

**This Opinion is Not a
Precedent of the TTAB**

Mailed: July 14, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Eggbar Holdings, LLC

Serial No. 98619785

Sam M. Fakh and Gloria Y. Saad of Fakh & Associates PLLC,
for Eggbar Holdings, LLC.

Harrison Neidish, Trademark Examining Attorney, Law Office 120,
Joshua Toy, Managing Attorney.

Before Larkin, Elgin, and Brock,
Administrative Trademark Judges.

Opinion by Brock, Administrative Trademark Judge:

Eggbar Holdings, LLC seeks registration on the Principal Register of the proposed mark EGGBAR (in standard characters) for “restaurant services featuring breakfast sandwiches, hash browns, coffee, matcha, and fruit drinks” in International Class 43.¹

¹ Application Serial No. 98619785 was filed on June 26, 2024 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based on Applicant’s claim of first use anywhere since at least July 26, 2023 and in commerce since at least August 1, 2023.

The Trademark Examining Attorney refused registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that the mark EGGBAR is merely descriptive of Applicant's identified services. When the refusal was made final, Applicant appealed.

The appeal is fully briefed.² For the reasons discussed below, we affirm the refusal to register Applicant's mark.

I. Mere Descriptiveness

Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), prohibits registration of a proposed mark that is merely descriptive of an applicant's goods or services unless the mark has acquired distinctiveness under Section 2(f) of the Act, 15 U.S.C. § 1052(f). "A term is merely descriptive if it immediately conveys knowledge of a quality, feature, function, or characteristic of the goods or services with which it is used." *In re Chamber of Com. of the U.S.*, 675 F.3d 1297, 1300 (Fed. Cir. 2012) (internal quotation omitted).

Evidence that a term is merely descriptive to the relevant purchasing public "may be obtained from any competent source, such as dictionaries, newspapers, or surveys," *In re Bayer AG*, 488 F.3d 960, 964 (Fed. Cir. 2007), as well as "labels,

² Appeal Brief, 4 TTABVUE; Examining Attorney's Brief, 6 TTABVUE; Reply Brief, 7 TTABVUE.

Applicant attached to its main brief the December 4, 2025 Final Office Action and the ESTTA filing receipt for its notice of appeal, which is not necessary.

Citations in this opinion to the briefs and other materials in the case docket refer to TTABVUE, the Board's online docketing system. The number preceding TTABVUE corresponds to the docket entry number, and any numbers following TTABVUE refer to the page(s) of the docket entry where the cited materials appear.

packages, or in advertising material directed to the goods.” *In re Abcor Dev. Corp.*, 588 F.2d 811, 814 (CCPA 1978). It may also be obtained from websites and publications, *In re N.C. Lottery*, 866 F.3d 1363, 1368 (Fed. Cir. 2017), including Applicant’s own website. *See, e.g., In re Promo Ink*, No. 76541018, 2006 TTAB LEXIS 138, at *7 (examining attorney is “permitted to introduce evidence that applicant’s own literature supports the descriptive nature of the term.”).

The Examining Attorney submitted dictionary evidence defining the word EGG as “[t]he oval, thin-shelled reproductive body of a bird, especially that of a hen, used as a food,” and BAR as:

- a. A counter at which drinks, especially alcoholic drinks, and sometimes food are served.
- b. An establishment or room having such a counter.³

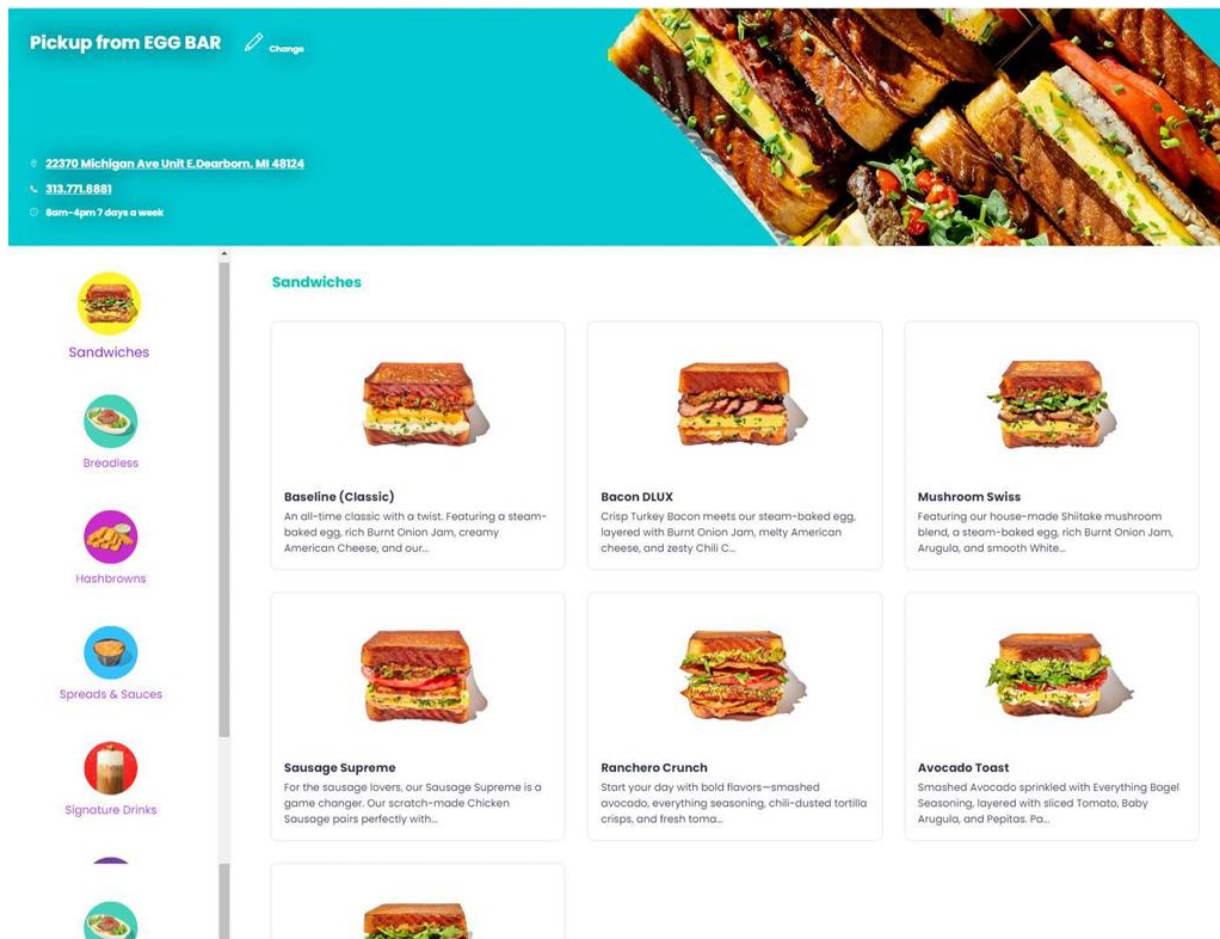
A further dictionary definition of BAR notes use of the term in a “shop sense ... a coffee bar.”⁴

The Examining Attorney also included a screenshot of Applicant’s menu; the seven sandwiches – all pictured – include a “steam-baked egg” in the description or an egg is visible in the sandwich:

³ January 29, 2025 Nonfinal Office Action, 6, 8-9 (THE AM. HERITAGE DICTIONARY).

Page references to the application file refer to the online database of the USPTO’s TSDR system. All citations to documents contained in the TSDR database are to the downloaded .pdf versions of the documents.

⁴ *Id.* at 11-13 (MERRIAM-WEBSTER DICTIONARY).



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This shows that the “breakfast sandwiches” listed in the identification of services all include eggs. Accordingly, the terms EGG and BAR are each descriptive of Applicant’s “restaurant services featuring breakfast sandwiches, hash browns, coffee, matcha, and fruit drinks,” because food, such as Applicant’s egg-based breakfast sandwiches, can be served at or by a counter.

The Examining Attorney also attached websites and online menus from third-party restaurants to show the following:

⁵ *Id.* at 27.

- Cracked Egger – “shows that eggs are used in sandwiches and provided via restaurant services.”⁶
- Another Broken Egg Café – “demonstrates that eggs are provided via restaurant services and that bars are common within restaurants.”⁷
- Founding Farmers – “shows that eggs are served in restaurants and that bars are common within restaurants.”⁸
- Breakfast Bar Hispanic Fusion – “At Breakfast Bar, we believe that a great breakfast is not complete without a great mimosa or a glass of wine.”⁹

This evidence tends to show, consistent with Applicant’s own menu, that eggs are part of restaurant meals and that restaurants include bars.

“Where a mark consists of multiple words, the mere combination of descriptive words does not necessarily create a non-descriptive word or phrase.” *In re Zuma Array Ltd.*, No. 79288888, 2022 TTAB LEXIS 281, at *8 (quotation omitted). Therefore, we must “consider the **commercial impression** of a mark as a whole ...” *Real Foods Pty Ltd. v. FritoLay N. Am., Inc.*, 906 F.3d 965, 974 (Fed. Cir. 2018) (citation omitted; emphasis in original changed to bold). “If each word instead retains its merely descriptive significance in relation to the goods, [then] the combination results in a composite that is itself merely descriptive.” *Zuma Array*, 2022 TTAB

⁶ Examining Attorney’s Brief, 6 TTABVUE 3; evidence in January 29, 2025 Nonfinal Office Action at 34-8.

⁷ Examining Attorney’s Brief, 6 TTABVUE 3-4; evidence in January 29, 2025 Nonfinal Office Action at 39-41.

⁸ Examining Attorney’s Brief, 6 TTABVUE 4; evidence in January 29, 2025 Nonfinal Office Action at 42-54.

⁹ January 29, 2025 Nonfinal Office Action at 55-61. The Examining Attorney explains that this evidence “demonstrates that the term ‘BAR’ is not only used to describe the serving of alcohol but food,” 6 TTABVUE 4, but the evidence shows the contrary. Nevertheless, this evidence shows a breakfast restaurant that offers alcoholic drinks as from a bar.

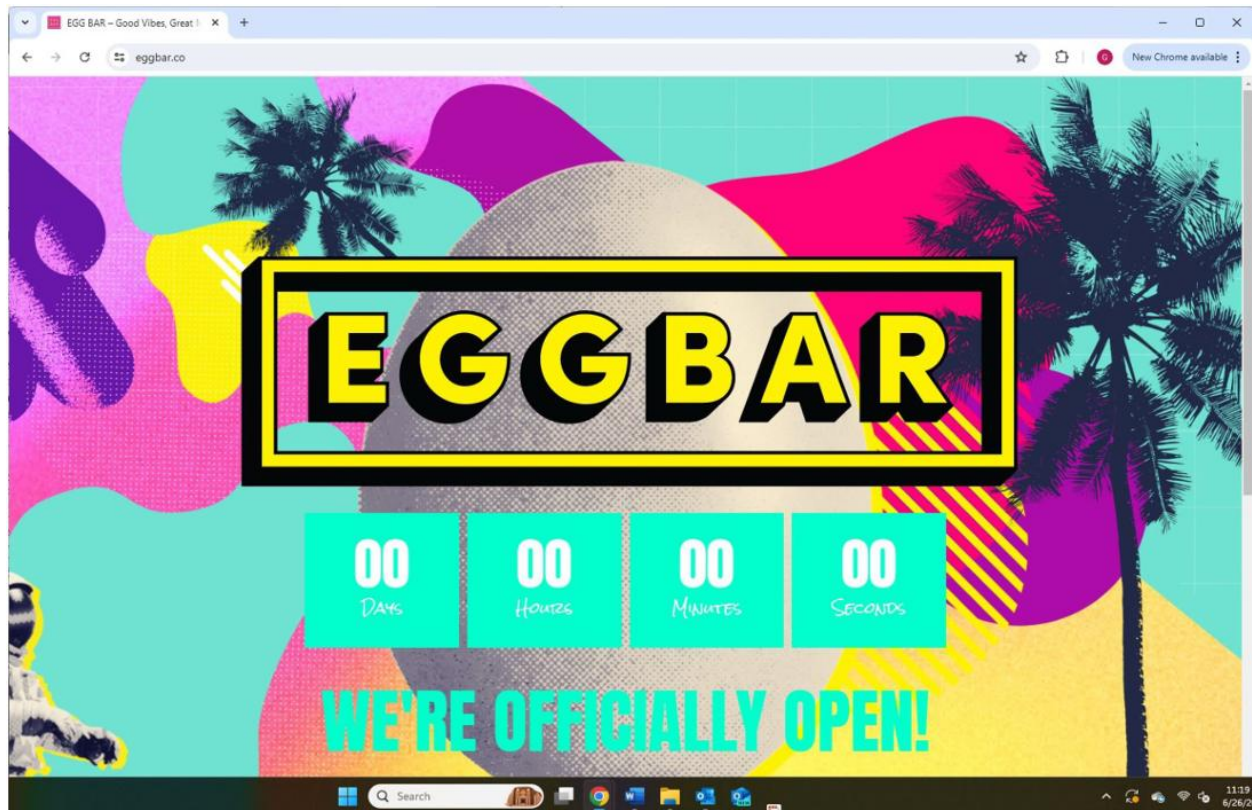
LEXIS 281, at *8 (quotation omitted); *see also DuoProSS Meditech Corp. v. Invivo Med. Devices, Ltd.*, 695 F.3d 1247, 1255 (Fed. Cir. 2012) (we are “required to examine the meaning of each component individually, and then determine whether the mark as a whole is merely descriptive.”) (citation omitted).

The evidence establishes that the terms EGG and BAR retain their descriptive meaning in the proposed mark EGGBAR. An egg is a food sold in restaurants, and bars can also sell food; EGGBAR restaurant services immediately informs purchasers that the menu will include foods containing eggs. Additionally, consumers are used to phrases like “coffee bar,”¹⁰ confirming that the term “bar” is not limited to alcoholic drinks (as noted in the dictionary definitions).

As further evidence that the mark is descriptive as a whole, the Examining Attorney points to Applicant’s specimen of use: “applicant’s own specimen of record drives home the point of eggs being an important feature of applicant’s restaurant services as the image of an egg appears prominently behind the mark”:¹¹

¹⁰ January 29, 2025 Nonfinal Office Action, 11-13 (MERRIAM-WEBSTER DICTIONARY) (BAR definition includes: “shop sense ... a coffee bar”) (cleaned up).

¹¹ 6 TTABVUE 4; June 24, 2024 Application, specimen at 3.



Applicant argues that the proposed EGGBAR mark does not immediately describe Applicant's services because the "reasoning process requires mental steps and inference."¹² In essence, Applicant argues that EGGBAR is an incongruous combination of terms, because "[w]hen consumers encounter the term 'BAR,' their immediate association is with alcohol service, not with a particular food or menu item."¹³ Applicant offers no evidence in support of this assertion. *See In re Ye Mystic Krewe of Gasparilla*, No. 90522364, 2025 TTAB LEXIS 412, at *13 n.15 ("Attorney argument is no substitute for evidence") (citations omitted). Further, the argument is belied by the Examining Attorney's dictionary evidence that a "bar" may serve food,

¹² 4 TTABVUE 7.

¹³ *Id.*

the dictionary example of a “coffee bar,” and the evidence of food restaurants that include bars and bar service.

Applicant implicitly requests us to set aside evidence of its own use and find instead that its proposed mark is suggestive because “it does not fall within the category of marks whose meanings are immediately apparent.”¹⁴ “Descriptiveness of a mark is not considered in the abstract. Rather, it is considered in relation to the particular goods for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods because of the manner of its use or intended use.” *Bayer*, 488 F.3d at 963-64 (citations omitted). “The question is not whether someone presented with only the mark could guess what the goods or services are. Rather, the question is whether someone who knows what the goods or services are will understand the mark to convey information about them.” *DuoProSS*, 695 F.3d at 1254 (citation omitted); see also *In re Berkeley Lights, Inc.*, No. 88895703, 2022 TTAB LEXIS 382, at *17 (“in descriptiveness cases in which there is record evidence of the applicant’s use of the proposed mark, the Board ‘must consider [the] mark in its commercial context to determine the public’s perception.’”) (quoting *In re N.C. Lottery*, 866 F.3d 1363, 1367 (Fed. Cir. 2017)).

The record shows that in connection with Applicant’s services, purchasers would recognize EGGBAR as immediately conveying knowledge of a quality of Applicant’s “restaurant services featuring breakfast sandwiches” and other foods, namely, that

¹⁴ *Id.* at 11.

the menu will include breakfast sandwiches containing eggs served in a “bar” setting or at a counter. *See, e.g., In re King Koil Licensing Co.*, No. 76565486, 2006 TTAB LEXIS 62 (THE BREATHABLE MATTRESS merely descriptive of “beds, mattresses, box springs and pillows” based on dictionary definitions and excerpts of web pages).

Decision: The refusal to register Applicant’s proposed mark, EGGBAR, on the basis that the mark is merely descriptive is affirmed.