

UPDATE: U.S. Supreme Court Will Decide What Preclusive Effect, If Any, Should Be Given to Likelihood of Confusion Findings by the Trademark Trial and Appeal Board

July 2, 2014

As we reported in our May 29 client alert, the Solicitor General submitted an amicus brief recommending that the Supreme Court grant a petition for certiorari seeking a determination of whether likelihood of confusion findings by the Trademark Trial and Appeal Board are entitled to preclusive effect in federal court and, if not, what level of deference, if any, such determinations should be accorded. Because available data shows that the Supreme Court's decision to grant or deny a petition often follows the Solicitor General's recommendation, we suggested that the petition was likely to be granted. On July 1, 2014, the Supreme Court granted the petition. The parties will now file merits briefs, with Petitioner's brief due August 15, 2014.

Proskauer's False Advertising & Trademark lawyers will continue to monitor this case and update our clients. The case is *B&B Hardware, Inc. v. Hargis Industries, Inc.*, No. 13-352.