Katten

ARTICLE



# Court Expands Something More Standard

**Published in *Managing Intellectual Property***

March 2015

This article discusses the United States Court of Appeals for the Federal Circuit's expansion of the "something more" standard in the case *In re St Helena Hospital*. The United States Patent and Trademark Office (USPTO) had refused St. Helena Hospital's trademark application for the mark TAKETEN based upon a likelihood of confusion with a third-party registration for the mark TAKE 10!. The USPTO asserted that consumers are likely to believe that health care services offered under the proposed TAKETEN mark have a common source with the printed materials for a weight-loss program offered under the TAKE 10! mark. The Trademark Trial and Appeal Board affirmed the USPTO decision, holding that in the case of health care services and printed materials, the "something more" standard did not need to be applied. St. Helena Hospital appealed to the United States Court of Appeals for the Federal Circuit, which held that substantial evidence does not support the Board's assertion that printed materials distributed as part of a weight-loss program bear the same mark as the facility offering the program and that the USPTO needed to show "something more than the mere fact that the goods and services are used together" in order to support a likelihood of confusion.

## CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



**Karen Artz Ash**
+1.212.940.8554
karen.ash@katten.com



**Bret J. Danow**
+1.212.940.6365
bret.danow@katten.com

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2026 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at katten.com/disclaimer.