

OAKVILLE HILLS CELLAR, INC. v. GEORGALLIS HOLDINGS, LLC, Appeal No. 2016-1103 (Fed. Cir. June 24, 2016). Before Lourie, Moore, and Chen. Appealed from the Trademark Trial and Appeal Board.

Background:

Georgallis filed an application seeking to register the mark MAYARI for use on wine. Oakville opposed the registration, alleging a likelihood of confusion between Georgallis's MAYARI mark and Oakville's previously registered and used mark MAYA for use on wine.

The Board evaluated the *DuPont* factors for determining likelihood of confusion. The Board noted that the marks were visually similar only in part, were only possibly similar in pronunciation, and would likely be perceived to have different meanings and overall commercial impressions. Even after weighing the similarity of the marks against other factors, the Board concluded that that confusion was not likely and dismissed Oakville's opposition.

Issue/Holding:

Did the Board err in dismissing Oakville's opposition due to lack of likelihood of confusion? No, affirmed.

Discussion:

The Federal Circuit focused its discussion on the first of the *DuPont* factors, the similarity or dissimilarity of the marks in their entireties, noting that a single factor (and especially the similarity of the marks) may be dispositive in a likelihood of confusion analysis.

Oakville argued that MAYA dominates both marks, and that the suffix -RI in MAYARI is of minor import as a distinguishing element. The court agreed with the Board's finding that there was insufficient evidence that customers would view the mark as MAYA plus RI, because RI alone has no relevant meaning.

The court also agreed with the Board's finding that there was no evidence showing that the marks would be pronounced alike. Oakville's argument regarding pronunciation was based on the dissection of the mark into MAYA and RI, which relied on Georgallis's admission that MAYARI was a combination of the names of the owner's daughters, Maya and Arianna. However, the court noted that there was no evidence that consumers would be aware of the origin of the mark. The court further noted that, even if the origin were known, the pronunciation of MAYARI would not necessarily be the same as that of MAYA.

The court agreed that evidence supported a finding that MAYA is a familiar word, while MAYARI has no recognized meaning to U.S. consumers. Georgallis submitted evidence that Maya is a recognized name and has several salient meanings, whereas Mayari is not a common name. Oakville merely submitted a list of Fillipino names including Mayari and evidence that both Maya and Mayari are names of goddesses. There was no evidence that U.S. consumers would recognize Mayari as either a name or a goddess. Thus, Maya would be perceived as a name or as the civilization, whereas Mayari would be perceived as a coinage without meaning.

The court therefore concluded that substantial evidence supported the Board's finding that the marks are sufficiently dissimilar and affirmed the Board's dismissal of the opposition.