt to show that the goods are related. The examining attorney submitted excerpts retrieved from [www.zapconnect.com](http://www.zapconnect.com), and an excerpt of the

U.S. Food and Drug Administration ("FDA") website showing that applicant's goods, as well as the goods of each of the registrants, are classified in the FDA Medical Specialty Category named "General Hospital and Personal Use."

Applicant has criticized this evidence, pointing out the shortcomings of its probative value in comparing the goods. The fact that applicant and each of the registrants may be competitors in the medical device industry is not sufficient to establish that the goods are related; to hold otherwise would mean that all goods sold by competitors in the vast and highly specialized medical field would be related for purposes of a likelihood of confusion analysis. We agree with the assessment offered by applicant: "While the ZapConnect website and the FDA classification of medical device types may show that there is some relationship between the goods...the mere fact that both the Applicant's Mark and the marks of the Cited Registrations cover medical products, does not establish that the specific goods covered by Applicant's Mark and the Cited Registrations are so closely related that consumers would expect the sources of the goods to be associated or related."

The third-party registrations introduced by the examining attorney also do not persuade us that the goods

are sufficiently related so as to find a likelihood of confusion. We readily acknowledge that third-party registrations that individually cover different items and that are based on use in commerce serve to suggest that the listed goods and/or services are of a type that may emanate from a single source. See *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783 (TTAB 1993); and *In re Mucky Duck Mustard Co. Inc.*, 6 USPQ2d 1467 (TTAB 1988). In her brief, the examining attorney highlights five of these registrations in an attempt to show that the goods are related. The examining attorney asserts that the registrations show

the nature and variety of goods that makers of 'patient transfer' devices also make: from 'air pressure pads and pumps' (see Reg. 3003759) to 'hospital beds' (see Reg. 3166029) to 'walkers' and 'wheelchairs' (see Reg. 3166029) to 'mattress pads and mattress protectors' (see Reg. 2817300) to 'postural devices in the nature of self-inflating pads or cushions' (see Reg. 2611959). It is clear that consumers in the field of medical devices are accustomed to the same trademarks being used on a variety of related goods.

We find this evidence to be particularly unpersuasive in this case. None of the third-party registrations lists both specific types of goods covered by the application and any of the cited registrations. The registrations highlighted by the examining attorney show simply that one

entity may sell a wide variety of medical products under a single mark. We find that this fact diminishes the probative value of these registrations in determining the relatedness of the specific products at issue.

As briefly indicated earlier, the sophistication of purchasers of medical equipment plays an important role in our analysis of likelihood of confusion in this appeal.

Against the backdrop of the relatively minimal evidence bearing on the relatedness of the specific goods is the fact that, even assuming that applicant's and registrant's goods would be purchased by the same doctors, hospitals, out-patient surgical centers and other medical facilities, it is readily apparent that the purchasing decisions for such goods would be made by highly sophisticated and knowledgeable buyers under conditions of sale which would further minimize any likelihood of confusion as to source or affiliation. As *Astra Pharmaceutical Products, Inc. v. Beckman Instruments, Inc.*, 718 F.2d 1201, 220 USPQ 786, 791 (1<sup>st</sup> Cir. 1983) makes clear, for a likelihood of confusion to exist, "it must be based on confusion of some relevant person, i.e., a customer or user, and there is always less likelihood of confusion where goods are expensive and purchased and used by highly specialized individuals after careful

consideration." It has long been recognized that purchasers of medical equipment, whether hospital personnel or physicians, are highly sophisticated and, as such, are more likely to distinguish between marks and goods than is the general consuming public. *In re N.A.D.*, 754 F.2d 996, 224 USPQ 969, 971 (Fed. Cir. 1985); and *Pfizer Inc. v. Astra Pharmaceutical Products Inc.*, 858 F.Supp. 1305, 33 USPQ2d 1545, 1562 (S.D.N.Y. 1994) ["[t]he consumers here are doctors, as sophisticated a group as one could imagine"].

The involved goods would be purchased and used by a variety of medical professionals. *See, e.g., Warner-Hudnut, Inc. v. Wander Co.*, 280 F.2d 435, 126 USPQ 411, 412 (CCPA 1960) [physicians constitute "a highly intelligent and discriminating public"]. Because the products at issue are all used for patient care (and, in the case of applicant's product and two of the registrants' products, also contribute to the well-being of medical care personnel), we can safely assume that the doctors and hospital personnel responsible for the selection and purchase of those products will exercise a high degree of care in purchasing decisions to ensure that the products come from a reputable source, thereby further minimizing a likelihood of confusion. Their "sophistication is

important and often dispositive because "[s]ophisticated consumers may be expected to exercise greater care."

*Electronic Design & Sales Inc. v. Electronic Data Systems Corp.*, 954 F.2d 713, 21 USPQ2d 1388, 1392 (Fed. Cir. 1992), quoting from *Pignons S.A. de Mecanique de Precision v. Polaroid Corp.*, 657 F.2d 482, 212 USPQ 246, 252 (1<sup>st</sup> Cir. 1981). While, in this case, it is possible for the same medical professional or medical facility to purchase both applicant's and each registrant's goods, the Federal Circuit has cautioned that it is error to deny registration simply because an applicant markets and sells its goods in the same general field as those promoted and sold by the registrant (e.g., the medical field). See *Electronic Design & Sales*, 21 USPQ2d at 1391.

When consumers exercise heightened care in evaluating products before making purchasing decisions, there is not a strong likelihood of confusion. *Electronic Design & Sales Inc.*, 21 USPQ2d at 1392 ["there is always less likelihood of confusion where goods are...purchased after careful consideration."]. As Professor McCarthy notes, "[w]here the relevant buyer class is composed solely of professional, or commercial purchasers, it is reasonable to set a higher standard of care than exists for consumers."

3 McCarthy on Trademarks and Unfair Competition, § 23:101  
(4<sup>th</sup> ed. 1998).

In sum, the types of products involved in this appeal would be bought by highly knowledgeable, discriminating and sophisticated purchasers after thorough deliberation. Further, the goods are distinctly different. Given the knowledge, care and deliberation required of doctors, hospitals and other medical facilities in making the purchasing decisions with respect to applicant's and registrants' goods, it is unlikely that they would be confused.

In reaching our decision with respect to each of the refusals, we have taken into account the third-party registrations of PAL marks in the medical equipment field. The eighteen registered marks comprise PAL, either in whole or in part, each covering medical products in International Class 10. Some of the registrations show that the term was adopted to suggest a friend or "pal" to the patient (see, e.g., PATIENT PAL and WHEELCHAIR PAL). This same suggestiveness equally applies to each of the marks involved herein. More significant to us, however, is the coexistence on the register of the three cited marks, each owned by a different entity. Although undoubtedly considered by the examining attorney, this fact apparently

was outweighed by the other factors at issue. In any event, we note the following language in TMEP §1207.01(d)(x) (5<sup>th</sup> ed. 2007): "If the examining attorney finds registrations that appear to be owned by more than one registrant, he or she should consider the extent to which dilution may indicate that there is no likelihood of confusion." In the present case, we find that the coexistence of the three prior registrations is probative in showing that confusion is unlikely to occur among the relevant medical professionals and other medical entities purchasing the involved goods.

In short, we find that the distinct differences between the specific goods at issue, coupled with the fact that the goods are sold to medical professionals and entities with a high level of knowledge about the medical equipment field, outweigh the identity or similarity between applicant's mark and each of the cited marks. Confusion among purchasers, while possible, is not likely. The Trademark Act does not prevent registration of a mark on the mere possibility of consumer confusion, but requires that confusion be likely. *See Bongrain International (American) Corporation v. Delice de France Inc.*, 811 F.2d 1479, 1 USPQ2d 1775, 1779; and *In re The Ridge Tahoe*, 221 USPQ 839, 840 (TTAB 1983). *See also Electronic Design &*

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*Sales Inc.*, 21 USPQ2d at 1391, *citing Witco Chemical Co. v. Whitfield Chemical Co., Inc.*, 418 F.2d 1403, 1405, 164 USPQ 43, 44-45 (CCPA 1969), *aff'g* 153 USPQ 412 (TTAB 1967) ["We are not concerned with mere theoretical possibilities of confusion, deception, or mistake or with de minimis situations but with the practicalities of the commercial world, with which the trademark laws deal."].

**Decision:** The refusal to register is reversed in each instance.