

This Opinion is not a
Precedent of the TTAB

Mailed: April 21, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Vetements Group AG

Serial Nos. 88944198 and 88946135

Terrence J. Linn of Gardner, Linn, Burkhardt & Ondersma, LLP,
for Vetements Group AG.

Theodore McBride, Trademark Examining Attorney, Law Office 103,
Stacy Wahlberg, Managing Attorney.

Before Cataldo, Bergsman and Lynch,
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Vetements Group AG, seeks registration on the Principal Register of
the proposed marks VETEMENTS (in standard characters)¹ and

VETEMENTS² (in stylized form), both identifying:

¹ Application Serial No. 88944198 was filed on June 2, 2020, amended to seek registration under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), claiming first use and first use in commerce at least as early as July 28, 2014, for the goods and services in both International Classes.

² Application Serial No. 88946135 was filed on June 3, 2020, amended to seek registration under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), claiming first use and first use in commerce at least as early as July 28, 2014, for the goods and services in both International

Shirts, skirts, sweaters, coats, jackets, suits, caps being headwear, headwear, hats, hoods, visors being headwear, scarves, gloves, shoes, boots, waist belts, T-shirts, pants, blouses, dresses in International Class 25; and

Online retail store services for shirts; skirts; sweaters; coats; jackets; suits; caps; head wear; hats; hoods; visors; scarves; gloves; shoes; boots; waist belts; T-shirts; pants blouses; dresses in International Class 35.³

In both applications, Applicant submitted the following translation of the term comprising the mark: “The English translation of ‘vetements’ in the mark is ‘clothing.’” As discussed in greater detail below, Applicant amended both applications to submit a claim of acquired distinctiveness in the alternative under Trademark Act Section 2(f), 15 U.S.C. § 1052(f).

The Trademark Examining Attorney issued a final refusal of registration in both applications as to the Class 25 goods and Class 35 services⁴ on the following grounds:

- 1) the proposed mark is generic under Trademark Act Sections 1, 2, 3 and 45, 15 U.S.C. §§1051, 1052, 1053 and 1127; and

Classes. Applicant submitted the following description of the mark: “The mark consists of the word ‘vetements’ in capital block lettering in customized font.”

³ We observe that the semicolons in Applicant’s recitation of Class 35 services should be commas. “In general, commas should be used in the identification to separate items within a particular category of goods or services.” TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMPE) Section 1402.01(a). *See also, e.g., In re Midwest Gaming & Entm’t LLC*, 106 USPQ2d 1163, 1166 (TTAB 2013) (because a semicolon separated the two relevant clauses in registrant’s identification, its “restaurant and bar services” is a discrete category of services that stands alone and independently as a basis for likelihood-of-confusion analysis, and is not connected to nor dependent on the services set out on the other side of the semicolon).

⁴ The involved applications originally identified additional goods and services that are not subject to the refusals of registration and were divided into child applications.

- 2) if found to be not generic, the proposed mark highly descriptive with an insufficient showing of acquired distinctiveness under Trademark Act Section 2(f), 15 U.S.C. §1052(f).⁵

Applicant timely appealed and submitted a request for reconsideration in both cases. The appeal is fully briefed.

We affirm the genericness and alternative mere descriptiveness refusals and the Examining Attorney's determination that Applicant's showing under Section 2(f) is insufficient to establish acquired distinctiveness.

I. Proceedings Consolidated

When, as here, an applicant has filed ex parte appeals to the Board in two co-pending applications, and the cases involve common issues of law or fact and are presented on the same record, the Board, upon request by the applicant or examining attorney or upon its own initiative, may order the consolidation of the appeals for purposes of briefing, oral hearing, or final decision. *See, e.g., In re S. Malhotra & Co.*, 128 USPQ2d 1100, 1102 (TTAB 2018) (Board sua sponte consolidated two appeals); *see also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) (2022) § 1214 and authorities cited therein.

Accordingly, the Board consolidates these appeals. References to the record refer to Application Serial No. 88944198 unless otherwise indicated.

⁵ 8 TTABVUE 5 (Examining Attorney's brief). Page references to the application record refer to the online database of the USPTO's Trademark Status & Document Retrieval ("TSDR") system. All citations to documents contained in the TSDR database are to the downloadable .pdf versions of the documents in the USPTO TSDR Case Viewer.

TTABVUE references refer to the Board's docket system.

II. Evidentiary Matter

The Examining Attorney submitted several pages of evidence as exhibits to his appeal brief.⁶ To the extent these exhibits are duplicative of evidence previously submitted during prosecution, we need not and do not give this redundant evidence any consideration. Any of the evidence submitted with the Examining Attorney's appeal brief that was not previously submitted during prosecution is untimely and will not be considered.⁷

III. Genericness

A generic term “is the common descriptive name of a class of goods or services.” *Princeton Vanguard, LLC v. Frito-Lay N. Am., Inc.*, 786 F.3d 960, 114 USPQ2d 1827, 1830 (Fed. Cir. 2015) (quoting *H. Marvin Ginn Corp. v. Int’l Ass’n of Fire Chiefs, Inc.*, 782 F.2d 987, 228 USPQ 528, 530 (Fed. Cir. 1986)); *see also USPTO v. Booking.com B.V.*, 140 S. Ct. 2298, 2020 USPQ2d 10729, *1 (2020).

Any term that the relevant public uses or understands to refer to the genus of goods or services, or a key aspect or central focus or subcategory of the genus, is generic. *Royal Crown Co., Inc. v. The Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041, 1046-1047 (Fed. Cir. 2018). “[A] term is generic if the relevant public understands the term to refer to part of the claimed genus of goods or services, even

⁶ 8 TTABVue 19-54.

⁷ *See* Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d) (“The record in the application should be complete prior to the filing of an appeal. Evidence should not be filed with the Board after the filing of a notice of appeal.”). The proper procedure for an applicant or examining attorney to introduce evidence after an appeal has been filed is to submit a written request with the Board to suspend the appeal and remand the application for further examination. *Id.* *See also* TBMP § 1207.02 and authorities cited therein.

if the public does not understand the term to refer to the broad genus as a whole.” *In re Cordua Rests.*, 823 F.3d 594, 118 USPQ2d 1632, 1638 (Fed. Cir. 2016) (holding CHURRASCOS, a word that is generic for a type of grilled meat, to be generic for restaurant services because it referred to a key aspect of those services); *see also In re Hotels.com LP*, 573 F.3d 1300, 91 USPQ2d 1532, 1535 (Fed. Cir. 2009) (“hotels” identified the “central focus” of online lodging information and reservation services and therefore HOTELS.COM found generic).

Because generic terms “are by definition incapable of indicating a particular source of the goods or services,” they cannot be registered as trademarks. *Id.* (quoting *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1810 (Fed. Cir. 2001)). “The critical issue in genericness cases is whether members of the relevant public primarily use or understand the term sought to be protected to refer to the genus of goods or services in question.” *Id.* (quoting *Marvin Ginn*, 228 USPQ at 530).

Making this determination “involves a two-step inquiry: First, what is the genus of goods or services at issue? Second, is the term sought to be registered ... understood by the relevant public primarily to refer to that genus of goods or services?” *Marvin Ginn*, 228 USPQ at 530. *See also Princeton Vanguard*, 114 USPQ2d at 1829 (“there is only one legal standard for genericness: the two-part test set forth in *Marvin Ginn*”). “An inquiry into the public’s understanding of a mark requires consideration of the mark as a whole.” *Id.* at 1831 (quoting *In re Steelbuilding.com*, 415 F.3d 1293, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005)). *See also Booking.com*, 2020 USPQ2d 10729,

at *5 (“whether ‘Booking.com’ is generic turns on whether that term, taken as a whole, signifies to consumers the class of online hotel reservation services”).

A term may be generic if it refers to part of the claimed genus of services. *Cordua Rests.*, 118 USPQ2d at 1638 states:

[A] term is generic if the relevant public understands the term to refer to part of the claimed genus of goods or services, even if the public does not understand the term to refer to the broad genus as a whole. Thus, the term “pizzeria” would be generic for restaurant services, even though the public understands the term to refer to a particular sub-group or type of restaurant rather than to all restaurants. *See, e.g., Northland Aluminum*, 777 F.2d at 1561⁸ (affirming the TTAB’s determination that BUNDT is generic “for a type of ring cake”); *In re Analog Devices, Inc.*, 6 USPQ2d 1808, 1810, 1988 WL 252496, at *3 (TTAB 1988) (“There is no logical reason to treat differently a term that is generic of a category or class of products where some but not all of the goods identified in an application fall within that category.”), *aff’d*, 871 F.2d 1097 (Fed. Cir. 1989) (unpublished); *see also Otokoyama Co., Ltd. v. Wine of Japan Imp., Inc.*, 175 F.3d 266, 271 (2d Cir.1999) (“Generic words for sub-classifications or varieties of a good are [] ineligible for trademark protection.”). ... A “term need not refer to an entire broad species, like ‘cheese’ or ‘cake,’ in order to be found generic.” 1–2 Anne Gilson LaLonde, *Gilson on Trademarks* § 2.02[7][a] (2011).

In an ex parte appeal, the USPTO has the burden of establishing that a mark is generic and, thus, unregistrable. *In re Hotels.com*, 91 USPQ2d 1532 at 1533; *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111 (Fed. Cir. 1987); *In re Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 828 F.2d 1567, 4 USPQ2d 1141 (Fed. Cir. 1987).

⁸ *In re Northland Aluminum Prods., Inc.*, 777 F.2d 1556, 227 USPQ 961 (Fed. Cir. 1985).

a. The Genus of the Goods and Services

“[O]ur first task is to determine, based upon the evidence of record, the genus of Applicant’s [goods and services]” *In re ActiveVideo Networks, Inc.*, 111 USPQ2d 1581, 1600 (TTAB 2014). Because the identification of goods or services in an application defines the scope of rights that will be accorded the owner of any resulting registration under Section 7(b) of the Trademark Act, generally “a proper genericness inquiry focuses on the description of [goods and] services set forth in the [application or] certificate of registration.” *Magic Wand Inc. V. RDB Inc.*, 940 F.2d 638, 19 USPQ2d 1551, 1552 (Fed. Cir. 1991), citing *Octocom Sys., Inc. v. Houston Comput. Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); *see also In re Reed Elsevier Prop. Inc.*, 482 F.3d 1376, 82 USPQ2d 1378, 1380 (Fed. Cir. 2007); *In re Serial Podcast, LLC*, 126 USPQ2d 1061, 1063 (TTAB 2018).

In this appeal it is undisputed that the identifications of Class 25 goods and Class 35 services define the genus of goods and services at issue.

b. The Relevant Purchasers of Applicant’s Goods and Services

The second part of the *Marvin Ginn* test is whether the term sought to be registered is understood by the relevant public primarily to refer to the genus of goods or services under consideration. “The relevant public for a genericness determination is the purchasing or consuming public for the identified goods [and services].” *Princeton Vanguard, LLC*, 124 USPQ2d at 1187 (citing *Magic Wand*, 19 USPQ2d at 1553); *Sheetz of Del., Inc. v. Doctor’s Assocs. Inc.*, 108 USPQ2d 1341, 1351 (TTAB 2013). Based on the recitations of goods and services, we find that the consuming

public of Applicant's clothing goods in Class 25 and online retail store services in the field of clothing in Class 35 is the general public.

Such "ordinary American purchaser" in a case involving a foreign language mark includes purchasers knowledgeable in English as well as the pertinent foreign language(s). *See In re Thomas*, 79 USPQ2d 1021, 1024 (TTAB 2006) ("The 'ordinary American purchaser' in this context refers to the ordinary American purchaser who is knowledgeable in the foreign language"); *see also In re La Peregrina Ltd.*, 86 USPQ2d 1645, 1647-48 (TTAB 2008) ("The Board has determined that the 'ordinary American purchaser' in a case involving a foreign language mark refers to the ordinary American purchaser who is knowledgeable in English as well as the pertinent foreign language.").

c. The Relevant Purchasing Public's Understanding of VETEMENTS

We next turn to consider whether VETEMENTS is understood by the relevant public primarily to refer to:

Shirts, skirts, sweaters, coats, jackets, suits, caps being headwear, headwear, hats, hoods, visors being headwear, scarves, gloves, shoes, boots, waist belts, T-shirts, pants, blouses, dresses; and

Online retail store services for shirts; skirts; sweaters; coats; jackets; suits; caps; head wear; hats; hoods; visors; scarves; gloves; shoes; boots; waist belts; T-shirts; pants blouses; dresses.

"Evidence of the public's understanding of the term may be obtained from any competent source, such as purchaser testimony, consumer surveys, listings in dictionaries, trade journals, newspapers and other publications." *Royal Crown*, 127 USPQ2d at 1046 (citing *In re Merrill Lynch*, 4 USPQ2d at 1143); *see also In re Cordua*

Rests., 118 USPQ2d at 1634); *Princeton Vanguard*, 114 USPQ2d at 1830; *In re Reed Elsevier*, 82 USPQ2d at 1380 (finding third-party websites competent sources for determining what the relevant public understands mark to mean).

Samples from the evidence of record are attached as an appendix to this decision.

d. Meaning of “vetements”

Determining whether a term is generic is fact intensive and depends on the record. *See In re Tennis Indus. Ass’n*, 102 USPQ2d 1671, 1680 (TTAB 2012); *see also Royal Crown v. Coca-Cola Co.*, 127 USPQ2d at 1044 (“Whether an asserted mark is generic or descriptive is a question of fact” based on the entire evidentiary record). As noted above, we must give due consideration to the evidence of consumer perception of the use of the proposed marks as a whole. *Princeton Vanguard*, 114 USPQ2d at 1831 (quoting *In re Steelbuilding.com*, 75 USPQ2d at 1421 (“An inquiry into the public’s understanding of a mark requires consideration of the mark as a whole. Even if each of the constituent words in a combination mark is generic, the combination is not generic unless the entire formulation does not add any meaning to the otherwise generic mark.”)).

Based upon the evidence appended below, there is no question on this record that VETEMENTS or **VETEMENTS** is a French language term that literally and directly translates into English as “clothing.”⁹ Applicant acknowledges this meaning in its subject applications and does not otherwise dispute this literal meaning of the term comprising its proposed marks. It further is undisputed on this record that consumers

⁹ August 13, 2020 Office Action at TSDR 5-8.

of Applicant's goods and services as well as media outlets and commentators in the clothing and fashion industries recognize this meaning of Applicant's proposed marks:

- “[T]he brand name itself is literally the French word for ‘clothing.’”¹⁰
- “Pronounced ‘vet-MAHN,’ Vetements is French for ‘clothing.’ The choice of name for the fashion collective was alleged to be one that reflects its original philosophy as having no sub or supra identity, only made for being worn.”¹¹
- “Vetements, meaning clothing in French, is a fitting name for this new Parisian brand focusing on delivering closet staples minus excess frills.”¹²
- “There is something paradoxical about a label whose generic name, intended to steer attention toward the garments it produces (*vetements* is French for clothes), instead, prompts instant curiosity about the people behind it.”¹³
- In Applicant's own words: “We didn't want to use a personal name, but a generic one that expressed our approach. We make up a mixed collective that is based in Paris, so ‘Vetements’ came naturally and it really expresses all we want to do in fashion.”¹⁴

¹⁰ November 13, 2020 Office Action at TSDR 8.

¹¹ *Id.* at TSDR 10.

¹² *Id.* at TSDR 15.

¹³ June 3, 2021 Office Action at TSDR 21.

¹⁴ *Id.* at 31.

Applicant asserts: “The term “generic” in the [above] statement was not an implied admission that the name of the company is generic in a trademark sense.”¹⁵ We do not consider Applicant’s statements to be an admission against interest. Rather, we view the statement as Applicant’s acknowledgment of the literal meaning of its proposed marks.

e. Doctrine of Foreign Equivalents

“Under the doctrine of foreign equivalents, foreign words from common languages are translated into English to determine genericness, descriptiveness, as well as similarity of connotation in order to ascertain confusing similarity with English word marks.” *Palm Bay Imps. Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689, 1696 (Fed. Cir. 2005) (citations omitted); *In Re Sambado & Son Inc.*, 45 USPQ2d 1312, 1315 (TTAB 1997) (FRUTTA FRESCA is equivalent to “fresh fruit” and thus generic and unregistrable for goods including “fresh fruits”).

The doctrine is not an absolute rule, and is subject to several limitations. It does not apply to words from dead or obscure languages, *In re Spirits Int’l N.V.*, 563 F.3d 1347, 90 USPQ2d 1489, 1491 (Fed. Cir. 2009), and caution is indicated when the foreign term and the English to which it is compared are not exact synonyms, *In re Sarkli, Ltd.*, 721 F.2d 353, 220 USPQ 111, 113 (Fed. Cir. 1983). As a general principle, the doctrine of foreign equivalents is applied in situations in which an American consumer is likely to “stop and translate” foreign words into their English equivalent.

¹⁵ 6 TTABVue 9 (Applicant’s brief).

(*Palm Bay*, 73 USPQ2d 1696 (quoting *In re Pan Tex Hotel Corp.*, 190 USPQ 109, 110 (TTAB 1976)).

As discussed above, Applicant's marks comprise the French term for "clothing." Evidence of record indicates that in 2010, approximately 2.1 million Americans over the age of five spoke a dialect of French at home, and that French is the second most widely taught foreign language in schools in the United States.¹⁶ The record further establishes that according to the U.S. Census Bureau, in 2011, 1.3 million Americans over the age of five speak French at home, and an additional 750,000 speak French Creole.¹⁷ Evidence also shows that the number of Americans who speak French (including Patois, Cajun and Creole) at home steadily increased 33% from 1.5 million in 1980 to over 2 million in 2010, although those numbers then slightly declined in 2011.¹⁸ At time of this record, French is the fifth most common non-English language spoken in US households, with approximately 1.3 million speakers over five years old.¹⁹

Applicant argues that its proposed marks are not likely to be translated into English and "disagrees with the Examining Attorney's position that the doctrine of foreign equivalents applies to Applicant's Mark[s]."²⁰ Specifically, Applicant argues: "VETEMENTS displayed on an article of clothing (e.g., a t-shirt) would be perceived

¹⁶ December 3, 2021 final Office Action at 5.

¹⁷ May 27, 2022 Request for Reconsideration at TSDR 11-12.

¹⁸ *Id.* at TSDR 15-16.

¹⁹ *Id.* at TSDR 25-26.

²⁰ 6 TTABVUE 4.

as a trademark (e.g., brand name or label) rather than describing the article of clothing.”²¹ As displayed in the appendix below, Applicant’s proposed mark appears on labels and packaging for its clothing, in an ornamental manner on its clothing and also in advertisements for its clothing and clothing-related services. The question is not the manner of Applicant’s use, but rather whether consumers will recognize the proposed marks as denoting the generic term “clothing.”²²

Applicant’s rather speculative assertions regarding the manner in which its proposed marks will be perceived are not persuasive. Further, Applicant’s assertions largely “are unsupported by sworn statements or other evidence, and ‘attorney argument is no substitute for evidence.’” *In re OEP Enters., Inc.*, 2019 USPQ2d 309323, *14 (TTAB 2019) (quoting *Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 127 USPQ2d 1797, 1799 (Fed. Cir. 2018) (internal quotation omitted)). Nor does Applicant cite to any authority for its position that based on its manner of use and also its trade name use, consumers are more likely to perceive them as trademarks and not a generic term.²³

Applicant further relies on *In re Optica Int’l*, 196 USPQ 775 (TTAB 1977) in support of its argument that because “vetements” does not resemble its English equivalent, “clothing,” in appearance or pronunciation, it is less likely “the ordinary American consumer would stop and translate Applicant’s Mark into its English

²¹ 6 TABVUE 4.

²² The Examining Attorney has not argued that Applicant failed to submit proper specimens of use for its identified goods and services.

²³ 6 TTABVUE 5.

equivalent.”²⁴ Applicant’s reliance upon *Optica* is misplaced. In *Optica*, the Board found “there is no question but that ‘OPTIQUE’ is the French equivalent of the English word ‘OPTIC’. Moreover, the resemblance between ‘OPTIQUE’ and ‘OPTIC’ is so evident in both sound and appearance that the average member of the public in this country, **whether familiar with the French language or not** will automatically equate the two.” 196 USPQ at 777 (emphasis added). The Board in *Optica* thus found even consumers unfamiliar with the French language would recognize that OPTIQUE is the equivalent of OPTIC. However, *Optica* does not stand for the proposition that a foreign term must resemble in appearance or sound its English equivalent in order for the doctrine of foreign equivalents to apply.

Applicant also argues that the French language is neither commonly nor widely spoken in the United States. Applicant points to the above evidence that out of a 2011 US population of 291 million people over the age of five, only 1.3 million speak French,²⁵ and that to “the extent French is spoken, it is significantly less than one percent of the population.”²⁶ We observe that the Census data and other evidence is restricted to individuals over the age of five who speak French at home, and does not include, for instance, students who study French or others conversant in French who do not speak the language at home. Sources documenting the primary language spoken at home should not be confused with the percentages of Americans who speak

²⁴ 6 TTABVUE 6.

²⁵ May 27, 2022 Request for Reconsideration at TSDR 11-12. This contrasts with the 2.1 million people over the age of five who speak French at home in the 2010 census. December 3, 2021 final Office Action at 5.

²⁶ 6 TTABVUE 6.

or comprehend a particular language. The evidence of record thus includes many, but likely not all French speakers living in the United States. However, even if we count only those individuals speaking French at home, the evidence of record indicates approximately 1.3 million such speakers live in the United States. While that may represent a small percentage of US citizens and residents, it nonetheless is a large number of speakers of a modern, living language that is the fifth most commonly spoken non-English language in this country.

We thus find it appropriate to apply the doctrine of foreign equivalents in this case. There is no evidence of record suggesting that the translation in the involved applications is inaccurate, that “vetements” is so obscure that it would not be easily recognized and translated by French speakers in the U.S. marketplace, or that it is an idiom which is not equivalent to its direct English translation. As noted, Applicant is a Paris-based fashion house using the French term for “clothing” to identify itself. And there can be no doubt that French is a common, modern language. Consumers familiar with French are thus likely to “stop and translate” VETEMENTS or **VETEMENTS** when encountering it used in connection with Applicant’s identified clothing and clothing-related retail services. Nor does Applicant’s minimally stylized **VETEMENTS** mark create a commercial impression that is separate from the French language term for “clothing.” *See generally In re Sadoru Grp., Ltd.*, 105 USPQ2d 1484, 1487 (TTAB 2012) (common and prosaic lettering with minimal stylization unlikely to make impression on purchasers). We therefore find Applicant’s mark to be equivalent to the English term “clothing” for purposes of determining genericness.

Applicant further argues that its marks and their English equivalent are

inherently distinctive because the term “clothing” does not describe the Applicant’s goods and services. Applicant is not applying to register the mark for clothing or for online retail store services for clothing. Further, Applicant is not applying to register a broad genus of goods or services. Rather, Applicant has applied for specific items such as, for example, shirts, online retail store services for shirts, etc. To the extent Applicant’s items are referenced in the English language relative to the word “clothing,” such items are referred to as “an article of” clothing or “a piece of” clothing. As such, the Applicant’s Mark is neither generic nor descriptive of the goods and services for which registration is sought.²⁷

However, Applicant does not dispute that its goods are articles or pieces of clothing, or that its online retail store services feature articles or pieces of clothing. We thus are not persuaded by Applicant’s somewhat semantic argument that because its recitation of goods and services does not specifically identify “clothing” but rather specific articles of clothing, its marks are inherently distinctive, particularly on the record discussed above. Further, Applicant’s reliance upon this tribunal’s decision in *In re Atavio*, 25 USPQ2d 1361 (TTAB 1992) (ATAVIO, translating to “the dress and ornamentation of a person,” suggestive of jewelry); and a First Circuit decision for an equally unrelated mark is inapposite. As is often noted by the Board and the Courts, each case must be decided on its own merits and we are not bound by decisions in matters involving different marks and different evidentiary records. *See In re Nett Designs, Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001); *see also In re Kent-Gamebore Corp.*, 59 USPQ2d 1373 (TTAB 2001); *In re Wilson*, 57 USPQ2d at 1871.

²⁷ 6 TTABVUE 9-10.

Turning to the few third-party registrations submitted by Applicant,²⁸ we accord them little weight. First, none of the registrations consist solely of the term “vetements” or “clothing,” but rather include additional wording and design elements, such as CLOTHES FOR THE SOUL, SILICLOTHES and PLANE CLOTHES. Second, the eight live registrations are too few from which to reach any conclusion on the genericness of “vetements” in connection with Applicant’s goods and services. Finally, “the Board is not bound by prior decisions of Trademark Examining Attorneys, and ... each case must be decided on its own merits and on the basis of its own record, in accordance with relevant statutory, regulatory and decisional authority.” *In re Nett Designs, Inc.*, 57 USPQ2d at 1567; *see also In re Wilson*, 57 USPQ2d 1863, 1871 (TTAB 2001).

After carefully considering all of the arguments and evidence of record, we find that the relevant public understands the term “vetements” as a term that primarily refers to a genus of clothing items and online retail store services featuring clothing items – and that the proposed marks are generic. *See In re Cordua Rests.*, 118 USPQ2d at 1638; *Marvin Ginn*, 228 USPQ at 530. Because the proposed marks VETEMENTS and **VETEMENTS** are generic when used in connection with the goods and services identified in the application, they are not registrable on the Principal Register.

²⁸ May 12, 2021 Response to Office Action at TSDR 19-29.

IV. Mere Descriptiveness

We next address the refusal under Section 2(e)(1), precluding registration of “a mark which, (1) when used on or in connection with the goods [or services] of the applicant is merely descriptive . . . of them.” A term is “merely descriptive if it immediately conveys information concerning a quality, characteristic, feature, function, purpose or use” of the goods or services. *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2017) (quoting *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); *In re Omniome, Inc.*, 2020 USPQ2d 3222, at *3 (TTAB 2020) (quoting *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1709 (Fed. Cir. 2017)); *In re TriVita, Inc.*, 783 F.3d 872, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015).

Descriptiveness must be assessed “in relation to the goods [and services] 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 [and services] because of the manner of its use or intended use.” *Bayer AG*, 82 USPQ2d at 1831 (citing *In re Abcor Dev.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978)). We must also address the degree of descriptiveness because that bears on the quantity and quality of evidence required to prove acquired distinctiveness, which we discuss below. *See Royal Crown*, 127 USPQ2d at 1045 (instructing Board to first determine whether a proposed mark is highly descriptive rather than merely descriptive before assessing acquired distinctiveness); *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1378 (Fed. Cir. 2018) (same).

We find the proposed VETEMENT and **VETEMENTS** marks highly descriptive in view of the entire record and for the reasons set out above in the genericness discussion. The clarity, quality and quantity of the Examining Attorney's evidence persuades us that a mental leap is not needed to determine that the proposed marks refer to Applicant's identified goods and services. Because of the proposed marks' highly descriptive nature, Applicant has a higher burden to establish acquired distinctiveness. *In re Guaranteed Rate, Inc.*, 2020 USPQ2d 10869, *4 (TTAB 2020).

V. Acquired Distinctiveness

Applicant claims acquired distinctiveness in the alternative under Section 2(f). For the sake of completeness, we consider whether Applicant's asserted marks have acquired distinctiveness based on the entire record, keeping in mind that "[t]he applicant ... bears the burden of proving acquired distinctiveness." *In re La. Fish Fry Prods., Ltd.*, 797 F.3d 1332, 116 USPQ2d 1262, 1264 (Fed. Cir. 2015) (citation omitted).

Because we have found the proposed marks highly descriptive, Applicant's burden of establishing a prima facie case of acquired distinctiveness under Section 2(f) is commensurately high. *In re Sausser Summers, PC*, 2021 USPQ2d 618, at *7 (TTAB 2021) (quoting *Royal Crown*, 127 USPQ2d at 1048) ("[T]he greater the degree of descriptiveness the term has, the heavier the burden to prove it has attained secondary meaning."); *GJ & AM*, 2021 USPQ2d 617, at *37-38 ("Highly descriptive terms, for example, are less likely to be perceived as trademarks and more likely to be useful to competing sellers than are less descriptive terms. More substantial

evidence of acquired distinctiveness thus will ordinarily be required to establish that such terms truly function as source indicators.”); *Virtual Independent Paralegals, LLC*, 2019 USPQ2d 111512, at *10 (TTAB 2019) (“[T]he greater the degree of descriptiveness, the greater the evidentiary burden on the user to establish acquired distinctiveness.”) (quoting *In re Greenliant Sys. Ltd.*, 97 USPQ2d 1078, 1085 (TTAB 2010)).

“To establish acquired distinctiveness, an applicant must demonstrate that relevant consumers perceive the subject matter sought to be registered as identifying the producer or source of the product.” *GJ & AM*, 2021 USPQ2d 617, at *38 (citing *Wal-Mart Stores, Inc. v. Samara Bros., Inc.*, 529 U.S. 205, 54 USPQ2d 1065, 1068 (2000) and *Stuart Spector Designs Ltd. v. Fender Musical Instruments Corp.*, 94 USPQ2d 1549, 1554 (TTAB 2009)); *see also Uman Diagnostics*, 2023 USPQ2d 191, at *37 (“[T]o be placed on the principal register, descriptive terms must achieve significance ‘in the minds of the public’ as identifying the applicant’s goods or services – a quality called acquired distinctiveness’ ...” (quoting *Booking.com*, 2020 USPQ2d 10729, at *3). “Applicant may show acquired distinctiveness by direct or circumstantial evidence.” *GJ & AM*, 2021 USPQ2d 617, at *38-39 (“Direct evidence includes actual testimony, declarations or surveys of consumers as to their state of mind. Circumstantial evidence, on the other hand, is evidence from which we may infer a consumer association, such as years of use, prior registrations, extensive amount of sales and advertising, unsolicited media coverage, and any similar evidence showing wide exposure of the mark to consumers.”).

We consider the following factors: (1) association of the proposed mark with a particular source by actual purchasers (typically measured by customer surveys); (2) length, degree, and exclusivity of use; (3) amount and manner of advertising; (4) amount of sales and number of customers; (5) intentional copying; and (6) unsolicited media coverage of the product embodying the mark. *Converse, Inc. v. Int’l Trade Comm’n*, 909 F.3d 1110, 128 USPQ2d 1538, 1546 (Fed. Cir. 2018); *GJ & AM*, 2021 USPQ2d 617, at *39 (acknowledging the six factors the Federal Circuit has identified “to consider in assessing whether a mark has acquired distinctiveness”).

We consider all of the Section 2(f) evidence of record as a whole; no single factor is determinative. *Converse*, 128 USPQ2d at 1546 (“All six factors are to be weighed together in determining the existence of secondary meaning.”); *Sausser Summers*, 2021 USPQ2d 618, at *7 (“All six factors are to be weighed together in determining the existence of secondary meaning.”) (quoting *In re Guaranteed Rate Inc.*, 2020 USPQ2d 10869, at *3 (TTAB 2020)); *GJ & AM*, 2021 USPQ2d 617, at *39 (“On this list, no single fact is determinative ‘[a]ll six factors are to be weighed together in determining the existence of secondary meaning.’”).

Applicant relies on the declaration of its founder and Chief Executive Officer, Mr. Guram Gvasalia,²⁹ which includes the following in support of its Section 2(f) claim:

- Applicant has used the applied-for marks since 2014 on and in connection with all of its identified goods and services in commerce in or with the United States;

²⁹ May 12, 2021 Response to Office Action at 30-51.

- Applicant and its products under the proposed marks have consistently been ranked in the top ten fashion brands in the world, including a number one ranking in 2016 by global fashion search engine Lyst and The Business of Fashion, and number fourth and third respective rankings in 2017.
- Applicant places the proposed marks on tags, labels and other trademark uses in addition to displaying them as a prominent part of the design of the garments and footwear themselves.
- Applicant and its brand under the applied-for marks currently has 4.1 million followers on Instagram, with 15% of the audience located in the United States.
- Applicant's brand under its proposed marks is very popular with celebrities including Rihanna, Kanye West, Bella Hadid, Selena Gomez, Taylor Swift, and various Kardashians and Jenners.
- Applicant and its goods sold under its proposed marks, and their impact on global fashion, have been the subject of hundreds of articles directed at the fashion industry and purchasing public, most of which are distributed in the United States.
- Applicant has collaborated with such brands as Reebok, Tommy Hilfiger, Levi's, Juicy Couture, Eastpak, Champion, Dr. Martens, Mont Blanc, Brioni, DHL, Mackintosh, Disney, Marvel, Pixar, McDonalds, Evian, Planet Hollywood, Carhart, Oakley and the STAR WARS franchise to market goods under its marks.
- Applicant has gained recognition in fashion magazines such as W Magazine, Vogue and Hypebeast for its dramatic and unusual marketing practices, including the use of celebrity lookalikes to model clothes under their marks, holding fashion shows in parking structures and rundown buildings, displaying its products in offbeat ways at prominent clothing stores such as Saks, Harrods, and Dover Street Market.

- Since 2016, Applicant has sold over 110 thousand units of goods to the United States under the involved marks, valued at \$31 million wholesale and \$95 million retail, not including additional sales to the United States made by online distributors associated with Applicant.

1. Factor One: Association of the proposed mark with a particular source by actual purchasers (typically measured by customer surveys)

Applicant has not submitted any surveys by which we may assess the association of its proposed marks with a particular source by actual purchasers. Further, Applicant's evidence of recognition accompanying the Gvasalia declaration consists of articles from fashion magazines and websites, not direct evidence from the purchasers of Applicant's goods and services under its involved marks. This evidence discusses the notoriety of Applicant and its products by the fashion industry, but does not indicate that actual purchasers of Applicant's clothing associate its proposed marks with Applicant.

2. Factor Two: Length, Degree, and Exclusivity of Use

Under factor two, the Gvasalia declaration indicates use of the proposed marks since 2014 in U.S. commerce in connection with the identified goods and services.

"While 'it is true that evidence of substantially exclusive use for a period of five years immediately preceding the filing of an application may be considered prima facie evidence of acquired distinctiveness' under Section 2(f), *In re Ennco Display Sys., Inc.*, 56 USPQ2d 1279, 1286 (TTAB 2000), the 'language of the statute is permissive, and the weight to be accorded this kind of evidence depends on the facts and circumstances of the particular case.'" *In re Uman Diagnostics AB*, 2023 USPQ2d 191, at *41 (TTAB 2023) (citing *Yamaha Int'l Corp.*, 6 USPQ2d at 1004).

Here, evidence of Applicant's substantially exclusive use since 2014 is not particularly persuasive on the Section 2(f) showing given the high degree of descriptiveness of the proposed marks. *Uman Diagnostics*, 2023 USPQ2d 191, at *41 ("We have discretion to find that evidence of a period of use is insufficient to show acquired distinctiveness, and we do so here because of the highly descriptive nature of Applicant's proposed mark."); *In re MK Diamond Prods., Inc.*, 2020 USPQ2d 10882, at *20 (TTAB 2020) ("Where, as here, the applied-for mark is highly descriptive or non-distinctive, use for a period of approximately fourteen years is insufficient to establish acquired distinctiveness."); *Nextel Commc'ns, Inc. v. Motorola, Inc.*, 91 USPQ2d 1393, 1401 (TTAB 2009) ("Even long periods of substantially exclusive use may not be sufficient to demonstrate acquired distinctiveness" depending "on the degree of acquired distinctiveness of the mark at issue.").

3. Factor Three: Amount and Manner of Advertising

According to the Gvasalia declaration, since 2014 Applicant has advertised its goods and services under the proposed marks at fashion events, on social media and in store signage and displays. Applicant has not disclosed its advertising expenditures or indicated any context of activities and expenditures of other clothiers.

There also is no evidence regarding the number of advertisements Applicant has run on social media, how long Applicant has promoted its goods and services on social media, or US consumer exposure to Applicant's social media advertising, e.g., advertising impressions. See Trademark Rule 2.41(a)(3) ("advertising expenditures ... identifying types of media and attaching typical advertisements" pertinent to

whether a proposed mark has acquired distinctiveness”) (emphasis added); *Booking.com v. Matal*, 278 F. Supp. 3d. 891, 919 (E.D. Va. 2017) (finding “compelling” evidence that applicant’s “BOOKING.COM branded television commercials ... received 1.3 billion visual impressions from U.S. consumers in 2015 and 1.1 billion impressions in 2016. Its internet advertisements during these years received 212 million and 1.34 billion visual impressions from U.S. customers, respectively. And its 2015 movie theater advertisements received approximately 40 million visual impressions from U.S. customers.”); *see also In re Soccer Sport Supply Co.*, 507 F.2d 1400, 184 USPQ 345, 348 (CCPA 1975) (“The advertisements of record do not support an inference of distinctiveness inasmuch as the evidence fails to disclose information from which the number of people exposed to the design could be estimated” including the “circulation of such publications in which the advertisements appear” and “number of advertisements published”); *In re E.I. Kane, Inc.*, 221 USPQ 1203, 1206 (TTAB 1984) (substantial advertising expenditures but “no evidence that any of the advertising activity was directed to creating secondary meaning in applicant’s highly descriptive trade name.”); *In re Packaging Specialists, Inc.*, 221 USPQ 917, 920 (TTAB 1984) (“[L]arge [advertising] expenditures in this regard cannot, per se, establish that the term functions as a mark to identify and distinguish services or goods rendered by an applicant. It is necessary to examine the advertising material to determine how the term is being used therein, what is the commercial impression created by such use and what it would mean to purchasers.”) (quoting *In re Redken Labs., Inc.*, 170 USPQ 526, 529 (TTAB 1971) (internal quotation marks omitted).

Further, Applicant did not introduce any of the advertisements it has run on social media or otherwise, aside from some photographs from fashion events that lack context as to the extent to which they were viewed by consumers.

The Gvasalia declaration indicates that Applicant has 4.1 million followers on Instagram, with 15% of the audience located in the United States. However, Applicant has not indicated whether and to what extent its proposed marks are prominently featured on its Instagram page, the numbers of page views or whether and to what extent page views are from U.S. consumers. The absence of information specific to U.S. consumers aside from their general number reduces the persuasive value of this declaration evidence.

4. Factor Four: Amount of Sales and Number of Customers

According to the Gvasalia declaration, Applicant's sales under the proposed marks since 2016 amount to 110 thousand units to the United States, valued at \$31 million wholesale and \$95 million retail, exclusive of sales to the U.S. by online distributors. These sales are impressive, but again, Applicant has not introduced evidence regarding its market share or how its goods and services rank in terms of sales by other fashion retailers, so we are unable "to accurately gauge" the level of Applicant's sales success. *Target Brands v. Hughes*, 85 USPQ2d 1676, 1681 (TTAB 2007); *see also In re MK Diamond Prods., Inc.*, 2020 USPQ2d 10882, at *23 (TTAB 2020) (probative value of raw sales figures were diminished due to lack of industry context).

5. Factor Five: Intentional Copying

There is no evidence of third parties intentionally copying Applicant's proposed marks.

6. Factor Six: Unsolicited Media Coverage of the Services Identified by the Proposed Mark

Mr. Gvasalia declares that Applicant has received extensive media coverage in fashion magazines, blogs and websites resulting from its innovative marketing, collaborations with other designers and brands, and popularity with fashion-conscious celebrities.

However, the number of examples of media coverage introduced by Mr. Gvasalia is not a significant amount of unsolicited media coverage given that Applicant has been using the applied-for marks since 2014. The record also does not include any information regarding the circulation of these publications or article impressions, further reducing the weight of this evidence. And while publications like Vogue may be presumed to have large circulations, the record is unclear to what extent publications like Hypebeast and the Business of Fashion would be read inside or outside of fashion circles.

7. Other Relevant Evidence

The testimony of Mr. Gvasalia regarding his understanding of consumer perception is also potentially pertinent. Mr. Gvasalia declares:³⁰

³⁰ May 12, 2021 Response to Office Action at TSDR 51.

It is my understanding and belief that due to the extensive sales by and popularity of goods of Applicant and the association with Applicant's mark VETEMENTS and the figurative or design mark **VETEMENTS**, the marks VETEMENTS and **VETEMENTS** have achieved recognition by the purchasing public in the United States and elsewhere that is beyond that of being merely a descriptive term. It is my understanding and belief that the purchasing public has come to recognize the marks VETEMENTS and **VETEMENTS** as trademarks for the goods and services of Applicant.

Mr. Gvasalia's averments are legal conclusions drawn by Applicant's witness, and have no probative value. *Cf. Interstate Brands Corp. v. Celestial Seasonings, Inc.*, 576 F.2d 926, 929, 198 USPQ 151, 154 (CCPA 1978) (likelihood of confusion is a legal conclusion, therefore, it cannot be an "admission," only facts may be admitted; under no circumstances may a party's opinion . . . relieve the decision maker of the burden of reaching [its] own ultimate conclusion on the entire record); *In re Hester Industries, Inc.*, 230 USPQ 797, 798 (TTAB 1986) ("we are not bound by the applicant's conclusions on [descriptiveness] any more than we are by the Examining Attorney's"); *Harco Labs., Inc. v. Decca Navigator Co.*, 150 USPQ 813, 814 n. 2 (TTAB 1966) (Board does not rely on admissions stating legal conclusions). *See also In re Cent. Counties Bank*, 209 USPQ 884, 888 (TTAB 1981) ("The statement[s] by applicant's officials [of consumer recognition of applied-for term as a source indicator]

are self-serving statements that are entitled, under the circumstances herein, to little, if any, probative value on the registrability question.”).

8. Conclusion: Acquired Distinctiveness

Based on a review of all of the evidence of record under the relevant factors, we find that Applicant has failed to demonstrate by a preponderance of the evidence that VETEMENTS or **VETEMENTS** has acquired distinctiveness among relevant U.S. consumers as a source identifier for Applicant’s goods and services. Because of the highly descriptive nature of the proposed marks for Applicant’s goods and services, Applicant’s substantially exclusive use of VETEMENTS and **VETEMENTS** does not carry sufficient weight in the context of Applicant’s evidentiary showing.

Applicant’s declaration and evidence are lacking important information about U.S. consumer exposure to Applicant’s promotion and advertising as well as examples of how the mark is used in advertising. Applicant also did not introduce evidence that would provide industry context for its sales figures in industry context further diminishing the probative value of this evidence. *Target Brands v. Hughes*, 85 USPQ2d at 1681; *see also MK Diamond Prods.*, 2020 USPQ2d 10882, at *23.

I. Decision

On the record before us, the proposed marks VETEMENTS and **VETEMENTS** are generic for Applicant’s goods and services. Accordingly, we affirm the refusal to register the mark under Sections 1, 2, 3 and 45 of the Trademark Act on the ground that VETEMENTS and **VETEMENTS** are generic for Applicant’s goods and services.

We further find that VETEMENTS and **VETEMENTS** are highly descriptive of Applicant's goods and services and Applicant has not established that the designations have acquired distinctiveness as marks for Applicant's goods and services. Accordingly, we affirm the refusal to register Applicant's mark on the Principal Register under Section 2(f), 15 U.S.C. § 1052(f), of the Trademark Act.

Evidentiary Appendix

1. Examining Attorney's evidence includes:³¹

Submitted with August 13, 2020 Office Action:³²

Screenshot from Google Translation displaying English language translation of "vetements" as "clothing."

Screenshot from Yandex Translate displaying English language translation of "vetements" as "clothing."

Submitted with November 13, 2020 Office Action³³

Screenshot of an article, excerpted below, from highsnobiety.com regarding Applicant and its clothing under the VETEMENTS mark:

³¹ Where the Examining Attorney has introduced duplicate evidence in multiple Office Actions, we cite to the first submission.

³² At TSDR 5-8.

³³ At TSDR 7-17.

Perhaps one of the most talked-about labels in fashion right now, Vetements is currently based in Zurich, Switzerland.

Founded by Georgian fashion designer Demna Gvasalia alongside his brother Guram, who presides as CEO overseeing the brand's business operations, Vetements creates a wide range of menswear and womenswear inspired by everyday fashion and regular people – the brand name itself is literally the French word for “clothing”.

Demna Gvasalia graduated from the Royal Academy of Fine Arts in Antwerp in 2006 and began working as a womenswear designer for Maison Martin Margiela in 2009. Having graduated from the same institution as Martin Margiela and the rest of the Antwerp 6, it might be unsurprising to see many of the same influences and fascinations in Gvasalia's work. In 2012, Gvasalia became head designer for Louis Vuitton's womenswear for 2 years, and then branched off to launch his own label.

WHAT IS THE MEANING OF VETEMENTS?

Pronounced “vet-MAHN,” Vetements is French for “clothing.” The choice of name for the fashion collective was alleged to be one that reflects its original philosophy as having no sub or supra identity, only made for being worn.

Screenshot of an article, excerpted below, from thefashionspot.com, discussing Applicant and its clothing under the VETEMENTS mark:

Vetements, meaning clothing in French, is a fitting name for this new Parisian brand focused on delivering closet staples minus excess frills. While the brand name may be a bit generic, the brand concept is anything but. Designed by a collective of seven designers who are, more or less, anonymous, the designers usually answer interview questions as a unit, hoping to steer attention away from themselves and exclusively onto the clothes. A cynic may call this a PR stunt and whether or not that's true, it has no doubt contributed to the new brand gaining major traction. Not since Maison Martin Margiela has a brand been thrust into the spotlight shrouded under such intense mystery. Unsurprisingly, each of the designers, all of whom were formerly trained at top design universities across Europe, spent time working at Margiela.

- ▶ It's a sobering reality that even if you want to fight the traditional fashion landscape, as a commercial brand hoping to make profit, you can only do so much, something **Vetements has already discovered**. "What we try to do is satisfy certain aesthetic, which is independent of trends and tendencies. We deliberately wanted to be a niche brand as globalized fashion threatens individuality of brands. However we are to function within this market so the challenge is to keep our own pace in this ever-changing and oversupplied environment."

Fun Facts

- ▶ The brand started because each of the seven designers felt that fashion was **losing a sense of fun**.
- ▶ The debut collection was picked up by **nearly 30 retailers**.
- ▶ Designers may rotate in and out of the collective, so expect **possible shifts in aesthetic** in the coming seasons.

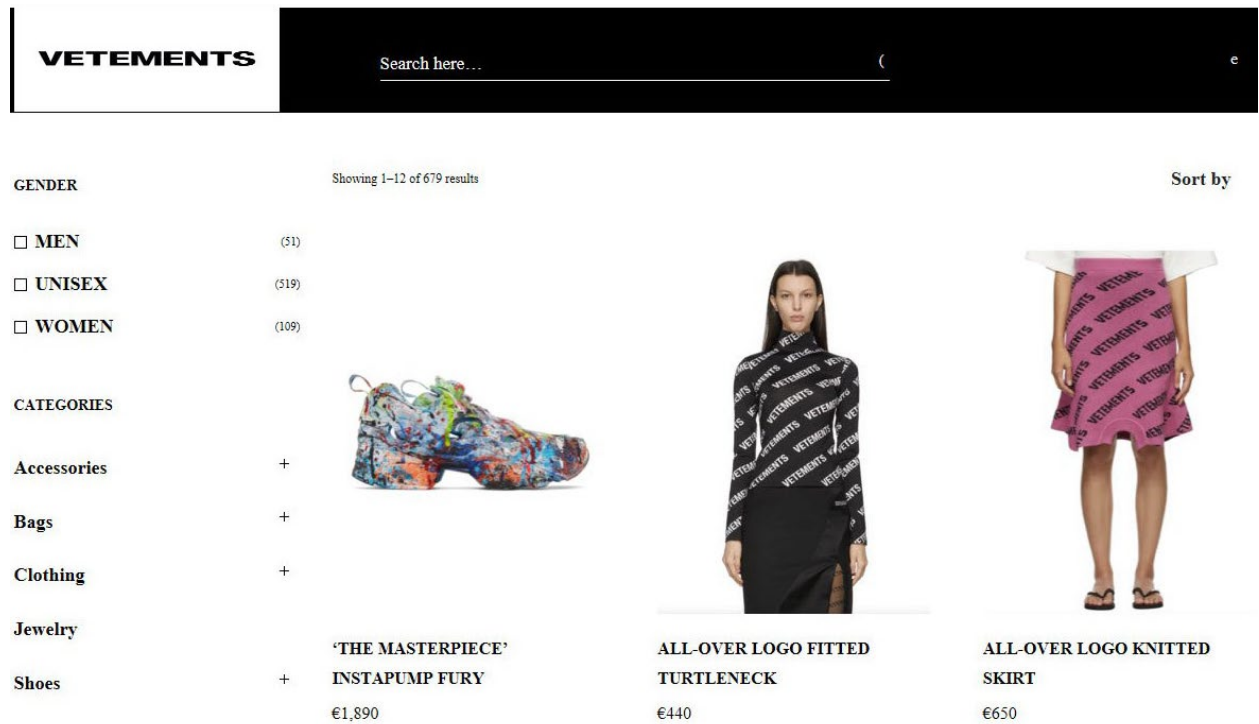
Submitted with June 3, 2021 Office Action³⁴

Google dictionary definition of "clothing" as "clothes collectively."

³⁴ At TSDR 7-52.

Google dictionary definition of “clothes” as “items to cover the body.”

Screenshots from Applicant’s website including the following:



An article from [busesoffashion.com](https://www.busesoffashion.com), excerpted below:

PARIS, France — There is something paradoxical about a label whose generic name, intended to steer attention towards the garments it produces (*vetements* is French for clothes), instead, prompts instant curiosity about the people behind it. Indeed, in a city dominated by large luxury houses helmed by prominent designers, each with their personal vision, womenswear ready-to-wear label Vetements quietly stands out for its anonymous and customer-centric approach.

“We decided to think, firstly, of all of the women we wanted to dress, what their preferences are, what length for a skirt, what kind of tailoring shapes, what colours, what essential garments. We thought of our friends, of real people we know and what they would want to wear,” say the seven designers behind the label, who insist on anonymity and communicate as a collective.

Article from glamcult.com, excerpted below:

Shrouded in a veil of ambiguity, **Vetements** stepped out of and into fashion in 2014. A mere year later, the Paris-based “team of individuals” is enchanting both lovers and critics of the fashion arena. The label is like an oxymoron in itself, the garments subtle but outspoken, dreamlike but ~~ironic, eerie but comfortable~~. Led by curiosity and appreciation, Glamcult got you the nuts and bolts of the stylish collective. Let us introduce you.

Tell us about the name. Why did you go for this straightforward signature?

We didn’t want to use a personal name, but a generic one that expressed our approach. We make up a mixed collective that is based in Paris, so “Vetements” came naturally and it really expresses all we want to do in fashion. The name was a unanimous thought in January 2014, just before the launch of our first collection in March. That was the moment when our thoughts started to materialize.

So when exactly was Vetements born?

In the summer of 2013. Demna Gvasalia [former senior designer at Louis Vuitton and Maison Martin Margiela] founded the brand with a couple of friends and ex-colleagues.

Could you describe your vision in a few words?

Vetements stands for the study of clothes about clothes.

Article from neueluxury.com, excerpted below:

Gvasalia, together with his CEO brother Guram and a team of like-minded friends and creatives established Vetements in 2014, with what has proved to be the most radical of ideas—they wanted to have fun. And even more astonishingly, their design philosophy is about producing clothes that are relatable, a clever up scaling of street wear basics that have a slightly jarring, ‘anti-fashion’ edge. A hoodie, jeans, a blue cotton shirt, a leather trench, are all precisely explored and reassembled, with just a nuance of strangeness, such as an overlong sleeve or an exaggerated shoulder line, a process Gvasalia calls “investigative fashion”. These are valuable lessons that would have no doubt been made apparent at Margiela, with new ways of seeing, and exploring the functional and the generic—the reason for calling the label ‘Vetements’ French for ‘clothes’ being self-evident. With a touch of pragmatism, Gvasalia has mentioned that he is simply making clothes that his friends would like.

Article from vogue.com, excerpted below:

The concept behind Vetements, as the name would imply, is clothing—just clothing. Each season, gaunt-cheeked models with buzz cuts take Vetements's runways in Paris in reworkings of wardrobe staples: floral dresses, trenchcoats, suits, and jeans. It's a no-frills approach to high fashion, borne from the mind of a collective led by designer [Demna Gvasalia](#), with his brother, Guram, managing the business side of things. And the brand has garnered international acclaim since its [2014 debut](#).

"We always want to work with existing garments, the things we love—denim pants, double-breasted men's coats, classic evening dresses," [Demna Gvasalia told Vogue](#) in 2015. The label's first It item was its [recut vintage jeans](#). With mismatched washes and jagged hems, the Frankenstein-ed denim became a street style sensation with a price tag—a cool \$1,450—to match.

It was the hoodie with which the collective revitalized fashion, however. Its iconic iteration, a black oversize cut with "Vetements" written across the front in the style of Metallica's logo, was worn by models, editors, and [Rihanna](#) alike. The brand has since made [sweatshirts that read "Justin 4ever"](#) (Bieber, presumably) or tout the 1997 release *Titanic* ([Céline Dion herself has been seen sporting one](#)).

In 2016, Vetements decided to turn its focus to remixing the fashion calendar, announcing it would be changing up its show schedule to present womenswear and menswear together during Paris's couture weeks in January and July. Its first outing of this kind, for [Spring 2017](#), was entirely comprised of collaborations with the likes of Levi's, Dr. Martens, and [Manolo Blahnik](#). Vetements even managed to make the much-maligned Juicy Couture velour tracksuit cool again. Quite an accomplishment.

Submitted with December 3, 2021 final Office Action³⁵

Entry from wikipedia.org regarding French language use in the United States, excerpted below:

French language in the United States

From Wikipedia, the free encyclopedia

For French people in the United States, see [French Americans](#).

The [French language](#) is spoken as a [minority language](#) in the [United States](#). Roughly 2.1 million Americans over the age of five reported speaking the language at home in a federal 2010 estimate,^{[1][2]} making French the fourth most-spoken language in the nation behind [English](#), [Spanish](#), and [Chinese](#) (when Louisiana French, Haitian Creole and all other French dialects and French-derived creoles are included, and when Cantonese, Mandarin and other [varieties of Chinese](#) are similarly combined).^[3]

Several varieties of French evolved in what is now the United States:

- [Louisiana French](#), spoken in [Louisiana](#) by descendants of colonists in [French Louisiana](#)
- [New England French](#), spoken in [New England](#) by descendants of 19th and 20th-century [Canadian migrants](#)
- [Missouri French](#), spoken in [Missouri](#) by descendants of French settlers in the [Illinois Country](#)
- [Muskra French](#), spoken in [Michigan](#) by descendants of [habitants](#), [voyageurs](#) and [coureurs des bois](#) in the [Pays d'en Haut](#)
- [Métis French](#), spoken in [North Dakota](#) by [Métis people](#)

More recently, French has also been carried to various parts of the nation via immigration from Francophone regions. Today, French is the second most spoken language (after English) in the states of [Maine](#) and [Vermont](#). In [Louisiana](#), it is tied with Spanish for second most spoken if Louisiana French and all creoles such as Haitian are included. French is the third most spoken language (after English and Spanish) in the states of [Connecticut](#), [Rhode Island](#), and [New Hampshire](#).^{[2][4]}

As a [second language](#), French is the second most widely taught [foreign language](#) (after [Spanish](#)) in American schools, colleges and universities.^[5] While the overwhelming majority of [Americans of French ancestry](#) grew up [speaking only English](#), some enroll their children in French [heritage language classes](#).

³⁵ At TSDR 5-12.

French ancestry [[edit](#)]

A total of 10,804,304 people claimed French ancestry in the 2010 census^[29] although other sources have recorded as many as 13 million people claiming this ancestry. Most French-speaking Americans are of this heritage, but there are also significant populations not of French descent who speak it as well, including those from [Belgium](#), [Switzerland](#), [Haiti](#) and numerous [Francophone African](#) countries.

Newer Francophone immigrants [[edit](#)]

In Florida, the city of [Miami](#) is home to a large Francophone community, consisting of French expatriates, [Haitians](#) (who may also speak [Haitian Creole](#), a separate language which is derived partially from French), and French Canadians; there is also a growing community of Francophone Africans in and around [Orlando](#) and [Tampa](#). A small but sustaining French community that originated in [San Francisco](#) during the [Gold Rush](#) and was supplemented by French wine-making immigrants to the Bay Area is centered culturally around that city's [French Quarter](#).

In Maine, there is a recent increase of French speakers due to immigration from Francophone countries in Africa.^{[30][31]}

Francophone tourists and retirees [[edit](#)]

Many retired individuals from [Quebec](#) have moved to [Florida](#), or at least spend the winter there. Also, the many Canadians who travel to the Southeastern states in the winter and spring include a number of Francophones, mostly from Quebec but also from [New Brunswick](#) and [Ontario](#). [Quebecers](#) and [Acadians](#) also tend to visit Louisiana, as Quebec and New Brunswick share a number of cultural ties with Louisiana.

Seasonal migrations [[edit](#)]

[Florida](#), [California](#), [New York](#), [Texas](#), [Louisiana](#), [Arizona](#), [Hawaii](#), and a few other popular [resort](#) regions (most notably [Old Orchard Beach, Maine](#), [Kennebunk](#) and [Kennebunkport, Maine](#) and [Cape May, New Jersey](#)) are visited in large numbers by [Québécois](#), during winter and summer vacations.

Language study [[edit](#)]

French has traditionally been the foreign language of choice for English-speakers across the globe. However, after 1968,^[32] French has ranked as the second-most-studied foreign language in the United States, behind Spanish.^[33] Some 1.2 million students from the elementary grades through high school were enrolled in French language courses in 2007–2008, or 14% of all students enrolled in foreign languages.^[34]

Many American universities offer French-language courses, and degree programs in the language are common.^[35] In the fall of 2016, 175,667 American university students were enrolled in French courses, or 12.4% of all foreign-language students and the second-highest total of any language (behind Spanish, with 712,240 students, or 50.2%).^[36]

French teaching is more important in [private schools](#), but it is difficult to obtain accurate data because the optional status of languages. Indeed, the study of a foreign language is not required in all states for American students. Some states, however, including [New York](#), [Virginia](#) and [Georgia](#), require a minimum of two years of study of a [foreign language](#).



2. Applicant's evidence includes:

Submitted with May 12, 2021 Response to Office Action³⁶

The May 10, 2021 Declaration of Guram Gvasalia, Applicant's founder and Chief Executive Officer, attesting, inter alia, as follows:

Applicant has been using the marks in the involved applications since 2014 on and in connection with virtually all of its goods and services both as a trademark and on the goods as part of the fashion design as displayed below:



Applicant and its goods and services under its involved marks have been featured in such retail stores as Saks 5th Avenue, Harrods, Bergdorf Goodman, Maxfield LA, Dover Street Market, and other installations and events in Paris, London, Zurich, Seoul, Osaka, Beijing, Hong Kong, Bangkok and Moscow. Applicant has been

³⁶ At TSDR 19-116.

featured in such fashion publications as Vogue, GQ (Gentlemen's Quarterly), W Magazine, WWD (Women's Wear Daily),

Our company produces and sells designer apparel throughout the world, including substantial sales in the United States. Vetements Group was and is highly successful and has been widely recognized throughout the fashion industry as one of the hottest fashion companies of the last several years. Vetements Group and its VETEMENTS brand products have consistently been ranked in the top ten fashion brands in the world. In 2016 VETEMENTS was ranked the number 1 "hottest" fashion brand in the world by global fashion search engine Lyst and The Business of Fashion, and in 2017 was ranked fourth and third by those organizations. In the first quarter of 2017 The Business of Fashion ranked Applicant Vetements Group the number 1 "Hot Brand."

Vetements and its VETEMENTS brand currently has over 4.1 million followers on Instagram, with 15% of the audience based in the United States (the number 1 position among countries).

The VETEMENTS brand is very popular with US- based celebrities including Rihanna, Kanye West, Kim and Kylie Kardashian, Kendal Jenner, Bella Hadid, Selena Gomez, Travis Scott and more. As an example, attached as Exhibit 1 is a copy of an article published by PAGE SIX on September 16, 2019, discussing various celebrities who wear VETEMENTS fashion goods. Exhibit 2 is another exemplary article, this article published by Teen Vogue, discussing VETEMENTS fashion apparel being worn by Taylor Swift and Kim Kardashian.

As shown in Exhibit 12 are the logos of a number of the different companies with which Applicant Vetements Group has entered into a collaboration.

These companies include Levi's, Reebok, Tommy Hilfiger, Champion, EastPak, Dr. Martens, Juicy Couture, Mont Blanc, Brioni, DHL, Mackintosh, Disney, Star Wars, Marvel, Pixar, McDonalds, Evian, Planet Hollywood, Carhart, Oakley and others.

Applicant Vetements Group has conducted numerous fashion events in the United States and elsewhere around the globe which achieve substantial recognition by the industry and the purchasing public. Those events have generated substantial recognition and fame for the VETEMENTS mark and the **VETEMENTS** logo mark and a unique and unmistakable association of those marks with Applicant and the goods and services of Applicant.

Since 2016, Applicant Vetements Group has itself sold and shipped over about one hundred ten thousand units (110,000 units) of goods to the United States under the design mark **VETEMENTS**. This represents over thirty one million dollars (\$ 31,000,000) of goods at wholesale value, and over ninety five million dollars (\$ 95,000,000) of goods at retail value. These numbers do not include the substantial sales and shipments to the United States made by online distributors associated with Applicant Vetements Group, which sales and shipments represent a significant additional volume of sales. Of course, the sales and shipments to the United States by Applicant's predecessor in interest would even further increase volumes to the United States that have been made under the VETEMENTS mark and the **VETEMENTS** design mark. Moreover, this is but a portion of our global

sales, which are significantly greater than the sales to the United States alone.

It is my understanding and belief that due to the extensive sales by and popularity of goods of Applicant and the association with Applicant's mark VETEMENTS and the figurative or design mark **VETEMENTS**, the marks VETEMENTS and **VETEMENTS** have achieved recognition by the purchasing public in the United States and elsewhere that is beyond that of being merely a descriptive term. It is my understanding and belief that the purchasing public has come to recognize the marks VETEMENTS and **VETEMENTS** as trademarks for the goods and services of Applicant.

Excerpts from Exhibits to the Gvasalia Declaration:

The Influence of Vetements on Fashion

By [Isabel Mundigo-Moore](#)



Photo: via [High Snobiety](#)

Whether you think **Vetements** is a “ridiculous marketing gag” to get you to spend [hundreds on a DHL t-shirt](#), or that they are the [genius](#) collective that the fashion industry very much needed, or [you just don’t get it](#), the brand’s powerful influence in fashion is undeniable. Helmed by the **Gvasalia** brothers, **Demna** and **Guram**, Vetements (which means *clothes* in French), is a fashion collective that plants itself in pragmatism, ambition, and craftsmanship, producing streetwear-inspired garments in a high-fashion manner. Though having launched just over two years ago, Vetements has both become fashion’s darling and its biggest rebel child. The brand has collected celebrities like [Rihanna](#) and **Kanye West** as fans, created an even bigger draw to Paris Fashion Week than any of the Couture shows, and has consequently become the beacon to which pillar brands of the industry look to for what’s next.

Vetements FW 2016 | Photo: Indigital. tv via Vogue


Their most recent show, Spring 2017, which showed during Paris Couture Week, sparked much controversy and conversation. The brand not only showed their collection four months earlier than usual Spring collections, July instead of October, but Vetements also used a highly intense version of collaboration for their show. They did not just collaborate with one brand, but with many brands to complete the show, including **Juicy Couture**, **Canada Goose**, **Commes des Garçons**, **Levi's**, and **Manolo Blahnik**.

Despite being so young, Vetements has not only demanded systematic changes within the industry, but their “low fashion” aesthetic can be seen echoed on runways of designers old and new.

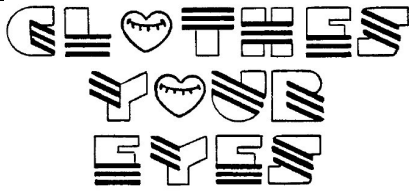
Take for example the Australian brand, **Ex Infinitas**, whose subtle luxury pieces disguised as street wear matches Vetements’s thesis. Vetements’ distinct androgynous look paired with oversized basic street wear garments is very much present in Ex Infinitas’s Spring 2017 show. Likewise, Russian designer and friend of the Vetements family, **Gosha Rubinsky** echoes the pragmatic sensibility of Vetements in his pieces. His Spring 2017 collection featured men in FILA hoodies, denim jeans, and sneakers.

The Vetements effect even made its way to legacy fashion house **Balenciaga**, when the house appointed Demna Gvasalia as their Artistic Director. With an understanding of the cult-like ability Gvasalia has to enchant the fashion world, the brand gave him full control, meaning he applied his same principles from Vetements to Balenciaga. Honouring **Cristobal Balenciaga** while meeting the design needs of the contemporary woman came easily to Gvasalia, by using his trademark habit of taking the ordinary—puffer coats, tees, hoodies— and making it extraordinary.

Third-party registrations for the following registered marks:³⁷

Mark	Reg. No.	Goods
	Principal Reg. No. 2189172 (“ORIGINAL DESIGN” disclaimed; the English translation of “VETEMENTS” is “clothing.”) This registration subsequently expired.	cups in Class 21; clothing, namely, t-shirts, sweatshirts, shorts boxers, and aprons in Class 25

³⁷ All marks appear in standard characters unless otherwise displayed. Applicant also submitted these third-party registrations with its December 1, 2021 Response to Office Action at TSDR 16-26.

Mark	Reg. No.	Goods
CLOTHES FOR THE SOUL	Principal Reg. No. 3023056	Tee shirts, swimwear, shorts, knit tops, knit hats, baseball caps, sandals, shoes, jackets, and sweatshirts in Class 25
I ONLY WORK OUT TO FIT DESIGNER CLOTHES	Supplemental Reg. No. 5905587	Various items of athletic apparel in Class 25
LOVE PEOPLE. LOVE CLOTHES	Principal Reg. No. 5249963	Belts, boots, bottoms, bras, dresses, hats, scarves, tops in Class 25
MONEY, HOES & CLOTHES	Principal Reg. No. 5325063	Various items of apparel in Class 25
SILICLOTHES	Principal Reg. No. 6003985	Blouses, socks, yoga pants in Class 25
THESE ARE MY PLAY CLOTHES	Principal Reg. No. 5469343	Various items of apparel in Class 25
	Principal Reg. No. 1539410 (The lining in the drawing is a feature of the mark and is not intended to indicate color.)	Children's clothing, namely, knit and woven tops and pants, dresses, skirts and sets of the above in Class 25.
PLANE CLOTHES	Principal Reg. No. 2091719	Various items of apparel in Class 25

Submitted with May 27, 2022 Request for Reconsideration³⁸

A 2013 article from the United States Census discussing language use in the United States in 2011, indicating that out of a population of 291 million people over the age of five, 1.3 million speak French, while an additional 750 thousand speak French Creole. The article further states that French, including Patios, Cajun and

³⁸ At TSDR 9-27.

French Creole, is the fifth most commonly spoken language other than English in the United States, behind Spanish, Chinese, Vietnamese and Tagalog.

Applicant further submitted a 2013 article from the Cultural Services of the French Embassy in the United States, corroborating the 2011 Census information regarding the number of French speakers in the United States.