

This Opinion is Not a
Precedent of the TTAB

Mailed: July 15, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

NameGürok Turizm Ve Madencilik Anonim Sirketi
v.
TGL Golf Holdings, LLC

Opposition No. 91293362

Michael F. Swartz of Egbert, McDaniel & Swartz, PLLC for
Gürok Turizm Ve Madencilik Anonim Sirketi.

Jordan A. Lavine of Flaster Greenberg PC for
TGL Golf Holdings, LLC.

Before Goodman, Pologeorgis and Elgin,
Administrative Trademark Judges.

Opinion by Goodman, Administrative Trademark Judge:

TGL Golf Holdings, LLC (“Applicant”) filed a multi-class application on the



Principal Register to register the mark  for a wide variety of goods and services, including the following goods in International Class 21: “Mugs; Bottle

openers; Drinking flasks; Drinking glasses; Insulating sleeve holder for beverage cups; Insulating sleeve holder for bottles; Insulating sleeve holders for beverage cans; Tumblers for use as drinking glasses; Drinking glasses, namely, tumblers.”¹

Gürok Turizm Ve Madencilik Anonim Sirketi (“Opposer”) opposes registration of Applicant’s mark for the Class 21 goods only on the ground of likelihood of confusion under Trademark Act Section 2(d), 15 U.S.C. § 1052(d). Opposer pleads ownership of

the Principal Register mark **Lav** for goods in International Class 21: “Drinking glasses; non-metallic trays, pitchers, and containers for household or kitchen use; glass jars; glass storage jars; bottles, sold empty; sugar bowls; jars for jams and jellies of glass; dishes and plates not of precious metal”² and pleads

¹ Application Serial No. 98269190 was filed on November 14, 2023, based upon Applicant’s allegation of a bona fide intention to use the mark in commerce under Section 1(b) of the Trademark Act, Section 15 U.S.C. § 1051(b). The application also identifies goods in International Classes 9, 16, 18, 22, 24, and 25 and services in International Classes 35, 41 and 42 which are not the subject of this opposition.

The application includes a description of the mark: “The mark consists of the letters ‘LA’ in a stylized font with a golf club separating the letters ‘L’ and ‘A.’” Color is not claimed as a feature of the mark. “LA” is disclaimed.

Applicant indicates in the brief that Applicant TGL is a “team golf league” and that its Los Angeles-based team is called the Los Angeles Golf Club. 22 TTABVUE 7. Although filed as an intent to use application, Applicant submitted under notice of reliance screenshots of its Los Angeles Golf Club team store website pages showing examples of Applicant’s beverageware bearing the mark that are available for purchase. Exhibit G to Applicant’s fifth notice of reliance. (17 TTABVUE 4, 69-72).

References to the record and briefs refer to the Board’s TTABVUE docket system.

² Notice of Opposition, (NOO), 1 TTABVUE paragraph 4a.

Registration No.4832215, issued October 13, 2015, renewed. The registration includes the following description of the mark: “The mark consists of the term ‘LAV’ in stylized lettering.”

The logo consists of the letters 'LAV' in a serif font. The letter 'A' is stylized with a pink triangle at its top point, and the letters 'L' and 'V' are black.

ownership of a Principal Register application for the mark for various household and kitchenware goods in International Class 21 including “drinking glasses; wine glasses; cocktail glasses; parfait glasses; whisky glasses; beer glasses; martini glasses” and “flasks.”³ Opposer also pleads common law rights in LAV for “kitchenware items, including various types of beverageware, drinking glasses, and wine glasses,” in International Class 21.⁴

Applicant filed an answer denying the salient allegations in the notice of opposition.⁵

Color is not claimed as a feature of the mark. The registration includes a translation statement: “The English translation of ‘LAV’ in the mark is ‘lava’ or ‘pozzolana.’”

Opposer attached to the notice of opposition a current copy of the Trademark Status and Document Retrieval (TSDR) electronic printout of this registration, making this registration of record. Trademark Rule 2.122(d)(1), 37 C.F.R. § 2.122(d)(1). Opposer also submitted a TSDR printout of this registration under the first notice of reliance. 11 TTABVUE.

³ The pleaded application (Serial No. 90876002, filed August 10, 2021) matured into a registration (Registration No. 7706717) during the pendency of the proceeding. Opposer submitted under its first notice of reliance a current printout from TSDR of the registration to make the registration of record. 11 TTABVUE. *See UMG Recordings, Inc. v. O’Rourke*, No. 91178937 2009 TTAB LEXIS 533, at *11 n.12 (if a party pleads a pending application in the notice of opposition, it may make the resulting registration of record at trial without having to amend its pleading to assert reliance on the registration).

The registration includes a description of the mark: “The mark consists of the black stylized word ‘LAV’ in which the top part of the letter ‘A’ appears in pink; the color white is for background and is not claimed as a feature of the mark.” The registration includes a color statement: “The color(s) black and pink is/are claimed as a feature of the mark.” The registration includes a translation statement: “The English translation of ‘LAV’ in the mark is ‘lava’ or ‘pozzolana’.” The registration claims ownership of Registration No. 4832215.

⁴ NOO, 1 TTABVUE paragraph 4b.

⁵ 7 TTABVUE (amended answer). Applicant asserted one “affirmative defense” and “affirmative pleadings.” We construe them all as merely amplifications of Applicant’s denial of likelihood of confusion. *See, e.g., Order of Sons of Italy in Am. v. Profumi Fratelli Nostra*

Each party filed a trial brief and Opposer filed a reply brief.⁶

I. The Record

The record includes the pleadings, and by operation of Trademark Rule 2.122(b), 37 C.F.R. § 2.122(b), the files of the involved application. In addition, Opposer introduced notices of reliance as did Applicant.⁷

The entire record has been reviewed, and relevant evidence is discussed throughout this opinion. *See SawStop, LLC v. Felder KG*, No. 91255905, 2025 TTAB LEXIS 351, at *6-7 (“Although we do not list the contents of the record, it has been reviewed and considered in its entirety.”).

AG, No. 91093618, No. 91093618, 1995 TTAB LEXIS 9, at *8 (amplification of applicant’s denial of opposer’s claims not stricken).

⁶ Opposer’s brief is at 18 TTABVUE; Applicant’s brief is at 22 TTABVUE; and Opposer’s reply brief is at 23 TTABVUE.

Applicant’s time for filing a brief was extended to March 29, 2025 and the time for filing a reply brief was extended to April 13, 2025. Applicant filed its brief on March 30, 2025 which was the next business day and is considered timely. Trademark Rule 2.196, 37 C.F.R. § 2.196. Opposer filed its reply brief on April 14, 2025. However, Trademark Rule 2.196 does not change any due date, nor does it change or extend the date of subsequent dependent time periods. The time for filing the reply brief was April 13, 2026, and the reply brief was filed on April 14, 2026, one day late. Nonetheless, under the circumstances of this case, because it benefits the Board in its ability to make a just determination and it was late by only one business day, we have considered the untimely reply brief.

⁷ 10-17 TTABVUE.

Both Opposer and Applicant submitted responses to requests for admissions under notices of reliance which responses include denials. Opposer and Applicant’s notices of reliance, 10 and 12 TTABVUE. We consider only the admissions in these responses since denials to requests for admission are not admissible. *Life Zone Inc. v. Middleman Grp., Inc.*, No. 91160999, 2008 TTAB LEXIS 37, at *10 n.10 (denials of requests for admission not admissible; the denial of a request for admission establishes neither the truth nor falsity of the assertion but leaves it for proof at trial).

The burden rests on Opposer to establish its statutory entitlement to oppose and to prove its claims by a preponderance of the evidence. *See B&B Hardware, Inc. v. Hargis Ind., Inc.*, 575 U.S. 138, 144 (2015).

Evidentiary Objection

Opposer provided Applicant's interrogatory responses nos. 1-8, 12-16.⁸ Opposer objects to Applicant's third notice of reliance submission wherein Applicant provided its interrogatory responses nos. 9-11 under Trademark Rule 2.120(k)(5) to avoid unfairness.⁹

In its brief, Applicant indicates that while it disagrees with the objection, "in the interest of judicial efficiency and judicial economy, Applicant withdraws its reliance on the third notice of reliance because it no longer intends to rely upon these materials in this Trial Brief."¹⁰

In view thereof, the objection is moot, and Applicant's interrogatory responses nos. 9-11 provided in Applicant's third notice of reliance will not be considered.

II. Entitlement to Statutory Cause of Action¹¹

To establish entitlement to a statutory cause of action, a plaintiff must demonstrate: (i) an interest falling within the zone of interests protected by the

⁸ Opposer's second notice of reliance, 10 TTABVUE.

⁹ 18 TTABVUE 11-13; Applicant's third notice of reliance, 15 TTABVUE.

¹⁰ 22 TTABVUE 11.

¹¹ Opposer refers to "standings" in its brief. 18 TTABVUE 19. We now refer to "standing" as "entitlement to a statutory cause of action." *Univ. of Ky. v. 40-0, LLC*, No. 91224310, 2021 TTAB LEXIS 68 at *11. Applicant does not address entitlement in its brief.

statute and (ii) proximate causation. *Corcamore, LLC v. SFM, LLC*, 978 F.3d 1298, 1303 (Fed. Cir. 2020). Demonstrating a real interest in opposing registration of a mark satisfies the zone-of-interests requirement, and demonstrating a reasonable belief in damage by the registration of a mark satisfies the proximate causation requirement. *Id.* at 1305-06.

As indicated, *see* notes 2 and 3, Opposer attached as an exhibit to the notice of opposition a current TSDR printout of the pleaded Registration No. 4832215, and submitted a current copy under notice of reliance showing status and title, along with the current printout from TSDR of Registration No. 7706717 (also under notice of reliance) that issued from its pleaded application.¹²

The pleaded registrations establish Opposer's direct commercial interest in the proceeding. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 945 (Fed. Cir. 2000) (pleaded registrations "suffice to establish ...direct commercial interest"; a belief in likely damage can be shown by establishing a direct commercial interest). Accordingly, we find Opposer has established, by a preponderance of the evidence, its entitlement to a statutory cause of action.

III. Priority

Applicant has not sought to counterclaim to cancel Opposer's pleaded registrations. Because Opposer has made its pleaded LAV (stylized) registrations of record and shown them as valid and subsisting, priority is not an issue in this case

¹² NOO, 1 TTABVUE, Opposer's first notice of reliance, 11 TTABVUE.

as to those marks and the goods recited in those registrations.¹³ *King Candy, Inc. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 1402 (CCPA 1974).

Because we find priority based on Opposer's pleaded registrations,¹⁴ we need not separately consider Opposer's common law rights in the LAV (stylized) marks. *See Nkanginieme v. Appleton*, No. 91256464, 2023 TTAB LEXIS 64, at *4-5 (Board did not need to consider common law priority because it found it sufficient to rely on the pleaded registration in analyzing likelihood of confusion).

IV. Likelihood of Confusion

We now turn to the likelihood of confusion analysis.

Our determination of likelihood of confusion under Section 2(d) is based on an analysis of all probative facts in the record that are relevant to the likelihood of confusion factors set forth in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) ("*DuPont*"). "Not all of the *DuPont* factors are necessarily 'relevant or of equal weight in a given case, and any one of the factors may control a particular case.'" *Tiger Lily Ventures Ltd. v. Barclays Cap. Inc.*, 35 F.4th 1352, 1362 (Fed. Cir. 2022) (citations omitted). We consider each *DuPont* factor for which there is evidence and argument. *See, e.g., In re Guild Mortg. Co.*, 912 F.3d 1376, 1379 (Fed. Cir. 2019); *In re Country Oven, Inc.*, No. 87354443, 2019 TTAB LEXIS 381, at *2.

In every Section 2(d) case, two key factors are the similarity or dissimilarity of the marks and the goods or services. *See In re i.am.symbolic, llc*, 866 F.3d 1315, 1322

¹³ Opposer points out in its reply, 23 TTABVUE 5, that Applicant has not addressed priority in its brief.

¹⁴ Opposer's first notice of reliance, 11 TTABVUE.

(Fed. Cir. 2017); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103 (CCPA 1976) (“The fundamental inquiry mandated by § 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.”). These factors, and others, are discussed below.

A. Similarity or Dissimilarity of the Goods

The second *DuPont* factor considers “the similarity or dissimilarity and nature of the goods or services as described in an application or registrations.” *DuPont*, 476 F.2d at 1361.

It is sufficient for a finding of likelihood of confusion if relatedness is established for any item encompassed by the identification of goods within a particular class in the application or registration. *See Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336 (CCPA 1981).

Applicant’s identified goods include drinking glasses, tumblers for use as drinking glasses, and drinking glasses namely tumblers. With respect to Registration No. 4832215, the identified goods include drinking glasses. Opposer’s and Applicant’s drinking glasses are identical. In addition, Opposer’s drinking glasses encompass Applicant’s identified tumblers for use as drinking glasses and drinking glasses namely tumblers. *See In re Hughes Furniture Indus., Inc.*, No. 85627379, 2015 TTAB LEXIS 65, at *10 (applicant’s broadly worded identification of “furniture” necessarily encompasses registrant’s narrowly identified “residential and commercial

furniture.”). Thus, the goods are identical and legally identical in part with respect to

Applicant’s  mark and Opposer’s **Lav** mark.

With respect to Registration No. 7706717, the drinking glasses identified in the registration and application are identical. In addition, Applicant’s identified drinking glasses encompass the registration’s identified wine glasses; cocktail glasses; whisky glasses; beer glasses and martini glasses. *See Hughes Furniture*, 2015 TTAB LEXIS 65, at *10. Also, the flasks identified in the registration encompass Applicant’s drinking flasks. *Id.* Therefore, the goods are identical and legally identical in part

with respect to Applicant’s  mark and Opposer’s  mark.

In its brief “Applicant concedes that the second factor (similarity of the goods) favors Opposer, this is the sole factor in Opposer’s favor.”¹⁵

The second *DuPont* factor weighs heavily in favor of likelihood of confusion.

B. Similarity or Dissimilarity of Trade Channels and Conditions of Sale

We consider the “similarity or dissimilarity of established, likely-to-continue trade channels” and “[t]he conditions under which and buyers to whom sales are made, i.e. ‘impulse’ vs. careful, sophisticated purchasing” under the third and fourth *DuPont* factors. *DuPont*, 476 F.2d at 1361.

¹⁵ 22 TTABVUE 28.

There are no trade channel restrictions nor are there limitations as to the classes of consumers in either Applicant's application or Opposer's registrations.

The classes of consumers for Applicant's and Registrant's drinkware and beverageware goods are the general public.

Applicant argues that its actual trade channels are "(1) at the league store on its website (<https://shoptglgolf.com>), (2) at the SoFi Center in Florida where the TGL matches are held, and (3) through the PGA Tour Superstores."¹⁶

However, the analysis of the respective channels of trade of the marks at issue is not based on real-world use but based on the identifications as set forth in the application and registrations. *In re Detroit Ath. Co.*, 903 F.3d 1297, 1308 (Fed. Cir. 2018) ("the third *DuPont* factor—like the second factor—must be evaluated with an eye toward the channels specified in the application and registration, not those as they exist in the real world."). The real-world use restrictions argued by Applicant do not appear in the identification of goods, and we cannot read limitations into identifications based on either argument or evidence of actual use. Therefore, Applicant's arguments and evidence about real-world trade channels are not persuasive.

Because the goods in Applicant's identification and Opposer's registrations are in-part identical and legally identical, we presume that they are offered to the same classes of consumers and move through the identical trade channels. *In re Viterra*

¹⁶ 22 TTABVUE 13-14, (referencing Applicant's response to interrogatory nos. 3, 5, Opposer's second notice of reliance, 10 TTABVUE 22-24).

Inc., 671 F.3d 1358, 1362 (Fed. Cir. 2012) (even though there was no evidence regarding channels of trade and classes of consumers, the Board was entitled to rely on this legal presumption in determining likelihood of confusion).

The third *DuPont* factor weighs heavily in favor of likelihood of confusion.

As to conditions of sale, purchaser sophistication or degree of care may tend to minimize likelihood of confusion. Conversely, impulse purchases of inexpensive items may tend to have the opposite effect. *Palm Bay Imps. Inc. v. Veuve Clicquot Ponsardin Fondee En 1772*, 396 F.3d 1369, 1376 (Fed. Cir. 2005). We must make our determination based on the least sophisticated purchaser. *Stone Lion Cap. Partners, L.P. v. Lion Cap. LLP*, 746 F.3d 1317, 1325 (Fed. Cir. 2014).

When the goods are unrestricted, it is assumed that the goods are offered at all price points and to all purchasers, including those purchasers exercising only ordinary care.

Opposer argues that the goods are prone to impulse purchases and there is a low degree of purchaser care in acquiring the drinkware and beverageware goods.¹⁷ Applicant argues that professional sports fans are sophisticated in their purchase of sports merchandise such as Applicant's drinkware and beverageware.¹⁸ However, neither Applicant nor Opposer has presented evidence on this point and attorney argument is no substitute for evidence. *Enzo Biochem, Inc. v. Gen-Probe Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005).

¹⁷ 18 TTABVUE 21.

¹⁸ 22 TTABVUE 27-28.

Given that the parties' overlapping goods are drinkware and beverageware consumer items, they likely are purchased with ordinary care.

We find this *DuPont* factor is neutral.

C. Strength

The sixth *DuPont* factor considers the commercial and conceptual strength of Opposer's mark and the scope of protection to which it is entitled. *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."). With respect to commercial strength, the sixth *DuPont* factor allows Applicant to contract the scope of protection given a registered mark by adducing evidence of "the number and nature of similar marks in use on similar goods." *Monster Energy Co. v. Lo*, No. 91225050, 2023 TTAB LEXIS 14, at *27 (citation omitted); *DuPont*, 476 F.2d at 1361.

Conceptual Strength

"Conceptual strength is a measure of a mark's distinctiveness, ... and distinctiveness is 'often classified in categories of generally increasing distinctiveness[:] ... (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; or (5) fanciful.'" *Spireon*, 71 F.4th at 1362 (citations omitted).

With respect to its conceptual strength, Opposer's LAV (stylized) marks are registered on the Principal Register without a claim of acquired distinctiveness and are treated as inherently distinctive. *New Era Cap Co., Inc. v. Pro Era, LLC*, No. 91216455, 2020 TTAB LEXIS 199, at *29.

Applicant submitted six third-party registrations of LA marks or marks that include LA or LAV and third-party use of LA marks or marks that include LA or LAV.¹⁹ Opposer criticizes these submissions as not sufficient to show evidence of actual use in the marketplace.²⁰

However, regardless of whether Applicant provided evidence of use of these submissions, third-party registrations and third-party use are relevant evidence in connection with conceptual strength. *See Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1339 (Fed. Cir. 2015) (Board erred in never inquiring “whether and to what degree the extensive evidence of third-party use and [third-party] registrations indicates that the phrase PEACE & LOVE carries a suggestive or descriptive connotation in the food service industry, and is weak for that reason”); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 917 (CCPA 1976) (even if “there is no evidence of actual use” of third-party registrations, such registrations “may be given some weight to show the meaning of a mark in the same way that dictionaries are used”). *See also In re Morinaga Nyugyo KK*, No. 86338392, 2016 TTAB LEXIS 448, at *25 (“[T]hird-party registrations are relevant evidence of the inherent or conceptual strength of a mark or term because they are probative of how terms are used in connection with the goods or services identified in the registrations.”).

We find some of the third-party registrations are not probative. The LAVEX registration does not involve similar goods, and Applicant has not shown the listed

¹⁹ Applicant’s fourth notice of reliance 16 TTABVUE 6-45; Applicant’s fifth notice of reliance 17 TTABVUE 7-30.

²⁰ 23 TTABVUE 10-11.

goods are similar. The LAS registration, for goods that include drinking glasses, is a different three-letter string than Opposer's LAV marks, and is not the two-letter string LA. *See In re Mighty Leaf Tea*, 601 F.3d 1342, 94 USPQ2d 1257, 1259-60 (Fed. Cir. 2010) (Applicant's submission of a group of registrations that have the letters "ML" as part of a longer letter string (i.e., MLUXE, M'LIS, JML and AMLAVI) not persuasive; "[t]he indiscriminate citation of third-party registrations without regard to the similarity of the marks involved is not indicative that the letters ML have a suggestive or descriptive connotation."). In addition, the LAS registration issued under Section 66(a), 15 U.S.C. § 1141f, and was not five years old at time of trial. The records do not show that a declaration of use under Trademark Act Section 71, 15 U.S.C. § 1141j, has been filed. Because this registration is not based on use, it has less probative value as to the meaning of a term to U.S. consumers. *See Made in Nature, LLC v. Pharmavite LLC*, No. 91223352, 2022 TTAB LEXIS 228, at *30 (foreign registrations lacked probative value because they have been registered for less than five years); *cf. In re Info. Builders Inc.*, No. 87753964, 2020 TTAB LEXIS 20, at *19 n.19 (giving no consideration to a registration not based on use "because it does not demonstrate exposure of the mark prior to registration through use in commerce and, therefore, has no probative value").

The LAVLEY registration appears to be a coined term, and not a mark with LAV and LEY as separate components. The remaining registrations, LA, LA28, and LA2LA for goods that include drinking glasses show LA alone or as a component of

the mark. At least LA (LA Dodgers) and the LA component mark, LA28 (Olympic Committee), appear to relate to Los Angeles, and have a geographic connotation.²¹

As discussed, Applicant also provided five uses of LA alone, or with other terms or designs, and one use which includes the letter string LAV on mugs and drinking glasses:²² LA (Los Angeles Dodgers tumbler, related to the Los Angeles Dodgers LA registration,), LA and design (Los Angeles Rams tumblers), LA (Los Angeles gift, California coffee mug),  (“comma LA,” for Kamala Harris), LA Crew Tag (airport travel souvenir), LA TIMES (Los Angeles Times), and one use of LAVE (Villeroy & Bach).²³ As to the third-party use of LAVE, because there is no correct pronunciation of a trademark, LAVE may be a phonetic equivalent of LAV if the “E” is silent.

Applicant also provided dictionary definitions for LA showing that LA can be, among other things, a geographic abbreviation for Los Angeles and Louisiana.²⁴

²¹ Applicant states that this evidence shows that the “LA’ abbreviation is so commonly used by third parties for beverageware, especially Los Angeles sports teams and their merchandise.” 22 TTABVUE 26.

²² Use on mugs and drinking glasses that might otherwise be merely ornamental, in conjunction with, for example, sports services or newspaper services, may function as an indicator of secondary source.

²³ Applicant’s fifth notice of reliance 17 TTABVUE pp. 7-30.

²⁴ LA can mean 1) a syllable representing the sixth tone of the diatonic scale, 2) the symbol for lanthanum (chemistry), 3) lamentation (bible), 4) an abbreviation for Los Angeles, Louisiana, Latin America, Law Agent, Library Association, Local Agent, and 5) an interjection, exclamation of wonder or surprise (archaic).

MERRIAM-WEBSTER DICTIONARY and COLLINS DICTIONARY, Applicant’s fifth notice of reliance 17 TTABVUE 38-72.

Applicant provided a dictionary definition for LAV that can be an abbreviation for lavatory.²⁵

Although the LA dictionary definition, the LA and LA composite third-party registrations and the third-party uses of LA alone, or as a component of a mark, show conceptual weakness of the two letter string LA to the extent it references a geographic area (e.g., Los Angeles or Louisiana), this evidence does not show conceptual weakness of the three-letter string LAV which form Opposer's LAV (stylized) marks.

Commercial Weakness

Evidence of third-party use may bear on the strength or weakness of a mark in the marketplace. *Juice Generation*, 794 F.3d at 1338. "[T]he purpose of a defendant introducing third-party uses is to show that customers have become so conditioned by a plethora of such similar marks that customers have been educated to distinguish between different such marks on the bases of minute distinctions." *Palm Bay Imps.*, 396 F.3d at 1373. Applicant relies on the six uses of LA and LAV in connection with drinking glasses and beverageware discussed above.

It appears the only third-party marketplace use evidence close enough to Opposer's mark is the use of LAVE. The other uses of LA do not weaken Opposer's mark commercially since it is clear from these uses that LA refers to Los Angeles, and one use refers to the former Vice President. We find these uses do not show

²⁵ LAV can also be an abbreviation for lymphadenopathy-associated virus (AIDS). MERRIAM-WEBSTER DICTIONARY and COLLINS DICTIONARY, Applicant's fifth notice of reliance, 17 TTABVue 59-60, 63-64.

common use of the LAV term by third parties in connection with drinkware and beverageware. *See e.g., Chemetron Corp. v. Matsuo Elec. Co.*, 1967 TTAB LEXIS 32, at *8 (no number in original) (“Likewise, the fact that others may have adopted as trademarks for their goods in the electrical field combinations of the letters ‘NC’ is incompetent to establish that the specific mark of opposer, ‘NCG,’ is in any way lacking in distinctiveness for goods which it manufactures and sells thereunder.”).

Therefore, we do not find LAV commercially weak. The sixth *DuPont* factor is neutral.²⁶

D. Similarity or Dissimilarity of the Marks

We next consider the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression under the first *DuPont* factor. *Palm Bay Imps.*, 396 F.3d at 1371. “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Davia*, No. 85497617, 2014 TTAB LEXIS 214, *4; *see also Krim-Ko Corp. v. Coca-Cola Bottling Co.*, 390 F.2d 728, 732 (CCPA 1968) (“It is sufficient if the similarity in either form, spelling or sound alone is likely to cause confusion.”).

²⁶ Applicant also states in its brief that “Opposer has introduced no evidence to establish the fame of its mark,” taking the position that this factor “is conceded” and favors Applicant. 22 TTABVUE 26. Opposer disputes this, pointing out that fame is not an “all-or-nothing” measure. 23 TTABVUE 11. We find the fifth *DuPont* factor neutral.

Applicant's mark is . Opposer's marks are  and



. The marks in this case are all asserted to be either stylized letter marks or a stylized letter mark with a design component.

Opposer argues the marks are confusingly similar in terms of appearance and sound due to both marks containing the letters “LA,” with the lack of the letter “V” in Applicant’s mark “a subtle difference that consumers will not readily perceive.”²⁷ Opposer argues that the “minor differences” in the marks do not result in differences in connotation or commercial impression.²⁸

Applicant disagrees, pointing to differences in font, style and placement as well as the addition of a design element in its mark.²⁹ Applicant argues that its mark is pronounced as the separate letters “L” and “A” whereas Opposer’s LAV (stylized) marks are pronounced either as the “lav” portion of “lavatory,” or the “lav” portion of “lava.”³⁰ Applicant asserts that the marks’ connotation and commercial impression

²⁷ 18 TTABVUE 16-17, 22.

²⁸ 23 TTABVUE 7.

²⁹ 22 TTABVUE 21.

³⁰ 22 TTABVUE 21.

differ with its mark having a well-known geographic connotation of Los Angeles, whereas Opposer's marks have no English word meaning and are "fanciful."³¹

The nature of stylized letter marks or composite marks with stylized lettering is that they are both visual and oral indicia, and we must weigh both in the context in which they occur. *See, e.g., Georgia-Pacific Corp. v. Great Plains Bag Co.*, 614 F.2d 757, 760 (CCPA 1980). A trademark that "consists of highly stylized letters ... is therefore in the gray region between pure design marks which cannot be vocalized and word marks which are clearly intended to be." *Id. See also In re Electrolyte Labs., Inc.*, 929 F.2d 645, 647 (Fed. Cir. 1990) ("the nature of stylized letter marks is that they partake of both visual and oral indicia. ... a stylized letter design can not be treated simply as a word mark").

When we consider the marks in their entirety, we find the marks are different in appearance and create different commercial impressions. Opposer's marks are three-letter stylized marks where the letters LAV are recognizable; LAV has no meaning in English in relation to Opposer's goods. Applicant's mark is a composite mark consisting of highly stylized lettering which is less discernible or readily perceived as the letters LA, and incorporating a golf club design element, which adds

³¹ 22 TTABVUE 22, 23. Opposer admits that LAV has no meaning in the English language and that LAV is not an abbreviation or reference to the city of Los Angeles. Applicant's first notice of reliance, 12 TTABVUE 9-10 (Opposer's responses to request for admission nos. 12, 16). Opposer states that it selected "Lav" for its beverageware products because it wanted a "brand that embodied the words fire, love, and modernity" and that was "visually similar to lava." Applicant's second notice of reliance, 13 TTABVUE 7-8 (Opposer's response to interrogatory no. 1).

to the overall commercial impression. LA in Applicant's mark has meaning as a geographic term for Los Angeles and has been disclaimed.³²

In this case, although the marks share the letters LA, the degree of stylization of LA in Applicant's mark is so high that it more akin to a design mark rather than a stylized display of the letters LA.³³ See *In re TSI Brands, Inc.*, No. 75615,925, 2002 TTAB LEXIS 270, at *18. Therefore, we find Applicant's mark is not similar in sound, appearance, connotation or commercial impression to Opposer's marks. The first *DuPont* factor strongly weighs in favor of a conclusion that confusion is unlikely.

E. Other *DuPont* factors

Opposer argues that the other *DuPont* Factors that were not addressed in its brief "are of limited value in this application of the test" because there is little or no evidence in the record "and should therefore be given limited or no weight."³⁴

³² Opposer argues that LA cannot be an abbreviation for Los Angeles without periods following "L" and "A," and there is no evidence that consumers would perceive LA as an abbreviation for Los Angeles, 23 TTABVUE 6, 7.

However, this argument ignores the dictionary evidence provided by Applicant. See note 23. When a mark is composed of words defined in a dictionary, such definitions are evidence of what the words mean to typical consumers. See *Stratus Networks, Inc. v. UBTA-UBET Commc'ns Inc.*, 955 F.3d 994, 996 (Fed. Cir. 2020) (the Board's the finding that relevant consumers would significantly recognize the different meanings in connotation of the marks was supported by substantial evidence in the form of dictionary definitions of the terms).

³³ Importantly, just because one may perceive specific letters does not remove the fact that Applicant's mark is so highly stylized that consumers will distinguish between Applicant's and Opposer's marks based on their appearance. See, e.g., *In re Anderson Elec. Corp.*, 370 F.2d 593, 595 (CCPA 1967) (the letter A's are so highly stylized that the case must be decided on the basis of visual similarity).

³⁴ 18 TTABVUE 22. Opposer discusses factors 1-4 in its brief and also addresses factor 5 in its reply.

Applicant argues that “Factors 7-13 are neutral and favor neither party because there is no evidence for these factors.”³⁵

We find those *DuPont* factors (7, 8, 9, 10, 11, 12, and 13), not addressed by the parties, neutral.

V. Conclusion

As a final step, we “weigh the *DuPont* factors used in [our] analysis and explain the results of that weighing.” *In re Charger Ventures LLC*, 64 F.4th 1375, 1384 (Fed. Cir. 2023).

The second and third *DuPont* factors weigh heavily in favor of likelihood of confusion, while the first *DuPont* factor weighs heavily against likelihood of confusion. All other *DuPont* factors, including the fourth, fifth, and sixth factors, are neutral.

Given the dissimilarity of the marks in sound, appearance, meaning and commercial impression, we find that the first *DuPont* factor outweighs the second and third factors. We reach this finding with full awareness of the principle that, where the goods are identical, the degree of similarity between the marks necessary to support a determination that confusion is likely declines. *Century 21 Real Estate v. Century Life of Am.*, 970 F.2d 874, 877 (Fed. Cir.1992). Here, however, the differences between the marks, viewed in their entirety, are substantial enough to make confusion unlikely even where the marks are used with identical goods that presumably travel in the same types of trade channels and are sold to the same

³⁵ 22 TTABVue 28. Applicant discusses factors 1-6 in its brief.

classes of consumers. *Oakville Hills Cellar, Inc. v. Georgallis Holdings, LLC*, 826 F.3d 1376, 1381-1382 (Fed. Cir. 2016) (“a single *DuPont* factor may be dispositive in a likelihood of confusion analysis, especially when that single factor is the dissimilarity of the marks”) (quoting *Odom’s Tenn. Pride Sausage, Inc. v. FF Acquisition, LLC*, 600 F.3d 1343, 1344 (Fed. Cir. 2010) (“[E]ven if all other relevant *DuPont* factors were considered in [opposer’s] favor, as the board stated, the dissimilarity of the marks was a sufficient basis to conclude that no confusion was likely.”)); *Champagne Louis Roederer S.A. v. Delicato Vineyards*, 148 F.3d 1373, 1375 (Fed. Cir. 1998) (“[O]ne *DuPont* factor may be dispositive in a likelihood of confusion analysis, especially when that single factor is the dissimilarity of the marks.”).

We find confusion is unlikely.

Decision: The opposition against Class 21 in application Serial No. 98269190 is dismissed.