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United States Patent and Trademark Office

Trademark Trial and Appeal Board

Frank Sinatra Enterprises, LLC

v.

Bill Loizon

Opposition No. 91198282

to Application Serial No. 77947013

filed on March 1, 2010

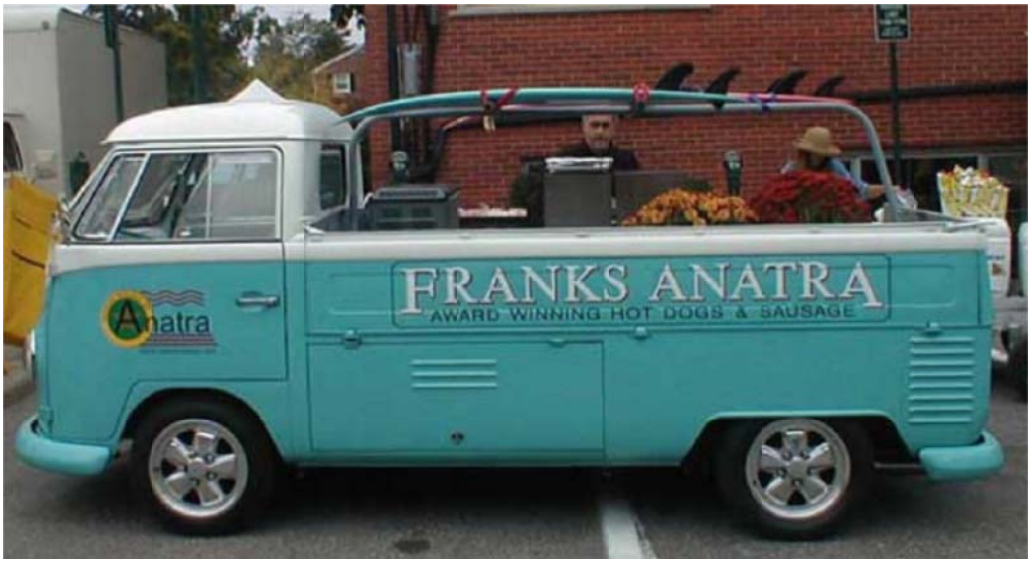
James D. Weinberger of Fross Zelnick Lehrman & Zissu, P.C. for Frank Sinatra Enterprises, LLC.

Jay Schloff of Aidenbaum, Schloff and Bloom, P.L.L.C. for Bill Loizon.

Before Holtzman, Bergsman and Greenbaum, Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Bill Loizon ("applicant") seeks registration on the Principal Register of the mark FRANKS ANATRA, in standard character form, for "catering of foods and drinks," in International Class 43. A reproduction of applicant's specimen showing use of his mark is set forth below.



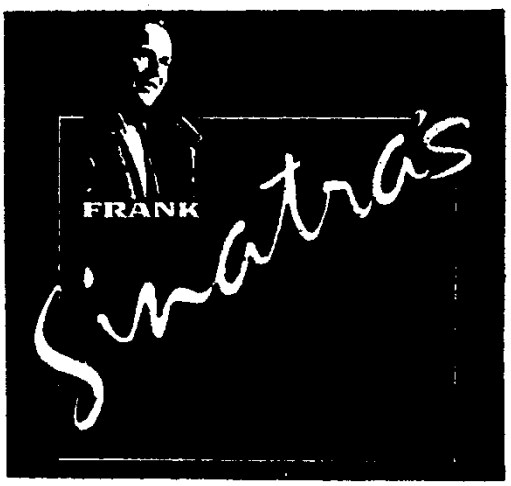
Frank Sinatra Enterprises, LLC ("opposer") opposed the registration of applicant's mark on the grounds that it falsely suggests a connection with Frank Sinatra pursuant to Section 2(a) of the Trademark Act of 1946, 15 U.S.C. § 1052(a), likelihood of confusion pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), and dilution pursuant to Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c). With respect to the likelihood of confusion claim, opposer alleged ownership of the following registrations:

1. Registration No. 3201113 for the mark SINATRA, in standard character form, for "entertainment services, namely presentation of musical performances rendered by a singer," in Class 41.[1]
2. Registration No. 3394860 for the mark FRANK SINATRA, in standard character form, for "entertainment services, namely presenta-

[1] Registered under the provisions of Section 2(f) on January 23, 2007;

tion of musical performances rendered by a singer," in Class 41.[2] Opposer included a statement that "the name Frank Sinatra does not identify a living individual"; and

3. Registration No. 1817035 for the mark Frank Sinatra's and design, shown below, for "prepared sauces," in Class 30.[3]



Applicant, in its answer, denied the salient allegations in the notice of opposition.

The Record

The record includes the pleadings and, by operation of Trademark Rule 2.122(b), 37 C.F.R. § 2.122(b), applicant's application file. The parties introduced the testimony and evidence identified below.

[2] Registered on March 11, 2008.
[3] Registered on January 18, 1994; renewed.

A. Opposer's Evidence.

1. Notice of reliance on opposer's pleaded registrations printed from the electronic database records of the U.S. Patent and Trademark Office showing that the registrations are subsisting and owned by opposer;
2. Notice of reliance on an excerpt from **TIME** magazine (May 25, 1998) purporting to demonstrate the fame and reputation of Frank Sinatra and opposer's marks;
3. Notice of reliance on articles collected from the Internet purporting to demonstrate the fame and reputation of Frank Sinatra and opposer's marks;[4] and
4. Notice of reliance on an excerpt from opposer's website.

B. Applicant's Testimony.

Applicant introduced the testimony deposition of Bill Loizon with attached exhibits.

Standing

Because opposer has properly made its pleaded registrations of record, opposer has established its standing. *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 U.S.P.Q.2d 1842, 1844 (Fed. Cir. 2000); *Lipton Indus., Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 U.S.P.Q. 185, 189 (C.C.P.A. 1982).

[4] Internet documents may be submitted by a notice of reliance pursuant to *Safer Inc. v. OMS Investments, Inc.*, 94 USPQ2d 1031, 1038-39 (TTAB 2010).

Whether Applicant's Mark FRANKS ANTRA

Falsely Suggests A Connection With Frank Sinatra?

The evidence establishes that Frank Sinatra is an iconic figure in American culture. Shortly after his death, the May 25, 1998 issue of **TIME** magazine featured a cover photograph of Frank Sinatra, as well as a five-page article honoring his life. The author ends the article with the following tribute:

> Not only does his music define the time and temper of the American decades in which it was made, but his singing moves those songs out of time into something indistinct, everlasting. In Sinatra's music, there is no past tense.
>
> You could say he was the greatest, and that's right. But that doesn't say enough. There's nothing you can call him that doesn't in some way sell him short. Except Sinatra.
>
> After that … it's all good night.

The following tributes are representative:

> **NEW YORK TIMES** (May 16, 1998)
>
> Frank Sinatra Dies at 82; Matchless Stylist of Pop
>
> Frank Sinatra, the singer and actor whose extraordinary voice elevated popular song into an art, died on Thursday night in Los Angeles. …
>
> Widely held to be the greatest singer in American pop history and one of the most successful entertainers of the 20th century, Sinatra was also the first modern pop superstar. He defined that role in the early 1940's when his first solo appearance provoked the kind of mass pandemonium that later greeted Elvis Presley and the Beatles.

During a show business career that spanned 50 years and comprised recordings, film and television as well as countless performances in nightclubs, concert halls and sports arenas, Sinatra stood as a singular mirror of the American psyche. …

On a deeper level, Sinatra's career and public image touched many aspects of American cultural life. For millions, his ascent from humble Italian American roots in Hoboken, N.J., was a symbol of ethnic achievement. And more than most entertainers, he used his influence to support political candidates. His change of allegiance from pro-Roosevelt Democrat in the 1940's to pro-Reagan Republican in the 1980's paralleled a seismic shift in American politics.

CNN ENTERTAINMENT (*articles.cnn.com*) (June 25, 2002)

Start spreading the news: Post office memorializes Sinatra

The main post office in Hoboken, New Jersey, will be named after Frank Sinatra under a bill that House legislators are expected to pass Wednesday. Sinatra, who was born in the northern New Jersey city, was described as "New Jersey's proudest son" by Rep. Bob Menendez, D- New Jersey, who sponsored the legislation.

"Naming Hoboken's main post office after the late Frank Sinatra honors and recognizes Hoboken's number one star, legend and protégé," Menendez said in a written statement. "And while naming a post office after New Jersey's proudest to some may seem unusual, the symbolism is unmistakable; like Sinatra's voice and music, the postal service brings people – family and friends – together."

> **NPR MUSIC** (*npr.org*) (May 13, 2008)
>
> New Stamp Puts Sinatra Back in the Spotlight
>
> The United States Postal Service releases its commemorative Frank Sinatra stamp Tuesday - - one day before the 10th anniversary of the singer's death.
>
> Sinatra's family will mark the release with ceremonies in New York, Las Vegas and in Hoboken, N.J., where the Chairman of the Board was born.

The Court of Appeals for the Federal Circuit, our primary reviewing court, noted that "[w]hen a trademark attains dictionary recognition as part of the language, we take it to be reasonably famous." *B.V.D. Licensing v. Body Action Design,* 846 F.2d 727, 6 USPQ2d 1719, 1720 (Fed. Cir. 1988) (took judicial notice that the B.V.D. trademark "is at least widely, if not universally, known"). Reference work recognition is also applicable to individuals. *See Hornby v. TJX Companies Inc.*, 87 USPQ2d 1411, 1425 (TTAB 2008) (Board took judicial notice of a dictionary definition as evidence of the reputation and recognition of Twiggy, former fashion model). In this regard, Frank Sinatra is identified in the **RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE (UNABRIDGED)**, p. 1784 (2nd ed. 1987). In addition, the **ENCYCLOPEDIA BRITANNICA** has an entry for Frank Sinatra.[5] That reference work assesses the impact of Frank Sinatra as follows:

[5] The Board may take judicial notice of information in encyclopedias. *B.V.D. Licensing Corp. v. Body Action Design Inc.*, 6 USPQ2d at 1721; *Productos Lacteos Tocumbo S.A. de C.V. v. Paleteria La Michoacana Inc.*, 98 USPQ2d 1921, 1934 n.61 (TTAB 2011).

> Of his artistry, however, there is little debate, and the more than 1,400 recordings he made during more than 50 years as a performer are regarded by many critics as the most important body of work in American popular vocal music. Almost single-handedly, Sinatra redefined singing as a means of personal expression. In the words of critic Gene Lees, "[Sinatra] learned how to make a sophisticated craft sound as natural as an intimate conversation or personal confession." Beneath the myth and the swagger lay an instinctive musical genius and a consummate entertainer. Through his life and his art, he transcended the status of mere icon to become one of the most recognizable symbols of American culture.

"Frank Sinatra," **ENCYCLOPEDIA BRITANNICA** (2012).

Section 2(a) of the Trademark Act of 1946, 15 U.S.C. §1052(a), provides, in relevant part, that "[n]o trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the principal register on account of its nature unless it — (a) consists of or comprises … matter which may … falsely suggest a connection with persons living or dead."

Following our principal reviewing court's decision in *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., Inc.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983), *aff'g* 213 USPQ 594 (TTAB 1982), the Board utilizes the following four-part test to determine whether a false suggestion of a connection has been established:

1. The mark is the same as, or a close approximation of, the name of or identity previously used by another person;

2. The mark would be recognized as such because it points uniquely and unmistakably to that person;

3. The person named by the mark is not connected with the activities performed by the applicant under the mark; and,

4. The prior user's name or identity is of sufficient fame or reputation that a connection with such person would be presumed when applicant's mark is used on applicant's goods.

See also In re MC MC S.r.l., 88 USPQ2d 1378, 1379 (TTAB 2008); *In re White*, 80 USPQ2d 1654, 1658 (TTAB 2006); *In re Wielinski*, 49 USPQ2d 1754, 1757 (TTAB 1998); *In re Sloppy Joe's Int'l Inc.*, 43 USPQ2d 1350, 1353 (TTAB 1997).

A. Whether applicant's mark is a close approximation of the name Frank Sinatra?

As indicated above, applicant is seeking to register the mark FRANKS ANATRA. We find that applicant's mark is a close approximation of the name Frank Sinatra. Applicant's mark is phonetically equivalent to the name Frank Sinatra which reinforces the visual similarity.

Applicant argues that FRANKS ANATRA is not a close approximation of the name Frank Sinatra because the word "Franks" in FRANKS ANATRA means "frankfurters, hot dogs, and other similar food items," and ANATRA

means "duck" or "drake" in Italian.[6] We do not agree because there is nothing inherent in applicant's mark or in his marketing to lead consumers to translate the word "Anatra" to duck. Furthermore, we do not understand how applicant's mark engenders the commercial impression relating to anything other than a play on the Frank Sinatra name.

B. Whether applicant's mark points uniquely and unmistakably to Frank Sinatra?

In the context of applicant's catering services, we must determine whether consumers will view the mark FRANKS ANATRA as pointing only to Frank Sinatra, or whether they would perceive the mark FRANKS ANATRA as having a different meaning. *See Hornby v. TJX Companies Inc.*, 87 USPQ2d at 1426. There is nothing in the record from which we can conclude that FRANKS ANANTRA for catering services is anything other than a play on the name Frank Sinatra. As indicated above, applicant testified that "[t]he name of my business is Franks Anatra. Franks as in frankfurter, Anatra as in the People's Republic of Anatra,"[7] "an independent island nation"[8] that is

[6] Applicant's Brief, p. 9. We confirm that the word "anatra" means "duck" in Italian. **CASSELL'S ITALIAN DICTIONARY**, p. 30 (1977). The Board may take judicial notice of dictionary evidence. *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.,* 213 USPQ 594 (TTAB 1982), *aff'd,* 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983). We also note that applicant's "duck" argument is not consistent with applicant's testimony that "Anatra" is a reference to "the People's Republic of Anatra." (Loizon Dep., pp. 5, 7-8, and 10-11).

[7] Loizon Dep., p. 5.

[8] Loizon Dep., p. 8.

"all about the hot dogs."[9] Applicant contends that he has placed the badge of his country on the door of his truck.

> [T]hey see our badge of our country, our symbol on the door that says People's Republic of Anatra. And it's a colorful logo that I created, and it's on the hood with some Latin underneath it. It looks very official, and it sells a lot of people. They believe it. They walk away saying, Wow, Anatra, I've never heard of the place.[10]

However, applicant also noted his island nation imagery is not self-evident and that he has to explain it to customers.[11] Suffice it to say, we find applicant's explanation for choosing the mark FRANKS ANATRA to be obscure and find it unlikely that consumers will understand it.

Furthermore, we note that it is commonplace for performers and owners of well-known marks to expand their product lines to incorporate a diverse set of goods to capitalize on the renown of their names and brands. "The names and likenesses of well known [sic] persons frequently are licensed for use on various goods and services (Citations omitted). Thus, the name and/or likeness of a well known [sic] writer may well be 'extended' for use on goods and services unrelated to writing." *See Association pour la Defense et la Promotion de l'Oeuvre de Marc Chagall dite Comite Marc Chagall v. Bondarchuk,* 82 USPQ2d 1838, 1844 (TTAB 2007), *quoting In re Sloppy Joe's International Inc.,* 43 USPQ2d 1350, 1354 (TTAB 1997). *Cf. In re Phillips-Van Heusen*

[9] Loizon Dep., p. 7.
[10] Loizon Dep., p. 10.
[11] Loizon Dep. p. 10.

Corp., 228 USPQ 949, 951 (TTAB 1986) ("The licensing of commercial trademarks for use on 'collateral' products (such as clothing, glassware, linens, etc.) which are unrelated in nature to those goods or services on which the marks are normally used, has become a common practice in recent years."); *General Mills Fun Group, Inc. v. Tuxedo Monopoly, Inc.*, 204 USPQ 396, 400 (TTAB 1979) ("Moreover, it is a matter of common knowledge that famous marks are frequently used on certain types of items, such as clothing, glassware, trash cans, pillows, etc., which are unrelated in nature to those goods on which the marks are normally used; such use has become a part of everyday life which we cannot ignore."), *aff'd* 648 F.2d 1335, 209 USPQ 986, 988 (CCPA 1981) (finding no error in the Board's finding that it is common knowledge that famous marks are frequently used on diverse and "novelty" items). *See also Source Services Corporation v. Chicagoland JobSource, Inc.*, 643 F.Supp. 1523, 1 USPQ2d 1048, 1052 (N.D. Ill. 1986) ("As product lines become increasingly diversified, and as 'labels' having sales prestige of their own are affixed to products as diverse as clothes and cigarettes, the significance of product *dissimilarity* have become attenuated.") (Emphasis in the original). Accordingly, we find that consumers encountering applicant's mark used in connection with catering services will associate the mark FRANKS ANATRA with the well-known entertainer Frank Sinatra.

C. Whether Frank Sinatra is connected with applicant's catering services?

There is no evidence in the record that Frank Sinatra has any connection with applicant's business. In fact, applicant concedes that he has no connection with Frank Sinatra.[12]

D. Whether Frank Sinatra's name or reputation is sufficiently famous that a connection with Frank Sinatra would be presumed when applicant's mark is used in connection with applicant's catering services?

The evidence noted above is sufficient to show that the name Frank Sinatra has such fame or renown that the use of his name, or a close approximation of it, as a service mark by an unauthorized user will falsely suggest a connection with Frank Sinatra. *See In re Jackson International Trading Co.,* 103 USPQ2d 1417, 1421 (TTAB 2012) (recognizing that although the fame and renown of a celebrity may recede after the celebrity's death, Benny Goodman remains a well-known figure among a sufficient segment of the population as to support finding a false suggestion of a connection).

Applicant argues that the name Frank Sinatra is not of sufficient fame or reputation such that "the Frank Sinatra name does not extend, directly or by implication, into his field of services, and the consumers therefore would not presume a connection."[13] As previously discussed Frank Sinatra is an

[12] Applicant's Brief, p. 13.
[13] Applicant's Brief, p. 13.

iconic American cultural figure whose fame and reputation easily satisfy this element of the test for a false suggestion of a connection.

After considering all of the evidence of record in regard to the Section 2(a) false suggestion of a connection factors, as well as the argument of counsel, we find that applicant's mark FRANKS ANATRA falsely suggests a connection with Frank Sinatra.

Likelihood of Confusion

Priority

Because opposer's pleaded registrations are of record, Section 2(d) priority is not an issue in this case. *King Candy Co. v. Eunice King's Kitchen, Inc.,* 496 F.2d 1400, 182 USPQ 108 (CCPA 1974).

Analysis

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the likelihood of confusion. *In re E. I. du Pont de Nemours & Co.,* 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973). *See also, In re Majestic Distilling Company, Inc.,* 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003).

A. The Fame of Opposer's Mark.

The fifth *DuPont* factor requires us to consider the fame of opposer's mark. Fame, if it exists, plays a dominant role in the likelihood of confusion analysis because famous marks enjoy a broad scope of protection or exclusivity of use. A famous mark has extensive public recognition and renown. *Bose Corp. v. QSC Audio Prods.*, 293 F.3d 1367, 63 U.S.P.Q.2d 1303, 1305 (Fed.

Cir. 2002); *Recot, Inc. v. Becton*, 214 F.3d 1322, 54 U.S.P.Q.2d 1894, 1897 (Fed. Cir. 2000); *Kenner Parker Toys, Inc. v. Rose Art Indus.*, *Inc.*, 963 F.2d 350, 22 U.S.P.Q.2d 1453, 1456 (Fed. Cir. 1992).

Fame may be measured indirectly by the volume of sales and advertising expenditures of the goods and services identified by the marks at issue, "by the length of time those indicia of commercial awareness have been evident," by widespread critical assessments and through notice by independent sources of the products and services identified by the marks, as well as by the general reputation of the branded products and services. *Bose*, 63 U.S.P.Q.2d at 1305-06, 1309. Although raw numbers of product and service sales and advertising expenses may have sufficed in the past to prove fame of a mark, raw numbers alone may be misleading. Some context in which to place raw statistics may be necessary (*e.g.*, the substantiality of the sales or advertising figures for comparable types of products or services). *Id.* at 1309.

Because of the extreme deference that we accord 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. *Leading Jewelers Guild, Inc. v. LJOW Holdings, LLC*, 82 U.S.P.Q.2d 1901, 1904 (TTAB 2007).

The name Frank Sinatra is inextricably intertwined with the marks FRANK SINATRA and SINATRA for entertainment services and, therefore, based on the widespread critical assessments and notice by independent

sources regarding the services identified by the marks, we find that the marks FRANK SINATRA and SINATRA are famous for entertainment services.

B. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.

We now turn to the *du Pont* likelihood of confusion factor focusing on the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression. *In re E. I. du Pont De Nemours & Co.,* 177 USPQ at 567. In a particular case, any one of these means of comparison may be critical in finding the marks to be similar. *In re White Swan Ltd.,* 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.,* 6 USPQ2d 1041, 1042 (TTAB 1987). In comparing the marks, we are mindful that 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 terms of their overall commercial impression so that confusion as to the source of the goods offered under the respective marks is likely to result. *San Fernando Electric Mfg. Co. v. JFD Electronics Components Corp.,* 565 F.2d 683, 196 USPQ 1, 3 (CCPA 1977); *Spoons Restaurants Inc. v. Morrison Inc.,* 23 USPQ 1735, 1741 (TTAB 1991), *aff'd unpublished,* No. 92-1086 (Fed. Cir. June 5, 1992). The proper focus is on the recollection of the average customer, who retains a general rather than specific impression of the marks. *Winnebago Industries, Inc. v. Oliver & Winston, Inc.,* 207 USPQ 335, 344 (TTAB 1980); *Sealed Air Corp. v. Scott Paper Co.,* 190 USPQ 106, 108 (TTAB 1975). Since

the services at issue are in this proceeding are catering services and entertainment services, we are dealing with ordinary consumers.

As discussed above, the marks FRANK SINATRA and FRANKS ANATRA are phonetically equivalent. This equivalence reinforces their visual similarity. Because both marks are in standard character form, the rights associated with the marks reside in the wording and not in any particular design. *See Squirtco v. Tomy Corp., 697 F.2d 1038, 216 USPQ 937, 939 (Fed. Cir. 1983); In re RSI Systems, LLC, 88 USPQ2d 1445, 1448 (TTAB 2008); In re Pollio Dairy Products Corp., 8 USPQ2d 2012, 2015 (TTAB 1988).* Thus, applicant's mark could appear in a format similar to the registered mark. Moreover, because applicant is seeking to register FRANKS ANATRA, and not the ANATRA logo, the trade dress used in conjunction with applicant's mark may not be used to distinguish the commercial impressions engendered by the marks at issue because such dress may be changed at any time. *Kimberly Clark Corp. v. H. Douglas Enterprises, Ltd.,* 774 F.2d 1144, 1147, 227 USPQ 541, 543 (Fed. Cir. 1985).

Applicant's mark FRANKS ANATRA is an obvious play on the famous Frank Sinatra name/mark. In fact, applicant testified that he has "a passion for humor."[14] However, "the right of the public to use words in the English language in a humorous or parodic manner does not extend to use of such words as trademarks if such use conflicts with the prior use and registration

[14] Loizon Dep., p. 7. Although applicant asserts that he was attempting to use that humor to create a fictional island nation that was all about the hot dogs.

of the substantially same mark by another." *Columbia Pictures Industries, Inc. v. Miller,* 211 USPQ 816, 820 (TTAB 1981) (CLOTHES ENCOUNTERS is likely to cause confusion with CLOSE ENCOUNTERS OF A THIRD KIND). *See also Research in Motion Ltd. v. Defining Presence Marketing Group Inc.,* 102 USPQ2d 1187 (TTAB 2012) (in finding that CRACKBERRY is similar to BLACKBERRY, the Board noted that the fame of opposer's mark magnifies the similarities of the marks). In this regard, "a purchaser is less likely to *perceive* differences from a famous mark." *B.V.D. Licensing v. Body Action Design,* 846 F.2d 727, 730, 6 USPQ2d 1719, 1722 (Fed. Cir. 1988) (Nies, J., dissenting) (emphasis in original), and quoted with approval in *Kenner Parker Toys Inc. v. Rose Arts Industries, Inc.,* 963 F.2d 350, 22 USPQ2d 1453, 1456 (Fed. Cir. 1992) and *Nike Inc. v. Maher,* 100 USPQ2d 1018, 1020 (TTAB 2011).

In view of the fame of opposer's marks and the similarity of appearance, sound and overall commercial impression, we find the marks to be similar.

C. The similarity or dissimilarity and nature of the goods and services described in the application and registrations, the likely-to-continue channels of trade and classes of consumers.

As to the parties' respective goods and services, applicant is seeking registration for catering services and opposer's marks are registered for entertainment services and prepared sauces. While the goods and services are clearly different, it is not necessary that the goods and services of the parties be similar or competitive in character to support a holding of likelihood of con-

fusion; it is sufficient for such purposes that a party claiming damage establish that the goods/services are related in some manner and/or that conditions and activities surrounding marketing of these goods/services are such that they would or could be encountered by the same persons under circumstances that could, because of similarities of marks used with them, give rise to the mistaken belief that they originate from or are in some way associated with the same producer. *Edwards Lifesciences Corp. v. VigiLanz Corp.,* 94 USPQ2d 1399. 1410 (TTAB 2010); *Schering Corporation v. Alza Corporation,* 207 USPQ 504, 507 (TTAB 1980); *Oxford Pendaflex Corporation v. Anixter Bros. Inc.,* 201 USPQ 851, 854 (TTAB 1978).

As discussed above, it is commonplace for performers to expand their product lines to incorporate a diverse set of goods and services to capitalize on the renown of their names and brands. Thus, the FRANK SINATRA marks may be extended for use in connection with services unrelated to entertainment such as catering. Accordingly, we find that the goods and services of the parties are related and may be encountered by the same consumers under circumstances likely to lead to the mistaken belief that they emanate from the same source because of the similarity of the marks.

D. Balancing the factors.

Opposer's marks are famous, the marks are similar, the goods and services are related and are encountered by the same consumers under circumstances likely to give rise to the mistaken belief that the goods and services

emanate from the same source due to the similarity the marks and the fame of opposer's marks. In view thereof, we find that applicant's use of the mark FRANKS ANATRA for catering foods and drinks is likely to cause confusion with the marks FRANK SINATRA and SINATRA for entertainment services and FRANK SINATRA and design for prepared sauces.

Because we have found applicant's mark falsely suggests a connection with Frank Sinatra and is likely to cause confusion with the marks in opposer's pleaded registrations, we do not have to analyze opposer's dilution claim.

Decision: The opposition is sustained and registration to applicant is refused.