

This Opinion is Not a
Precedent of the TTAB

Mailed: April 8, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Twinchew LLC

Serial No. 98289940

Twinchew, LLC, pro se.¹

Diane Collopy, Trademark Examining Attorney, Law Office 114,
Nicole Nguyen, Managing Attorney.²

Before Heasley, Casagrande, and O'Connor,
Administrative Trademark Judges.

Opinion by Heasley, Administrative Trademark Judge:

Applicant, Twinchew LLC, seeks registration on the Principal Register of the
mark **WORLD SPORTS** (in standard characters, with “SPORTS” disclaimed) for

¹ Applicant’s brief on appeal was submitted by Reese Serra and Leonard Raykinsteen of The Private Firm PLLC. 9 TTABVUE. After submitting the brief, counsel moved to withdraw as Applicant’s attorneys of record. 11 TTABVUE. The Board noted that “Appellant has discharged counsel from representing them in the above-captioned proceeding,” and granted the motion to withdraw, stating that “[f]uture correspondence will be held directly with Appellant.” 12 TTABVUE. Citations to the briefs and other materials in the appeal record refer to the Board’s TTABVUE online docket system.

² During prosecution of the Application, the Examining Attorney was David I. On appeal, the case was reassigned to Examining Attorney Diane Collopy.

“costume jewelry, namely, metal charms for necklaces and bracelets” in International Class 14.³

The Examining Attorney has refused registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground of likelihood of confusion with the following three marks registered on the Principal Register. All three contain the wording “WORLD SPORTS,” identify “shirts; sweatshirts; headwear, namely, hats, caps, and beanies,” in International Class 25, and are owned by the same Registrant, World Sports Agency, Inc.:⁴

WORLD SPORTS (in standard characters), issued under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based on Registrant’s claim of first use anywhere and use in commerce since at least as early as January 31, 1993, and acquired distinctiveness of “WORLD SPORTS” under 15 U.S.C. § 1052(f);⁵



(composite mark), issued under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based on Registrant’s claim of first use anywhere and use in commerce since at least as early as January 31, 1993, and

³ Application Serial No. 99289940 was filed on November 29, 2023, based on a declared intention to use the mark in commerce under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b).

⁴ During prosecution, the Examining Attorney also refused registration based on mere descriptiveness of the applied-for mark. 15 U.S.C. § 1052(e)(1). October 6, 2024 Office Action at 2 et seq. (Citations to the prosecution file refer to the USPTO’s Trademark Status & Document Retrieval (“TSDR”) system and identify the documents by title, date, and page in the downloadable .pdf version.) On appeal, the mere descriptiveness refusal was withdrawn. Examining Attorney’s brief, 13 TTABVUE 2.

⁵ Registration No. 6280727, issued on the Principal Register on March 2, 2021. The registration also recites “financial planning and investment advisory services” in Class 36. All three cited registrations recite additional services, but the Examining Attorney focuses on Registrant’s Class 25 clothing goods as the basis for the refusal.

acquired distinctiveness of “WORLD SPORTS” under 15 U.S.C. § 1052(f);⁶ and



(composite mark), issued under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based on Registrant’s claim of first use anywhere and use in commerce since at least as early as September 30, 2017, and acquired distinctiveness of “WORLD SPORTS” under 15 U.S.C. § 1052(f).⁷

When the refusal was made final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal proceeded. We affirm the refusal to register.

I. Likelihood of Confusion

Section 2(d) of the Trademark Act provides that a mark may be refused registration if it:

[c]onsists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive....

15 U.S.C. § 1052(d).

⁶ Reg. No. 6423210, issued on the Principal Register on July 20, 2021. According to the Registration, “[t]he mark consists of the word ‘WORLD’ and the word ‘SPORTS’ centered in front of a baseball.” Color is not claimed as a feature of the mark. The registration also recites “financial planning and investment advisory services” in Class 36.

⁷ Reg. No. 6444288, issued on the Principal Register on August 10, 2021. According to the Registration, “[t]he mark consists of the words ‘WORLD SPORTS’ with the stylized letters ‘WS’ in between.” The registration also recites “Business assistance, advisory and consulting services in the field of professional sports, and agency representation for professional athletes; Business management consulting and advisory services for the professional sports and athletics industry; Consulting services relating to publicity; Negotiation of business contracts for others; Talent agencies for professional athletes; Online retail store services featuring shirts, sweatshirts, hats, caps, and beanies” in Class 35; and “Financial planning and investment advisory services” in Class 36. This registration disclaims the exclusive right to use “WORLD SPORTS” with respect to “online retail store services featuring shirts, sweatshirts, hats, cap, and beanies” in Class 35 but not as to the other identified goods and services.

To determine whether there is a likelihood of confusion between marks under Section 2(d), we analyze the evidence and arguments under the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (the “*DuPont* factors”) cited in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 144 (2015). “The likelihood of confusion analysis considers all *DuPont* factors for which there is evidence of record but ‘may focus . . . on dispositive factors, such as similarity of the marks and relatedness of the goods.’ *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265 (Fed. Cir. 2002) (alteration in original) (quoting *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336 (Fed. Cir. 2001)).” *Sunkist Growers, Inc. v. Intrastate Dist., Inc.*, 144 F.4th 1376, 1379 (Fed. Cir. 2025).

A. Similarity of the Marks

Under the first *DuPont* factor, we determine the similarity or dissimilarity of Applicant’s and Registrant’s marks in their entireties, taking into account their appearance, sound, connotation and commercial impression. *DuPont*, 476 F.2d at 1361. “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, No. 87075988, 2018 WL 2734893, *5 (TTAB 2018) (citing *In re Davia*, No. 85497617, 2014 WL 2531200, *2 (TTAB 2014)), *aff’d*, 777 F. App’x 516 (Fed. Cir. 2019). “[T]he ‘similarity or dissimilarity of the marks in their entireties’ is a predominant inquiry.” *Heil Co. v. Tripleye GmbH*, No. 91277359, 2024 WL 4925901, *29 (TTAB 2024) (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165 (Fed. Cir. 2002)).

We focus on Registrant’s standard character registered mark, WORLD SPORTS (in Reg. No. 6280727, the “727 Registration”), which is identical to Applicant’s mark.

If the refusal is not affirmed on the basis of this registered mark, it would not be affirmed on the basis of the other cited marks. *Heil v. Tripleye*, 2024 WL 4925901, at *17.

Applicant does not dispute that these marks are identical in sight and sound,⁸ but maintains that “[e]ven marks that are identical in sound and/or appearance may create sufficiently different commercial impressions when applied to the respective parties’ goods or services so that there is no likelihood of confusion.”⁹ In this vein, Applicant argues that its mark, WORLD SPORTS, as used on its metal charms for necklaces and bracelets, “will only be attached with the company name, TWINCHEW LLC,” and will only be displayed in a heart shape.¹⁰ For example:



11

As the Examining Attorney correctly observes, however, “[n]o such limitations appear in the application, which is for the standard character mark, WORLD SPORTS.”¹² “Registrability is determined based on the description in the application,

⁸ Applicant’s brief, 9 TTABVUE 7, 17.

⁹ *Id.* at 17 (quoting the TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMPE) § 1207(b)(v)).

¹⁰ Applicant’s brief, 9 TTABVUE 11. *See* Second Declaration of William Mickovski, Applicant’s Chief Executive Officer, ¶ 4, April 1, 2025 Response to Office Action/request for reconsideration at 7.

¹¹ Applicant’s brief, 9 TTABVUE 12.

¹² Examining Attorney’s brief, 13 TTABVUE 6.

and restrictions on how the mark is used will not be inferred.” *In re Shell Oil Co.*, 992 F.2d 1204, 1207 n.4 (Fed. Cir. 1993). “Registrations with typed drawings [i.e., standard characters] are not limited to any particular rendition of the mark and, in particular, are not limited to the mark as it is used in commerce.” *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 950 (Fed. Cir. 2000). “In determining the applicant’s right to registration, only the mark as set forth in the application may be considered; whether or not the mark is used with an associated house mark is not controlling.” *Denney v. Elizabeth Arden Sales Corp.*, 263 F.2d 347, 348 (CCPA 1959), *quoted in In re i.am.symbolic, LLC*, 866 F.3d 1315, 1324 (Fed. Cir. 2017). The applied-for mark is depicted in standard characters, without any particular font style, size, or color, without any mention of “TWINCHEW”, and without any special form design element, shape or configuration. Applicant’s attempt to delimit its applied-for mark is thus unavailing. Absent this limitation, Applicant does not show how the identical wording, WORLD SPORTS, would convey different connotations or commercial impressions, as displayed on the respective goods. “[T]here is no evidence here, or other reason to find, that the mark ... has one meaning when used with [costume jewelry], and a second and different meaning when used with shirts and sweatshirts, based on the nature of the respective goods.” *In re Embiid*, No. 88202890, 2021 WL 2285576, *9 (TTAB 2021).

“Thus, this factor weighs heavily in favor of a likelihood of confusion because identity of the marks is likely to lead to the assumption that there is a common source for the parties’ goods and services.” *Tiger Lily Ventures Ltd. v. Barclays Cap. Inc.*, 35 F.4th 1352, 1362 (Fed. Cir. 2022); *accord In re Samsung Display Co.*, No.

90502617, 2024 WL 3451873, *3 (TTAB 2024) (“The standard-character ... marks in the application and cited registration are identical in all aspects, and the first *DuPont* factor therefore weighs heavily in favor of a likelihood of confusion.”).

B. Strength or Weakness of the '727 Registered Mark

“[T]he sixth *DuPont* factor [is] ‘[t]he number and nature of similar marks in use on similar goods,’ 476 F.2d at 1361, which is a measure of the extent to which other marks weaken the assessed mark. *See Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1373 (Fed. Cir. 2005).” *Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023). There are two prongs of analysis for a mark’s strength under the sixth factor: conceptual strength and commercial strength. *Id.* (citing *In re Chippendales USA, Inc.*, 622 F.3d 1346, 1353-54 (Fed. Cir. 2010)). Conceptual strength is a measure of a mark’s distinctiveness, whereas commercial strength is a measure of the mark’s marketplace recognition. *Spireon*, 71 F.4th at 1362-63. Although the Examining Attorney is not expected to adduce evidence of the strength or fame of the cited registered mark, *In re Mr. Recipe, LLC*, No. 86040643, 2016 WL 1380730, *2 (TTAB 2016), an applicant may adduce evidence of “[t]he number and nature of similar marks in use on similar goods” to show that the cited mark is comparatively weak, conceptually or commercially, and has a “comparatively narrower range of protection.” *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1338 (Fed. Cir. 2015).

Applicant submits that “the mark ‘WORLD SPORTS’ for goods like shirts, sweatshirts, hats, caps, and beanies is highly descriptive because the individual

terms directly describe the nature of the products (i.e., sports-related clothing intended for a global market).”¹³ Citing Registrant’s website, Applicant continues:

[Registrant’s website] explicitly states that “World Sports is a global, full-service sports agency”. Meanwhile, the term “SPORTS” in the Cited Marks is clearly a term that directly relates to athletic or leisure activities of the owner of the Cited Marks. It connotes a direct connection with sports and clearly indicates that the shirts, sweatshirts, hats, caps, and beanies are specifically designed for sports activities or as sports-related apparel.¹⁴

As evidence of weakness, Applicant points to several third-party registrations using variations of “World Sports”:¹⁵

- NET WORLD SPORTS (disclaiming “NET” and “SPORTS”), Reg. No. 7191713 (Paris Convention, Section 44(e)) for inter alia “retail store services featuring clothing and clothing accessories”;
- WORLD SPORTS COMPANY & Design (disclaiming “COMPANY”), Reg. No. 7417657 (Paris Convention, Section 44e) for “advertising and marketing; devising and developing product merchandising for others; product merchandising for others”;
- WORLD SPORTS FORUM & Design (disclaiming “WORLD SPORTS FORUM”), Reg. No. 7674201 (Madrid Protocol Section 66a) for inter alia “advertising, commercial business administration, organization and management”;
- VIBE WORLD SPORTS (disclaiming “WORLD SPORTS”), App. Ser. No. 98105752 (Section 1(b) intent-to-use) for inter alia “business

¹³ Applicant’s brief, 9 TTABVUE 10-11.

¹⁴ Applicant’s brief, 9 TTABVUE 9-10 (quoting TeamWorldsSports.com).

¹⁵ Applicant’s brief, 9 TTABVUE 13. See Applicant’s table of third-party registrations and application, April 1, 2025 Response to Office Action at 18-21, Dec. 27, 2024 Response to Office Action at 12-16, July 31, 2024 Response to Office Action at 16-20. Applicant’s table did not make the underlying third-party registrations and application of record, but the Examining Attorney did not object to the table or advise Applicant of its insufficiency, so the potential objection is waived, and the table of registrations and application will be considered for whatever probative value it might have. *In re City of Houston*, No. 77660948, 2012 WL 423805, *2 n.5 (TTAB 2012), *aff’d*, 731 F.3d 1326 (Fed. Cir. 2013).

intermediary services relating to the matching of various professionals with clients.”

Applicant also points to several third parties using variations of “World Sports” on sportswear:

1. World Sports Company – for sports apparel (worldsportscompany.com/)
2. Worldwide Sportswear Inc – for sportswear (www.wwspwear.com/)
3. Net World Sports – for sportswear and apparel (www.networldsports.com/)
4. Sports World – for custom performance apparel (www.sportsworld1.com/).¹⁶

“In this case,” Applicant argues, “the extensive presence of third-party marks bearing the combination of the terms ‘WORLD’ and ‘SPORTS’ is ‘powerful on its face’ to show the descriptiveness of a mark and its related weakness. *Jack Wolfskin Ausrüstung Fur Draussen GmbH v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 116 USPQ2d 1129, 1136 (Fed. Cir. 2015) citing *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 115 USPQ2d 1671, 1674 (Fed. Cir. 2015).”¹⁷

“Further still,” Applicant submits, “even if the mark ‘WORLD SPORTS’ in connection with shirts, sweatshirts, hats, caps, and beanies has been used in commerce for a long period, it would still need to establish secondary meaning (i.e., that consumers have come to associate the term with a specific source, rather than just a descriptive term). Without this proof, the Cited Marks should not be eligible for trademark protection.”¹⁸ All told, “Applicant contends that the Cited Marks are highly descriptive and entitled at most to only a very narrow scope of protection [but]

¹⁶ Applicant’s brief, 9 TTABVUE 14-15. See July 31, 2024 Response to Office Action at 28-32.

¹⁷ Applicant’s brief, 9 TTABVUE 14.

¹⁸ Applicant’s brief, 9 TTABVUE 13.

that Applicant's Mark is arbitrary and strong when used in connection with costume jewelry...."¹⁹

We find Applicant's argument unpersuasive for many reasons.

To begin with, the '727 Registration for WORLD SPORTS is registered on the Principal Register, and hence entitled to all of the presumptions, including validity, afforded by Section 7(b) of the Trademark Act, 15 U.S.C. § 1057(b). Registrant obtained registration of its WORLD SPORTS mark by averring that the mark had acquired distinctiveness based on its substantially exclusive and continuous use in commerce for at least five years. 15 U.S.C. § 1052(f). Registrant's reliance on Section 2(f) conceded that the mark is not inherently distinctive. *Cold War Museum Inc. v. Cold War Air Museum Inc.*, 586 F.3d 1352, 1358 (Fed. Cir. 2009). But "[a]cquired distinctiveness means that consumers have come to associate the mark with a single source." *In re MK Diamond Prods., Inc.*, No. 86813875, 2020 WL 4346886, *23 (TTAB 2020). And the mark was registered by acceptance of this proof of acquired distinctiveness. 15 U.S.C. § 1052(f).

From the point of registration forward, the mark in the '727 Registration is entitled to the presumption that it has acquired distinctiveness. As the Federal Circuit has explained:

A mark registered on the Principal Register is presumed to be valid. 15 U.S.C. § 1057(b).

...

Section 2(f) of the Lanham Act provides that "nothing ... shall prevent the registration of a mark used by the applicant that has become distinctive of the applicant's goods [or services] in commerce." 15 U.S.C. § 1052(f). Under

¹⁹ Applicant's brief, 9 TTABVUE 2.

Section 2(f), a mark that is otherwise barred from registration in view of other Section 2 requirements can still obtain registration if the applicant proves that the mark has become distinctive. *See Yamaha Int’l Corp. v. Hoshino Gakki Co., Ltd.*, 840 F.2d 1572, 1580 (Fed. Cir. 1988). Therefore, the presumption of validity that attaches to a Section 2(f) registration includes a presumption that the registered mark has acquired distinctiveness.

Cold War Museum, Inc. v. Cold War Air Museum, Inc., 586 F.3d 1352, 1356 (Fed. Cir. 2009), *cited in Converse, Inc. v. International Trade Commission Skechers U.S.A., Inc.*, 909 F.3d 1110, 1117-18 (Fed. Cir. 2018) (“However, under the statute, the registration and its accompanying presumption of secondary meaning operate only prospectively from the date of registration, i.e., the date on which the Patent and Trademark Office (‘PTO’) determined that secondary meaning had been acquired. *See* 15 U.S.C. §§ 1052(f), 1057(a)–(b)....”). *See generally* 1 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 11:43 (5th ed. March 2026) (“If a mark was registered in the Patent and Trademark Office by acceptance of proof of secondary meaning under § 2(f), then this creates a presumption that the mark is in fact distinctive and a valid trademark. The presumption to which a § 2(f) registration is entitled is not that the designation is inherently distinctive, but that it had acquired secondary meaning as of the date of registration.”).

Applicant’s argument that Registrant’s mark is “highly descriptive” is tantamount to an impermissible collateral attack on the cited registered mark, which cannot be countenanced absent a petition for cancellation. *Food Specialty Co. v. Standard Prods. Co.*, 406 F.2d 1397, 1398 (CCPA 1969) (“the validity of the registration of a mark may be tested only by a cancellation proceeding”). “The present ex parte proceeding is not the proper forum from which to launch such an attack.” *In re Calgon*

Corp., 435 F.2d 596, 598 (CCPA 1971), *quoted in In re Detroit Athl. Co.*, 903 F.3d 1297, 1309 (Fed. Cir. 2018).

Applicant's third-party evidence fails to weaken Registrant's WORLD SPORTS mark, conceptually or commercially. Of the three third-party registrations and one application it presents, only one is for sportswear. *See Made in Nature, LLC v. Pharmavite LLC*, No. 91223352, 2022 WL 2188890, *13 (TTAB 2022) ("The third-party registrations of ... marks that Applicant submitted for products other than [Registrant's] identified goods have little or no probative value in showing the conceptual weakness of the terms."). Moreover, all were based on Trademark Act Sections 44(e) or 66(a), 15 U.S.C. §§ 1126(e) or 1141f(a)—that is, based on the trademark owners' foreign country registrations or international registrations, not use in commerce in the United States. They thus carry even less probative value. *Id.* at *14. Applicant's four third-party website examples show variant uses of "World" and "Sports," but fall far short of the "ubiquitous" or "considerable" use that the Federal Circuit has found to demonstrate weakness. *Jack Wolfskin*, 797 F.3d 1363, 1373 & n.2 (Fed. Cir. 2015) (discussing "voluminous evidence" of registration and use of paw print design elements; highlighting fourteen "notable examples of third-party registration and use"); *Juice Generation*, 794 F.3d 1334, 1339 & n.1 (Fed. Cir. 2015) (referring to 26 third-party marks as "a considerable number").

All in all, no commercial weakness has been shown under the sixth *DuPont* factor. Registrant's WORLD SPORTS mark has some inherent conceptual weakness, but has been accepted for registration based on acquired distinctiveness. "[E]ven if [Registrant's] marks are inherently weak, that is not fatal to a finding of likelihood

of confusion because even weak marks are entitled to protection against confusion.” *Made in Nature*, 2022 WL 2188890, *19 (TTAB 2022) (citing *King Candy Co. v. Eunice King’s Kitchen, Inc.*, 496 F.2d 1400, 1401 (CCPA 1974) (“Confusion is confusion. The likelihood thereof is to be avoided, as much between ‘weak’ marks as between ‘strong’ marks, or as between a ‘weak’ and a ‘strong’ mark.”)).

C. Relatedness of the Goods, Channels of Trade, and Classes of Customers

The second *DuPont* factor concerns the “similarity or dissimilarity and nature of the goods or services as described in an application or registration...,” and the third concerns the “similarity or dissimilarity of established, likely-to-continue trade channels.” *DuPont*, 476 F.2d at 1361; *Stone Lion Cap. Partners, L.P. v. Lion Cap. LLP*, 746 F.3d 1317, 1322-23 (Fed. Cir. 2014). In this regard, “[i]t is relevant to consider the degree of overlap of consumers exposed to the respective [goods or] services” *In re Shell Oil Co.*, 992 F.2d 1204, 1207 (Fed. Cir. 1993).

“The [goods or] services need not be identical—the evidence need only establish that the respective products are related in some manner and/or that the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that they emanate from the same source.” *Apex Bank v. CC Serve Corp.*, 156 F.4th 1230, 1234 (Fed. Cir. 2025) (cleaned up; citation omitted). Where, as here, the respective marks are identical, the degree of similarity or relatedness between the goods needed to support a finding of likelihood of confusion declines. *Samsung Display*, 2024 WL 3451873, at *4. “[E]ven when goods or services are not

competitive or intrinsically related, the use of identical marks can lead to the assumption that there is a common source.” *Shell Oil*, 992 F.2d at 1207.

The Examining Attorney contends that Applicant’s goods, “costume jewelry, namely, metal charms for necklaces and bracelets,” and Registrant’s goods, “shirts; sweatshirts; headwear, namely, hats, caps, and beanies,” are highly similar and commonly emanate from the same source.²⁰ As proof, the Examining Attorney submits third-party website evidence, arguing that “the record demonstrates that Applicant’s and Registrant’s goods are of a type that are commonly sold together”:

1. **Ralph Lauren**, showing that clothing and jewelry items are offered under the same mark and in the same channels of trade (see May 6th, 2024 Office Action, TSDR p. 6-7)
2. **Banana Republic**, showing that clothing and jewelry items are offered under the same mark and in the same channels of trade (see May 6th, 2024 Office Action, TSDR p. 9-10)
3. **Tommy Hilfiger**, showing that clothing and jewelry items are offered under the same mark and in the same channels of trade (see May 6th, 2024 Office Action, TSDR p. 11-14)
4. **Gucci**, showing that clothing and jewelry charm items are offered under the same mark and in the same channels of trade (see February 10, 2025 Final Office Action, TSDR p. 2-3)
5. **Ann Taylor**, showing that clothing and jewelry charm items are offered under the same mark and in the same channels of trade (see February 10, 2025 Final Office Action, TSDR p. 4-5)

²⁰ Examining Attorney’s brief, 13 TTABVUE 6.

6. **Tory Burch**, showing that clothing and jewelry charm items are offered under the same mark and in the same channels of trade (see February 10, 2025 Final Office Action, TSDR p. 6-7).²¹

This third-party evidence suggests that consumers are accustomed to seeing a single mark associated with a source that sells both clothing and jewelry. *Detroit Athl.*, 903 F.3d at 1306-07 (citing *Hewlett-Packard v. Packard Press*, 281 F.3d at 1267 (evidence that “a single company sells the goods and services of both parties, if presented, is relevant to a relatedness analysis”)). In this case, the respective goods--shirts, sweatshirts and headwear on the one hand and metal charms for necklaces and bracelets on the other--can be purchased on the same shopping trip, can be worn on the upper body, and can complement each other when worn together. *See, e.g., David Crystal, Inc. v. Dawson*, 1967 WL 7440, *2 (TTAB 1967) (“[J]ewelry and women’s wearing apparel are sold and promoted through the same channels of trade to the same classes of purchasers, they are displayed and worn together, they may be purchased at the same time for coordinated wardrobes....”).

Applicant counters that the Examining Attorney’s third-party evidence is inapposite, as Registrant is not a fashion designer or fashion retailer.²² Rather, Registrant presents itself commercially through its website as:

a global, full-service sports agency providing superior representation to our international clients in all facets of their careers.... [O]ur firm has provided services for over 25 years in areas of career management, contract

²¹ May 6, 2024 Office Action at 5, 15-92; Feb. 10, 2025 Office Action at 7-91.

²² Applicant’s brief, 9 TTABVUE 18.

negotiations, legal representation, taxes and accounting and salary arbitration.²³

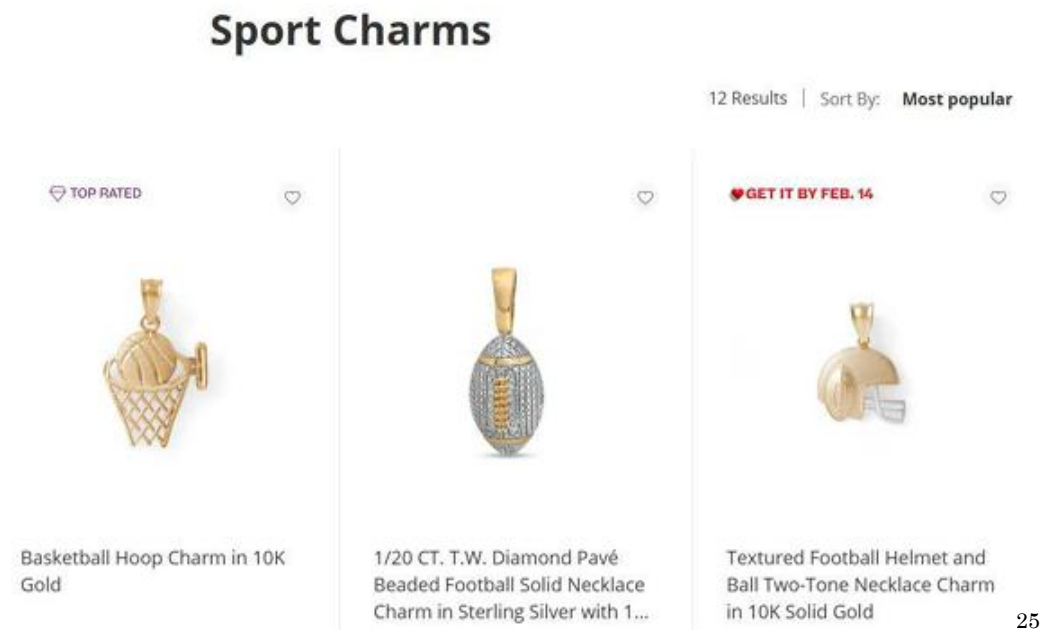
Accordingly, Applicant argues, the respective goods are not “highly related,” and “are marketed to very different types of purchasers and travel through different distribution channels of trade ..., which even further eliminates the possibility of consumer confusion as to the source of origin of the goods.”²⁴

However, “[t]he relevant inquiry in an ex parte proceeding focuses on the goods and services described in the application and registration.” *In re Charger Ventures LLC*, 64 F.4th 1375, 1383 (Fed. Cir. 2023). Here, “neither identification contains any limitation regarding the nature of the identified goods, or their channels of trade or classes of consumers, that would make a material difference in our analysis, so we must presume that Applicant’s ... and Registrant’s [identifications] include all goods of the type identified, without limitation as to their nature or price, and that those ubiquitous, everyday products are offered to all the normal potential consumers for those goods....” *Embiid*, 2021 WL 2285576 at *13 (internal punctuation omitted). **“[A]pplicant’s reliance on registrant’s website in an attempt to restrict the scope of registrant’s goods is to no avail.** An applicant may not restrict the scope of the goods covered in the cited registration by argument or extrinsic evidence.” *In re La Peregrina Ltd.*, No. 78676199, 2008 WL 695794, *2 (TTAB 2008) (emphasis added).

²³ Applicant’s brief, 9 TTABVUE 9, 18 (quoting teamworldsports.com); see July 31, 2024 Response to Office Action at 12, 27; April 1, 2025 Response to Office Action at 7, 15, Mickovski decl. ¶ 5.

²⁴ Applicant’s brief, 9 TTABVUE 18.

What's more, even if we were to credit Applicant's argument, and to find that Registrant's identified clothing items were promotional items, collateral to its sports agency business, that would not render the respective goods unrelated. Sports-related apparel, such as a cap or a sweatshirt, may be worn as part of a casual ensemble that includes sports-related metal charms for necklaces and bracelets. For example:



See In re Martin's Famous Pastry Shoppe, Inc., 748 F.2d 1565, 1567 (Fed. Cir. 1984) (“[C]omplementary use has long been recognized as a relevant consideration in determining a likelihood of confusion.”); *In re Melville Corp.*, No. 73736814, 1991 WL 325859, *2 (TTAB 1991) (“The items sold by applicant and registrant are considered to be complementary goods.”).

In sum, the respective goods, as identified in the unrestricted Application and ’727 Registration, are related, and would tend to travel through the same or overlapping

²⁵ Banter.com, Feb. 10, 2025 Office Action at 109.

channels of trade to the same or overlapping classes of customers. And even if we took Applicant's suggested limitation into account, "the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that they emanate from the same source." *Shenzhen IVPS Tech. Co. v. Fancy Pants Prods., LLC*, No. 91263919, 2022 WL 16646840, *22 (TTAB 2022) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369 (Fed. Cir. 2012)). The *DuPont* factors that concern the relatedness of the goods and the similarities of the trade channels and classes of customers thus all favor a likelihood of confusion.

II. Conclusion

On careful consideration of the evidentiary record and arguments in light of the applicable law, we find that Applicant's and Registrant's standard character marks are identical, which weighs heavily in favor of a likelihood of confusion under the first *DuPont* factor. The relatedness of the goods and the overlap in trade channels and classes of customers also weigh in favor of a likelihood of confusion. The mark in the cited '727 Registration, which registered upon a claim of acquired distinctiveness, has some conceptual weakness, but no commercial weakness has been shown under the sixth *DuPont* factor and even weak marks are entitled to protection against likely confusion.

We thus find that there is a likelihood of confusion under Section 2(d). 15 U.S.C. § 1052(d).

Decision: The refusal to register Applicant's mark is affirmed.