

BUSINESS REGISTRATION DIVISION  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Registered Entity  
“HNL PARTY BOOTH LLC”

LC-2025-001  
[Consolidated with TN-2025-008]

**DIRECTOR’S FINAL ORDER**

Administrative Hearings Officer:  
Rodney K.F. Ching

**DIRECTOR’S FINAL ORDER**

On November 20, 2025, the duly appointed Hearings Officer submitted his Findings of Fact, Conclusions of Law and Recommended Order (“Recommended Decision”) in the above-captioned matter to the Director of the Department of Commerce and Consumer Affairs (“Director”). Copies of the Hearings Officer’s Recommended Decision were also transmitted to the parties. On December 2, 2025, Petitioner filed PETITIONER HNL PHOTOBOOTH COMPANY, INC.’S CONSOLIDATED WRITTEN EXCEPTIONS TO THE HEARINGS OFFICER’S FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER. That same day, Petitioner filed a WITHDRAWAL OF PETITIONER’S WRITTEN EXCEPTIONS.

Upon review of the entire record of this proceeding, the Director adopts the Recommended Decision as the Director’s Final Order. The Director finds and concludes that Petitioner has *not* proven by a preponderance of the evidence that Respondent’s registered entity name HNL PARTY BOOTH LLC is *confusingly similar* with Petitioner’s trade name “HNL PHOTOBOOTH” (and/or its iteration “HNL PHOTO BOOTH”).

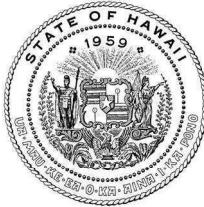
The Director hereby DENIES and DISMISSES the Petition filed in this matter.

DATED: Honolulu, Hawaii: December 8, 2025.

*Nadine Y. Ando*

NADINE Y. ANDO  
Director  
Department of Commerce and  
Consumer Affairs

*This decision has been redacted and reformatteed for publication purposes and contains all of the original text of the actual decision.*



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In the Matter of the Registered Entity  
  
HNL PARTY BOOTH LLC

LC-2025-001  
[CONSOLIDATED WITH TN-2025-008]

HEARINGS OFFICER'S FINDINGS  
OF FACT, CONCLUSIONS OF LAW,  
AND RECOMMENDED ORDER

Administrative Hearings Officer:  
Rodney K.F. Ching

HEARINGS OFFICER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

I. INTRODUCTION

On August 22, 2025, Petitioner HNL PHOTOBOTH CO ("Petitioner"), filed a *Petition for Order of Abatement Against Infringement of Trade Name, Trademark, or Service Mark* ("Petition") against the registered entity HNL PARTY BOOTH LLC ("Respondent"). The matter was scheduled for hearing, and the Notice of Hearing and Prehearing Conference was duly transmitted to the parties.

On October 8, 2025, a prehearing conference was conducted in this matter. Seth M. Reiss, Esq. appeared on behalf of Petitioner. Tommy Oh appeared on behalf of Respondent. By agreement of the parties, this matter was consolidated for hearing with *In Re Trade Name "HNL PARTY BOOTH"*, TN-2025-008. The parties also agreed to amend the first line of the *Petition for Revocation of Trade Name*, TN-2025-008, by deleting "HNL PARTYBOOTH CO., INC." and inserting "HNL PHOTOBOTH CO."

On November 12, 2025, the hearing in the above-captioned matter was convened by the undersigned Hearings Officer. Seth M. Reiss, Esq. appeared on behalf of Petitioner with

Charles Lat, Petitioner's representative present. Tommy Oh appeared on behalf of Respondent. The parties *confirmed* that this matter was consolidated for hearing with the trade name case, *In Re "HNL PARTY BOOTH"*, TN-2025-008. The parties also *confirmed* their agreement to amend the first line of the *Petition for Revocation of Trade Name*, TN-2025-008, by deleting "HNL PARTYBOOTH CO., INC." and inserting "HNL PHOTOBOTH CO." Petitioner affirmed that it is claiming ownership of both "HNL PHOTOBOTH" (combined word) and "HNL PHOTO BOOTH" (separate words). Petitioner's Exhibits 1 to 13 were admitted into evidence by agreement. Respondent's Exhibits A to G were admitted into evidence by agreement. Charles Lat testified on behalf of Petitioner. Tommy Oh testified on behalf of Respondent.

Having reviewed and considered the evidence and argument presented at the hearing, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law, and recommended order.

## II. FINDINGS OF FACT

1. Petitioner registered its *trade* name, "HNL PHOTOBOTH COMPANY", with the Department of Commerce and Consumer Affairs ("DCCA") on October 26, 2015, Certificate No. 4151326, which expired on October 25, 2020. The *Purpose* is stated as "PROVIDING PHOTOGRAPHY SERVICES". See Exhibit 1.

2. Petitioner registered its *entity* name, HNL PHOTOBOTH COMPANY, INC., with the DCCA on January 30, 2017, File No. 274828 D1. The *Purpose* is stated as "PHOTOGRAPHY AND VIDEOGRAPHY SERVICES". See Exhibit 2.

3. On October 29, 2024, the *Service Mark* "HNL STUDIOS" was registered by Petitioner. See Exhibit B.

4. Respondent registered its *trade* name, "HNL PARTY BOOTH", with the DCCA on May 20, 2025, Certificate No. 4304302. The *Purpose* is stated as "TAKE-OUT RESTAURANT". See Exhibit 4.

5. Respondent registered its *entity* name, HNL PARTY BOOTH LLC, with the DCCA on July 31, 2025, File No. 351897 C5. The *Purpose* is *not* stated. See Exhibit 9.

6. On August 4, 2025, Respondent was issued a State of Hawaii General Excise License for HNL PARTY BOOTH LLC. See Exhibit D.

7. In July 2025, the parties exchanged direct messages regarding use of the HNL PARTY BOOTH name. See Exhibits 5 and 6.

8. By letter dated July 30, 2025, Petitioner demanded that Respondent cease any use of the name HNL PARTY BOOTH in relation to party photo booth rental services. See Exhibit 11.

9. On or about July 31, 2015, Respondent *attempted* to register the *entity* name HNL PHOTOBOOTH LLC, which was *Rejected* by the DCCA. See Exhibits 10 and A.

10. On August 22, 2025, Petitioner filed the instant Petition.

### **III. CONCLUSIONS OF LAW**

If any of the following conclusions of law shall be deemed to be findings of fact, the Hearings Officer intends that every such conclusion of law shall be construed as a finding of fact.

#### **Burden of Proof**

*Petitioner* has the burden of proof by a *preponderance* of the evidence:

Except as otherwise provided by law, **the party initiating the proceeding shall have the burden of proof**, including the **burden of producing evidence** as well as the **burden of persuasion**. The degree or quantum of proof shall be a **preponderance of the evidence**.

See Hawaii Revised Statutes (“HRS”) § 91-10(5) (emphasis added) and Hawaii Administrative Rules (“HAR”) § 16-201-21(d).

#### **Analysis**

Petitioner requests an order of abatement against the registered entity HNL PARTY BOOTH LLC pursuant to HRS § 482-8.5(a) (confusingly similar). That statute states in relevant part:

#### **§482-8.5. Administrative order of abatement against a registered or authorized entity.**

(a) **Any person claiming to be the owner of a trade name or mark who believes that the name of any entity registered or authorized to transact business under the laws of this State is confusingly similar to its trade name or mark may file a petition with the director for an administrative order of abatement to address the infringement of its trade name or mark. The petition shall set forth the facts and authority supporting the claim that the petitioner has common law rights of ownership of the trade name or mark, that these rights are being infringed upon by a registered or authorized entity whose name is confusingly**

**similar to the petitioner's trade name or mark, and that further use of the entity name should be abated.**

\* \* \* \*

Thus, in order to obtain an order of abatement pursuant to HRS § 482-8.5,

Petitioner must prove by a preponderance of the evidence:

- (1) that it has common law rights of ownership of the *trade* name "HNL PHOTOBOOTH";
- (2) that these rights are being infringed upon by Respondent whose *entity* name, HNL PARTY BOOTH LLC is *confusingly similar* with Petitioner's *trade* name "HNL PHOTOBOOTH" and
- (3) that further use of Respondent's *entity* name, HNL PARTY BOOTH LLC, should be abated.

**Petitioner has proven that it has common law rights of ownership of the *trade* name "HNL PHOTOBOOTH" (and its iteration "HNL PHOTO BOOTH")**

One who **first uses a distinct mark in commerce acquires common law ownership rights to that mark, including the right to prevent others from using it.** *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 142 (2015); *Brookfield Commc'ns, Inc. v. W. Coast Entm't Corp.*, 174 F.3d 1036, 1047 (9th Cir. 1999) (trademark ownership "is governed by priority of use") (emphasis added). "Use" in commerce means "the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in the mark." HRS § 482-1; 15 U.S.C. § 1127. **A mark is in use in commerce "[w]ith respect to services when it is used or displayed in the sale or advertising of services and the services are rendered in this State."** HRS § 482-1 (emphasis added); *see* 15 U.S.C. § 1127 (mark is in use in commerce "on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce"). Given this two-pronged requirement, "trademark rights are not conveyed through mere intent to use a mark commercially." *Brookfield*, 174 F.3d at 1052.

In *Stout v. Laws*, 37 Haw. 382, 477 P.2d 166 (1946), the Hawaii Supreme Court stated:

Trade names may be established without registration under the Acts of Congress relating to trademarks or copyrights and without registration under the local law pertaining to trademarks and trade names. They are acquired by adoption and use for a period of time

sufficiently long for the public to associate the name with the business to which it is applied. **They belong to the one who first uses them and gives them value.**

*Id. at 385* (emphasis added).

The **registration of a trade name or trademark is a reflection of purported ownership** rather than proof of ownership, and the continued registration of a mark is only as good - when challenged - as the underlying basis upon which it rests. *Out of the Blue Productions, TN-94-5 (DFO August 16, 1995); Kona Gold Coffee Drink, TN-89-23 (DFO April 10, 1990).* It is well-settled that the ownership right to a trade name is developed through continuous and active use in the marketplace and not by mere registration. *Waikiki Surf Club, TN-89-19 (DFO January 9, 1991).*

Petitioner was the **first** to use the trade name “HNL PHOTOBOOTH” having registered the *trade* name, “HNL PHOTOBOOTH COMPANY”, with the DCCA on October 26, **2015**. See Exhibit 1. Petitioner registered its *entity* name, HNL PHOTOBOOTH COMPANY, INC., with the DCCA on January 30, **2017**. See Exhibit 2. According to Mr. Lat, he allowed his *trade name* registration to expire in 2020, since he had registered his *entity name* HNL PHOTOBOOTH COMPANY LLC in 2017. Respondent did not register or use its trade name “HNL PARTY BOOTH” until **2025**. Petitioner has proffered corroborating evidence of its *active and continued use* of its *trade* name “HNL PHOTOBOOTH” in conjunction with its photography and videography services. See Exhibit 3. Respondent did not proffer any evidence rebutting Petitioner’s claim of ownership of the “HNL PHOTOBOOTH” and/or “HNL PHOTO BOOTH” trade names.

Accordingly, the Hearings Officer concludes that Petitioner has proven by a preponderance of the evidence that it is the *common law owner* of the *trade* name “HNL PHOTOBOOTH” and “HNL PHOTO BOOTH” in conjunction with its photography and videography services and has had continuous and active use of the trade name in the marketplace since 2015.

**Petitioner has *not* proven by a preponderance of the evidence that its rights are being infringed upon by Respondent whose registered *entity* name HNL PARTY BOOTH LLC is confusingly similar to Petitioner’s trade name**

The test for determining whether **entity** or trade names are *confusingly similar* is “whether there is a **likelihood** of confusion in the mind of a reasonably prudent buyer.” *In re Kona’s Something Special, TN-84-4 (DFO August 8, 1984)* (emphasis added). “A likelihood of confusion exists when consumers would be likely to assume that the source of the products or services is the same as or associated with the source of a different product or service identified by a similar mark.” *Carrington v. Sears Roebuck & Company, 5 Haw. App. 194, 683 P.2d 1220 (1984)* (“*Carrington*”)

In *In re Kona’s Something Special, TN-84-4 (DFO August 8, 1984)*, the Director of the DCCA adopted standards for determining the *likelihood of confusion*, modifying the factors set forth by the Intermediate Court of Appeals in *Carrington*. The Director condensed the eight factors set forth in *Carrington* into six factors which are: 1) similarity of the names, 2) similarity of businesses, 3) channels of trade, 4) evidence of actual confusion, 5) respondent’s intent in adopting the name, and 6) the strength of the name.

### **1) Similarity of the names**

This factor analyzes whether the **names** are similar in **sight, sound, and meaning**. *Carrington*, 683 P.2d at 1226. The marks must be examined “in their entirety and as they appear in the marketplace.” *Alpha Indus., Inc. v. Alpha Steel Tube & Shapes, Inc.*, 616 F.2d 440, 444 (9th Cir. 1980); *Surfvivor*, 406 F.3d at 633 (“courts should analyze each mark within the context of other identifying features”); *Carrington*, 683 P.2d at 1226 (marks are examined as entities). Similarities are given more weight than differences. *AMF Inc. v. Sleekcraft Boats*, 599 F.2d 341, 351 (9th Cir. 1979) (overruled on unrelated grounds by *Mattel, Inc. v. Walking Mountain Prods.*, 353 F.3d 792, 810 n.19 (9th Cir. 2003)). However, similar marks that appear in conjunction with a clearly displayed name or **logo** present less likelihood of confusion. *Carrington*, 683 P.2d at 1226 (emphasis added).

Petitioner’s trade name “HNL PHOTOBOOTH” is two (2) words with the second word being a combined word. Respondent’s entity name “HNL PARTY BOOTH” is three (3) words. Petitioner’s trade name and Respondent’s entity name have “HNL” and “BOOTH” in common. Thus, two (2) of the three (3) words in the names have *identical sight, sound and meaning*. At hearing the parties agreed that “HNL” is the abbreviation (and airport code) for Honolulu. What distinguishes Petitioner’s trade name and Respondent’s entity name are the words “PHOTO” and “PARTY”. “PHOTO” and “PARTY” are both two (2) syllable, five (5) letter words

beginning with “P”, but do *not* sound the same. They also have *different* meanings, “PHOTO” is short (abbreviation) for “PHOTOGRAPH”. Synonyms for “PHOTO” include Picture and Snapshot. See Microsoft WORD online Thesaurus for “PHOTO”. Synonyms for “PARTY” include Get-Together, Celebration and Shindig. See Microsoft WORD online Thesaurus for “PARTY”. On its face (**sight and sound**) the names are similar, *but distinguishable*. The parties logos (**sight**) are *not* similar.



See Exhibit G.

Petitioner argues that “photobooth” and “party booth” are used interchangeably in the *photography and video kiosk rental business*. However, Petitioner’s own exhibit *distinguishes* “party booth” and “photobooth”. “...Party Booth is a **modern take** on a classic photobooth”. See Exhibit 13 (emphasis added). According to Mr. Oh, his business does provide photo booth services, but with an Artificial Intelligence option which can convert photos into muppet characters or dolls. See Exhibit E. Accordingly, the Hearings Officer concludes that the **similarity of names** factor is in favor of Respondent.

## 2) Similarity of businesses

The more likely consumers are to assume an association between producers of related goods, the less similarity in marks is required to find a likelihood of confusion. *Sleekcraft*, 599 F.2d at 350. Less similarity between marks will suffice when the goods are

complementary,<sup>1</sup> sold to the same class of purchasers,<sup>2</sup> or similar in use and function.<sup>3</sup> *Sleekcraft*, 599 F.2d at 350.

Petitioner is in the business of providing photography and videography services for events and weddings in Honolulu. See Exhibits 3, page 3 and F. Respondent is also in the business of providing photography and videography services for events and weddings in Honolulu with an Artificial Intelligence option. See Exhibits 6 and E.

Accordingly, the Hearings Officer concludes that the **similarity of businesses** factor is in favor of Petitioner.

### **3) Channels of trade**

This factor examines the *sales methods and marketing channels* utilized to get goods and services from the producers to consumers:

Where channels of trade, which are also known as marketing channels are convergent, the likelihood of confusion is increased, (citation omitted), and the evidence must be examined to determine whether the **sales methods and marketing channels** for the products are **overlapping** (citation omitted).

*Carrington v. Sears, Roebuck & Co.*, 5 Haw App 194, 201-202, 683 P.2d 1220, 1227 (1984) (emphasis added).

The Hearings Officer finds that the *sales methods and marketing channels* utilized by the parties *overlap*. Both parties are registered in the State of Hawaii and, as concluded above, have similar businesses. Both parties have websites and use social media including Yelp and Instagram to market their services. See Exhibits 7, 8, 13, E, and F. Accordingly, the Hearings Officer concludes that the **channels of trade** factor is in favor of Petitioner.

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<sup>1</sup> Goods are complementary “if the two kinds of goods are used together.” RESTATEMENT OF TORTS § 731 cmt. d (1938); *see E. & J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1291 (9th Cir. 1992) (“wine and cheese are complementary products, frequently served and promoted together”); *see Aunt Jemima Mills Co. v. Rigney & Co.*, 247 F.407, 410 (2d Cir. 1917) (syrup and pancake flour are complementary products because both are food products and commonly used together).

<sup>2</sup> Goods are sold to the same class of purchasers when they are “offered to similar customers,” *Jarritos, Inc. v. Reyes*, 345 F. App’x 215, 219 (9th Cir. 2009), or “if the purchasers of the actor’s goods are also purchasers of the other’s goods.” RESTATEMENT OF TORTS § 731 cmt. d (1938).

<sup>3</sup> Goods are similar in use and function if their uses overlap or are interchangeable. *See Sleekcraft*, 599 F.2d at 350 (parties’ goods were similar in use and function because they were used for recreational boating and designed for water skiing and speedy cruises); *see Syntex Labs., Inc. v. Norwich Pharmacal Co.*, 437 F.2d 566, 569 (2d Cir. 1971) (parties’ goods were similar in use and function because they were intended to treat medically related conditions and were likely to be closely associated by those prescribing and dispensing them).

#### 4) Evidence of actual confusion

This factor examines whether use of the two names has already led to confusion, as this is persuasive proof that future confusion is likely. *Sleekcraft*, 599 F.2d at 352; *see Amstar Corp. v. Domino's Pizza, Inc.*, 615 F.2d 252 (5th Cir. 1980) (**actual confusion is “the best evidence of likelihood of confusion.”**) (emphasis added). To establish actual confusion, the party alleging infringement must present strong, and not merely anecdotal, evidence that focuses “upon confusion in the marketplace, as opposed to **generalized public confusion.**” *Accuride*, 871 F.2d at 1535 n.5. (emphasis added). “Trademark infringement protects only against mistaken *purchasing decisions* and not against confusion generally.” *Bosley Med. Inst. v. Kremer*, 403 F.3d 672, 677 (9th Cir. 2005) (citation omitted).

Although proving actual confusion is difficult, a failure to prove instances of actual confusion is not dispositive. *Sleekcraft*, 599 F.2d at 352-53. Indeed, “actual confusion is not necessary to a finding of likelihood of confusion.” *Shakey's Inc. v. Covalt*, 704 F.2d 426, 431 n.6 (9th Cir. 1983); *see Chevron Chem. Co. v. Voluntary Purchasing Groups, Inc.*, 659 F.2d 695, 705 (5th Cir. 1981) (“lack of evidence of actual confusion did not militate strongly against a finding of likelihood of confusion” when the other factors were considered).

In its Prehearing Statement, Petitioner concedes that it “...cannot now point to specific instances of confusion”, but argues that “...it is unnecessary to show actual confusion to establish likelihood of confusion”. See Petitioner’s Prehearing Statement filed November 5, 2025 at pages 9-10. While that is a correct statement of the law, the Hearings Officer *cannot* conclude the Petitioner has established a *likelihood* of confusion. At the hearing, Petitioner did *not* introduce any evidence of actual confusion (**actual confusion is “the best evidence of likelihood of confusion.”**). Respondent is not aware of any actual confusion. Testimony of Mr. Oh 1:24:57. A Google search for the key words “hnl party booth” (Respondent’s entity name) results in the listing of *both* parties’ businesses. See Exhibit 8, page 1. While this *suggests* some confusion, the Hearings Officer concludes that this is **generalized public confusion**, at best, which does *not* amount to a *likelihood of confusion*. If anything, the confusion actually favors Petitioner. In other words, a Google search for *Respondent*’s business will also list *Petitioner*’s business. Yelp and Instagram searches for the key words “HNL Booth” also result in the listing of both parties’ businesses because both businesses have those terms in common. See Exhibit 8, pages 2-3. Although the argument was made, Petitioner has *not* introduced any *evidence* that a search for

Petitioner's business will result in a listing of Respondent's business. Accordingly, the Hearings Officer concludes that the **evidence of actual confusion** factor is in favor of Respondent.

### **5) Respondent's intent in adopting the name**

This factor examines whether Respondent's *intent* in adopting the name was improper.

As evidence of improper intent, Petitioner argues that Respondent registered its *entity* name HNL PARTY BOOTH LLC on July 31, 2025, *after* being made aware of Petitioner's claim of ownership of the trade name HNL PHOTOBOTH via Mr. Lat's direct message (sometime before 7/27/2025, see Exhibit 5), and the cease and desist letter (dated 7/30/25, see Exhibit 11). This argument ignores the fact that Respondent registered its *trade* name "HNL PARTY BOOTH" on May 20, 2025, *before* being made aware of Petitioner's claim of ownership of the trade name "HNL PHOTOBOTH".

According to Mr. Oh, he was *not* aware of the "HNL PHOTOBOTH" trade name when he registered his trade name, "HNL PARTY BOOTH". Testimony of Mr. Oh at 1:23:15.

Accordingly, the Hearings Officer concludes that the **respondent's intent in adopting the name** factor is in favor of Respondent.

### **6) Strength of Petitioner's name.**

This factor examines the strength of the mark according to five categories of increasing distinctiveness: (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; and (5) fanciful. *Kendall-Jackson Winery, Ltd. v. E. & J. Gallo Winery*, 150 F.3d 1042, 1047 (9th Cir. 1998). Suggestive,<sup>4</sup> arbitrary,<sup>5</sup> and fanciful<sup>6</sup> marks are considered inherently distinctive, whereas generic<sup>7</sup> marks are never distinctive. *Id.* at 1047. Descriptive<sup>8</sup> marks fall in the middle of the spectrum: although not inherently distinctive, they can acquire distinctiveness through

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<sup>4</sup> "Suggestive" marks suggest, rather than describe a product's features and require exercising some "imagination or any type of multistage reasoning to understand the mark's significance"—for example, "Air Care" for a service that maintains medical equipment used for administering oxygen, and "Anti-Washboard" for a soap that washes with no scrubbing necessary. *Id.* at 1047 n.8 (emphasis omitted and citations omitted).

<sup>5</sup> "Arbitrary" marks use words that "have no relevance to any feature or characteristic of a product." *Id.*; see, e.g., *Nat'l Lead Co. v. Wolfe*, 223 F.3d 195 (9th Cir. 1955) ("Dutch Boy" paint).

<sup>6</sup> "Fanciful" marks use invented words that "involve a high degree of imagination." *Kendall-Jackson*, 150 F.3d at 1047 n.8; see, e.g., *Eastman Kodak Co. v. Rakow*, 739 F.Supp. 116 (W.D.N.Y. 1989) ("Kodak" cameras).

<sup>7</sup> "Generic" marks give the general name of the product and embrace an entire class of products—for example, "Wickerware" wicker furniture and accessories. *Kendall-Jackson*, 150 F.3d at 1047 n.8.

<sup>8</sup> "Descriptive" marks "define qualities or characteristics of a product in a straightforward way that requires no exercise of the imagination to be understood"—for example, "Honey Roast" for honey roasted nuts. *Id.*

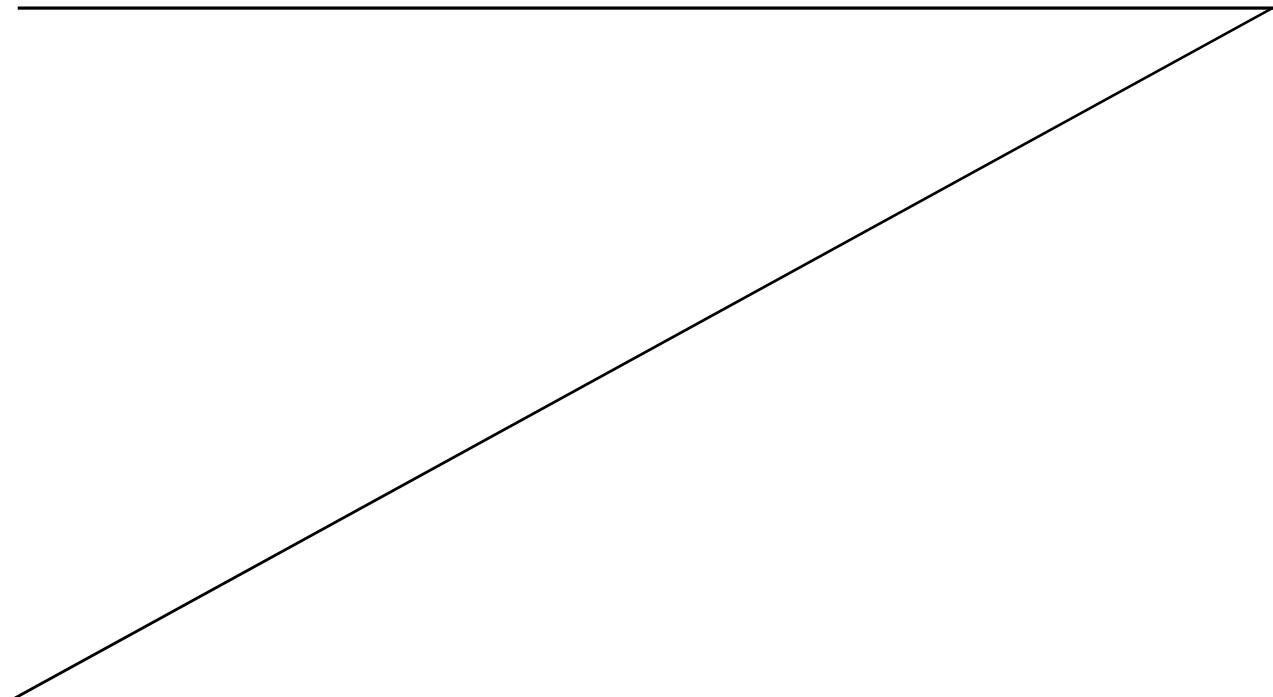
secondary meaning if the public associates the mark with a specific source. *Id.* at 1047 n.8; *see, e.g.*, *Levi Strauss & Co. v. Blue Bell, Inc.*, 632 F.2d 817, 820 (9th Cir. 1980) (pocket tab acquired secondary meaning because it distinguished Levi Strauss' goods from others and was distinctive of Levi Strauss' goods in commerce). Thus, a mark can be protected from infringement if it: (1) is inherently distinctive (i.e., suggestive, arbitrary, or fanciful); or (2) has acquired distinctiveness through secondary meaning. *Kendall-Jackson*, 150 F.3d at 1047.

“HNL” is *generic* describing a geographic location, Honolulu. “Booth” is also *generic*. “Photo” standing alone is *generic*, but here *describes* a type of a booth. According to Petitioner’s exhibit, “Photobooth” (combined form) is gaining traction in social media and is “...increasingly popular in marketing, event planning and among younger audiences” than the traditional and commonly accepted spelling “Photo Booth”. See Exhibit 12. “HNL Photobooth” is simply *not* distinctive enough to be considered a strong name. Accordingly, the Hearings Officer concludes that the **strength of Petitioner’s name** factor is in favor of Respondent.

### **Overall conclusion**

In view of all of the factors in the “likelihood of confusion” test, the Hearings Officer concludes that Petitioner has *not* met its burden of proving by a preponderance of the evidence that the entity name HNL PARTY BOOTH LLC is *confusingly similar* with Petitioner’s trade name “HNL PHOTOBOOTH”.

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IV. RECOMMENDED ORDER

Based on the foregoing findings and conclusions, the Hearings Officer recommends that the Director of the DCCA (“Director”) find and conclude that Petitioner has *not* proven by a preponderance of the evidence that Respondent’s registered entity name HNL PARTY BOOTH LLC is *confusingly similar* with Petitioner’s trade name “HNL PHOTOBOOTH” (and/or its iteration “HNL PHOTO BOOTH”). Accordingly, the Hearings Officer recommends that the Director DENY the Petition.

DATED: Honolulu, Hawaii, NOVEMBER 20, 2025.

  
RODNEY K.F. CHING  
Administrative Hearings Officer  
Department of Commerce  
and Consumer Affairs

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*Hearings Officer’s Findings of Facts, Conclusions of Law, and Recommended Order; In Re HNL PARTY BOOTH LLC, LC-2025-001*