This Opinion is Not a Precedent of the TTAB

Mailed: May 18, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Will and Kate Photography LLC

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Serial No. 90568132

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Richard S. Finkelstein of RC Trademark Co. LLC for
Will and Kate Photography LLC.

Andrea B. Cornwell, Trademark Examining Attorney, Law Office 115,
Daniel Brody, Managing Attorney.

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Before Cataldo, Bergsman, and Allard,
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Will and Kate Photography LLC, seeks registration on the Principal Register of the standard character mark WILL AND KATE PHOTOGRAPHY identifying "photography services" in International Class 41.[1] In response to the Trademark Examining Attorney's requirements, Applicant disclaimed "PHOTOGRAPHY" apart from the mark as shown and submitted the following

[1] Application Serial No. 90568132 was filed on March 9, 2021, based on Applicant's allegation of first use anywhere and in commerce on May 23, 2018, under Trademark Act Section 1(a), 15 U.S.C. § 1051(a).

consent statement: "The name(s), portrait(s), and/or signature(s) shown in the mark identifies Caitlin 'Kate' Terry and William 'Will' Oakley, whose consent(s) to register is made of record."

The Examining Attorney has refused registration of Applicant's mark on the ground that it may falsely suggest a connection with William Windsor, aka Prince William, Duke of Cambridge, and Kate Middleton, aka Catherine, Duchess of Cambridge, under Section 2(a) of the Trademark Act, 15 U.S.C. § 1052(a).

When the refusal was made final, Applicant requested reconsideration and filed an appeal. The Examining Attorney denied the request for reconsideration and the appeal has been briefed. For the following reasons, we reverse the refusal.

I. Evidentiary Issue

Applicant appended evidence to its appeal brief and reply brief.[2] Trademark Rule 2.142(d) reads as follows:

> 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. If the appellant or the examining attorney desires to introduce additional evidence after an appeal is filed, the appellant or the examining attorney should submit a request to the Board to suspend the appeal and to remand the application for further examination.

[2] All citations to the record refer to documents contained in the Trademark Status & Document Retrieval (TSDR) database in the downloadable .pdf versions of the documents in the USPTO TSDR Case Viewer. *See, e.g., In re Peace Love World Live, LLC*, 127 USPQ2d 1400, 1402 n.4 (TTAB 2018). References to the briefs on appeal refer to the Board's TTABVUE docket system. Before the TTABVUE designation is the docket entry number; and after this designation are the page references, if applicable.

See also In re District of Columbia, 101 USPQ2d 1588, 1591-92 (TTAB 2012) (third-party registrations submitted for first time with appeal brief are not considered), *aff'd*, 731 F.3d 1326, 108 USPQ2d 1226 (Fed. Cir. 2013); *In re Zanova Inc.*, 59 USPQ2d 1300, 1302 (TTAB 2001) ("By attempting to introduce evidence with its reply brief, applicant has effectively shielded this material from review and response by the Examining Attorney"; material submitted with reply brief not considered); *In re Styleclick.com Inc.,* 57 USPQ2d 1445, 1446 n.2 (TTAB 2000) (although the applicant had properly submitted copies of third-party registrations, additional registrations listed in applicant's brief, which were not commented on by Examining Attorney in her brief, were not considered).

To the extent that any of the evidence attached to Applicant's appeal briefs was not previously submitted, it is not timely.[3] Evidence attached to Applicant's briefs that was previously made of record is redundant and unnecessary. The evidence Applicant appended to its appeal brief and reply brief thus will be given no consideration.

II. False Suggestion of a Connection

Section 2(a), in relevant part, prohibits registration of "matter which may… falsely suggest a connection with persons, living or dead, institutions, beliefs or

[3] 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. *See* Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d). *See also* Trademark Trial and Appeal Board Manual of Procedure § 1207.02 (2021) and authorities cited therein.

national symbols…" 15 U.S.C. § 1052(a). As applied to this case, the Examining Attorney must show that:

(1) Applicant's mark is the same as, or a close approximation of, the name or identity previously used by another person(s) or institution, in this case William Windsor and Kate Middleton;

(2) Applicant's mark would be recognized as such, in that it points uniquely and unmistakably to William Windsor and Kate Middleton;

(3) William Windsor and Kate Middleton are not connected with the services offered by Applicant under the mark; and

(4) the fame or reputation of William Windsor and Kate Middleton is such that, when Applicant's mark is used with Applicant's services, a connection with them would be presumed.

In re ADCO Indus.-Techs., 2020 USPQ2d 53786, *3; *In re Nieves & Nieves LLC*, 113 USPQ2d 1629, 1634 (TTAB 2015); *In re Pedersen*, 109 USPQ 2d 1185, 1188-89 (TTAB 2013); *In re Jackson Int'l Trading Co.*, 103 USPQ2d 1417, 1419 (TTAB 2012); *see also Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 703 F.2d 1372, 1375-77, 217 USPQ 505, 508-10 (Fed. Cir. 1983) (providing the foundational principles for the current four-part test used to determine the existence of a false suggestion of connection).

In our determination whether Applicant's mark may falsely suggest a connection with William Windsor and Kate Middleton, it is important to keep in mind that the rationale behind this Section 2(a) ground for refusal of registration differs

significantly from the Section 2(d) ground of priority and likelihood of confusion. While the likelihood of confusion ground is designed to protect the public from confusion as to the source of goods or services, the Federal Circuit has noted that the interests being protected by way of the Section 2(a) false suggestion of a connection ground are different:

> [T]he rights protected under the § 2(a) false suggestion provision are not designed primarily to protect the public, but to protect persons and institutions from exploitation of their persona.

Bridgestone/Firestone Rsch. Inc. v. Auto. Club de l'Ouest de la France, 245 F.3d 1359, 58 USPQ2d 1460, 1463-64 (Fed. Cir. 2001), citing *Notre Dame,* 217 USPQ at 508–09 ("[I]t appears that the drafters sought by § 2(a) to embrace concepts of the right to privacy," even in the absence of likelihood of confusion); *see also In re MC MC S.r.l.*, 88 USPQ2d 1378, 1380 (TTAB 2008).

We now apply the four-part test used to determine the existence of a false suggestion of connection to the facts of this appeal.

1. Whether WILL AND KATE PHOTOGRAPHY is the same as or a close approximation of the names or identity of William Windsor and Kate Middleton?

"The creation of a false suggestion of a connection results from an applicant's use of something that is closely 'associated with a particular personality or 'persona" of someone other than the applicant." *Nieves*, 113 USPQ2d at 1643 (quoting *Notre Dame*, 217 USPQ at 509); *see also In re Sauer*, 27 USPQ2d 1073 (TTAB 1993) (BO BALL falsely suggested a connection with professional football and baseball player Bo Jackson, widely known by his nickname "Bo"), *aff'd mem.*, 26 F.3d 140 (Table), 32 USPQ2d 1479 (Fed. Cir. 1994). While protection of consumers is one of the bases of

this provision, another is protection of the person identified from losing the right to control his or her identity. *Notre Dame*, 217 USPQ at 509 ("There may be no likelihood of such confusion as to the source of goods even under a theory of 'sponsorship' or 'endorsement,' and, nevertheless, one's right of privacy, or the related right of publicity, may be violated.").

> The right of publicity has developed to protect the commercial interest of celebrities in their identities. Under this right, the celebrity has an interest that may be protected from the unauthorized commercial exploitation of that identity. If the celebrity's identity is commercially exploited without the consent of the celebrity, there has been an invasion of his/her right, regardless of whether his/her "name or likeness" is used. *Cf. Carson v. Here's Johnny Portable Toilets, Inc.*, 698 F.2d 831, 218 USPQ 1, 4 (6th Cir. 1983) (former late night television personality Johnny Carson's identity may be exploited even if his name or likeness is not used).

Nieves, 113 USPQ2d at 1644.

This case requires us to consider whether Applicant's mark is a close approximation of the identity of two individuals, not by their proper names or titles, but rather by nicknames attributed to them by the public, namely, "Will and Kate." The Examining Attorney introduced excerpts from twelve articles retrieved from the LexisNexis database referring to William Windsor and Kate Middleton and "Will and Kate."[4] The following examples are illustrative:

[4] October 6, 2021 first Office Action at 6-23.

Will and Kate join UK mental health message

Asbury Park Press (New Jersey)

May 26, 2020 Tuesday

1 Edition

Section: FEATURES; Pg. C2

Length: 681 words

Byline: By, Hannah Yasharoff and Maria Puente, USA TODAY

... let's join together across the U.K. and reach out to someone."

"If you're struggling, it's important to talk about it," Kate added. "Or if someone you know is acting differently, it's OK to ask how they are. Use this moment to send a message."

Produced by Radiocentre and Heads Together, ***Will and Kate***'s mental health campaign run by their Royal Foundation, the message was broadcast simultaneously across every radio station in the kingdom shortly before 11 a.m. local time, according to a Kensington Palace statement.

Among the celebs taking part were singer Dua Lipa, actor David Tennant, England captain Harry Kane ...

... shared by brother Prince Harry and his wife, Duchess Meghan of Sussex.

It was also the Cambridges' latest "engagement" via video and audio technology during their ongoing quarantine at

Anmer Hall, their country retreat in Norfolk. While Harry and Meghan have moved to California and away from their royal roles, ***Will and Kate*** have tried to keep up their public work despite the restrictions on appearing in public due to the pandemic.

According to the video posted on YouTube and on their social media, the couple's clothes indicated their radio message was recorded during an earlier video message about Shout, their mental health ...

... launched the "Heads Together Wellbeing Guides," a new Instagram feature that allows users to find curated, reliable recommendations about good mental health. The first guides will be focused on wellness and mental health content to support people during the coronavirus crisis, the palace statement said.

The radio broadcast comes after ***Will and Kate*** celebrated the first anniversary of Shout, the mental health-focused text messaging service they backed a year ago with Harry and Meghan.

Last May, the announcement that the fab four would team up to support the project to help those experiencing mental health struggles came after months of tabloid speculation that Harry, William and their wives were feuding.

To mark the anniversary, ***Will and Kate*** appeared over a Zoom call without Harry and Meghan. The Sussexes have stepped back as working royals and are living in Los Angeles where they continue to participate in some of the causes they worked with back in the U.K.

In their video, Will thanked Shout volunteers for their work ...

In London, beautiful day for another royal baby; It's a boy, and a princely celebration, for Will and Kate

The Cincinnati Enquirer (Ohio)

April 24, 2018 Tuesday

1 Edition

Section: USA TODAY; Pg. B8

Length: 830 words

Byline: By, Maria Puente and Kim Hjelmgaard, USA TODAY

... Queen Elizabeth II's sixth great-grandchild and becomes fifth in line to the throne.

He will join Princess Charlotte and Prince George in the growing Cambridge family as the third grandchild of Charles, Prince of Wales, and his first wife, Princess Diana, who died in 1997.

As with her other pregnancies, ***Will and Kate*** did not know the sex of the baby beforehand, palace officials confirmed weeks before the birth.

Typically, the palace does not immediately announce the new baby's name. Among the names favored by British bookmakers for a boy: Albert, Arthur, Frederick, James and Philip.

The little prince is a historic royal ...

What's Prince William doing on Duchess Kate's 37th birthday?

The Herald-Mail (Hagerstown, Maryland)

January 9, 2019 Wednesday

Section: USA TODAY

Length: 582 words

Byline: Maria Puente

... to three royal babies, the last one in April 2018.

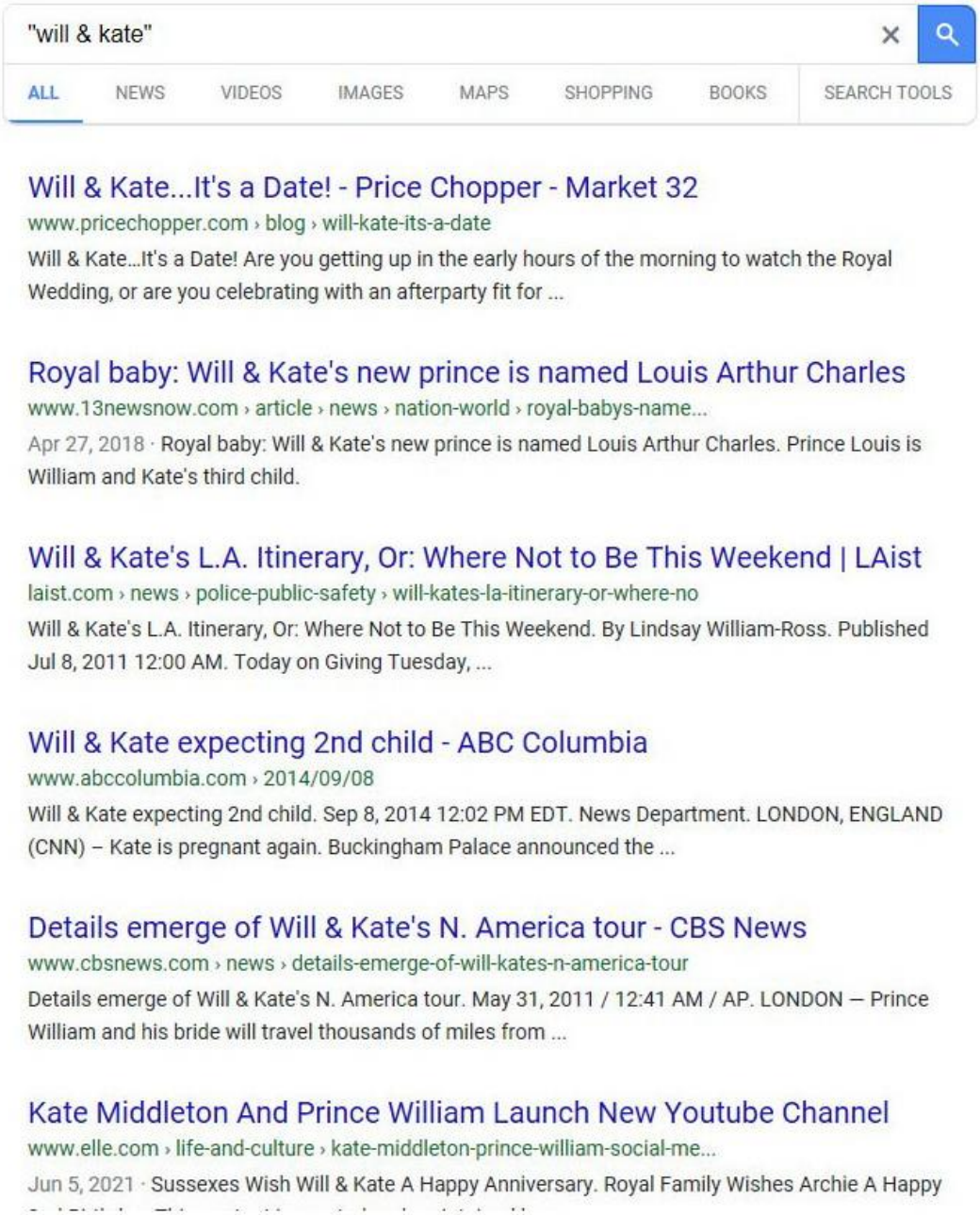
For that matter, neither does her sister-in-law, the former Meghan Markle, who turns 38 in August, a few months after she gives birth to her first royal baby.

As per usual, Kensington Palace remained mum on what plans, if any, ***Will and Kate*** had for celebrating her birthday. With the exception of Will's father, Prince Charles, who turned 70 in November amidst much hoopla, royal birthdays are generally considered private. The official Twitter account for the palace did give Kate a shout-out, posting: "Thank you everyone for all your lovely messages on The Duchess of Cambridge's birthday".

Will and Kate have occasionally issued new pictures of their three kids, Prince George, 5, Princess Charlotte, 3, and baby Prince Louis, to mark some birthdays, but they don't do it for each other.

Whatever their plans, Will spent part of his morning doing what ranking royals (he's second in line to the ...

The Examining Attorney also introduced the results summary of a search of the Google search engine of the term "Will & Kate."[5] The following excerpt is illustrative:



[5] December 11, 2021 final Office Action at 5-15.

The evidence reflects that William Windsor and Kate Middleton are celebrities. *See Nieves*, 113 USPQ2d at 1644. That means their identities have value which the §2(a) false suggestion refusal is intended to protect. *See Notre Dame*, 217 USPQ at 509 ("It is a right of this nature [that is, the right to privacy or right to publicity], a right to control the use of one's identity, which the University also asserts under §2(a)."). Therefore, it is the right of publicity basis for the false suggestion of a connection refusal that applies in this case.

The fact that William Windsor, aka Prince William, Duke of Cambridge, and Kate Middleton, aka Catherine, Duchess of Cambridge, may not refer to themselves as "Will and Kate" as their names or identities does not obviate the false suggestion of a connection refusal. A term may be considered the identity of a person even if his or her name or likeness is not used. All that is required is that the mark sought to be registered clearly identifies a specific person or persons (in this case, William Windsor and Kate Middleton). *Nieves*, 113 USPQ2d at 1644; *see also In re Urbano*, 51 USPQ2d 1776, 1779 (TTAB 1999) ("[W]hile the general public in the United States may or may not have seen the upcoming Olympic games referred to precisely as 'Sydney 2000,' we have no doubt that the general public in the United States would recognize this phrase as referring unambiguously to the upcoming Olympic Games in Sydney, Australia, in the year 2000.").

In light of the above, we find that "Will and Kate" is a name or identity of William Windsor and Kate Middleton.

We next must decide whether the phrase WILL AND KATE PHOTOGRAPHY is

a close approximation to "Will and Kate." "[T]he similarity required for a 'close approximation' is akin to that required for a likelihood of confusion under § 2(d) and is more than merely 'intended to refer' or 'intended to evoke.'" *Bd. of Trs. of Univ. of Ala. v. Pitts,* 107 USPQ2d 2001, 2027 (TTAB 2013). In other words, Applicant's mark must do more than simply bring William Windsor's and Kate Middleton's identities to mind. *See also Boston Red Sox Baseball Club LP v. Sherman,* 88 USPQ2d 1581 (TTAB 2008) (test for false suggestion of a connection more stringent than in disparagement, where reference to persona suffices). In this respect, we find that WILL AND KATE PHOTOGRAPHY is a close approximation of "Will and Kate."

Because PHOTOGRAPHY is generic for Applicant's services, it is less significant than the term WILL AND KATE in Applicant's mark, which is its dominant, salient feature. As in the likelihood of confusion context, we give more weight to the dominant feature in a mark when determining the commercial impression created by the mark. *Cf. Cunningham v. Laser Golf Corp.,* 222 F.3d 943, 55 USPQ2d 1842, 1846 (Fed. Cir. 2000) (descriptive component of a mark may be given little weight in reaching a conclusion on likelihood of confusion); *In re National Data Corp*., 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985) (for rational reasons, more or less weight may be given to a particular feature of a mark). Considering Applicant's mark in its entirety, we conclude that it is a close approximation of William Windsor's and Kate Middleton's names or identities.

2. Whether WILL AND KATE PHOTOGRAPHY will be recognized by purchasers of Applicant's services as pointing uniquely and unmistakably to William Windsor and Kate Middleton?

"[T]o show an invasion of one's 'persona,' it is not sufficient to show merely prior identification with the name adopted by another. The mark … must point uniquely to the [plaintiff]." *Notre Dame*, 217 USPQ at 509 ("Under concepts of the protection of one's 'identity,' ... the initial and critical requirement is that the name (or an equivalent thereof) claimed to be appropriated by another must be unmistakably associated with a particular personality or 'persona.'"). *See also Bos. Athletic,* 117 USPQ2d at 1497 (quoting *Notre Dame*, 217 USPQ at 509); *In re Kayser-Roth Corp.,* 29 USPQ2d 1379 (TTAB 1993) (registration of mark "Olympic Champion," for clothing, does not point uniquely and unmistakably to U.S. Olympic Committee); *Ritz Hotel Ltd. v. Ritz Closet Seat Corp*., 17 USPQ2d 1466, 1471 (TTAB 1990) (RIT-Z, for toilet seats, did not point uniquely to Opposer); *NASA v. Bully Hill Vineyards, Inc.*, 3 USPQ2d 1671, 1676 (TTAB 1987) (the term SPACE SHUTTLE did not point uniquely and unmistakably to NASA). Here, we must consider whether the average consumer of photography services would recognize the term WILL AND KATE as pointing uniquely to William Windsor and Kate Middleton.

Applicant argues that its mark does not point uniquely and unmistakably to William Windsor and Kate Middleton, because "there are numerous 'WILL and KATE' related businesses where the owners are named Will and Kate. Exhibits 1 through 11, illustrate a small sample of businesses and entities that use the name 'Will and Kate' because they are owned by people who happen to be named Will and

Kate."[6] In support, Applicant submitted copies of twelve web pages showing uses by third parties of "Will and Kate" on the Internet to identify the source of such diverse goods and services as an ESPN sports program, real estate sales and rentals, distribution of adult videos, musical sound recordings, pottery, and Instagram postings on the subject of animals, clothing, travel and cooking.[7]

The Examining Attorney argues that "the widespread use of the phrase 'Will and Kate' to identify Prince William and Kate Middleton shown in the aforementioned news articles demonstrates that consumers would recognize WILL AND KATE as pointing uniquely and unmistakably to the Duke and Duchess of Cambridge."[8] First, we note that although WILL AND KATE is the dominant part of Applicant's mark, Applicant's mark is WILL AND KATE PHOTOGRAPHY. We must consider Applicant's mark in its entirety when we analyze the refusal.

As noted above, the Examining Attorney must prove that "Applicant's mark" would be recognized as a close approximation of the names used Prince William and Kate Middleton and that "Applicant's mark" points uniquely and unmistakably to Prince William and Kate Middleton. *Cf. In re Standard Elektrik Lorenz A.G.,* 371 F.2d 870, 873, 152 USPQ 563, 566 (CCPA 1967) (holding SCHAUB-LORENZ not primarily merely a surname, the Court noting that there was no evidence submitted that the mark sought to be registered was primarily merely a surname; that the only

[6] 6 TTABVUE 4.

[7] November 16, 2021 Response to Office Action at 9-20.

[8] 7 TTABVUE 7 (Examining Attorney's brief).

evidence of surname significance related to the individual "SCHAUB" and "LORENZ" portions of the mark; and that the mark must be considered in its entirety rather than dissected); *Stone Lion Capital Partners, LP v. Lion Capital LLP,* 746 F.3d 1317, 110 USPQ2d 1157, 1161 (Fed. Cir. 2014) (the similarity or dissimilarity of the marks is determined based on the marks in their entireties); *In re Wisc. Tissue Mills,* 173 USPQ 319, 320 (TTAB 1972) ("The established rule is that a composite must be considered in its entirety and the question then is whether the entirety is merely descriptive.").

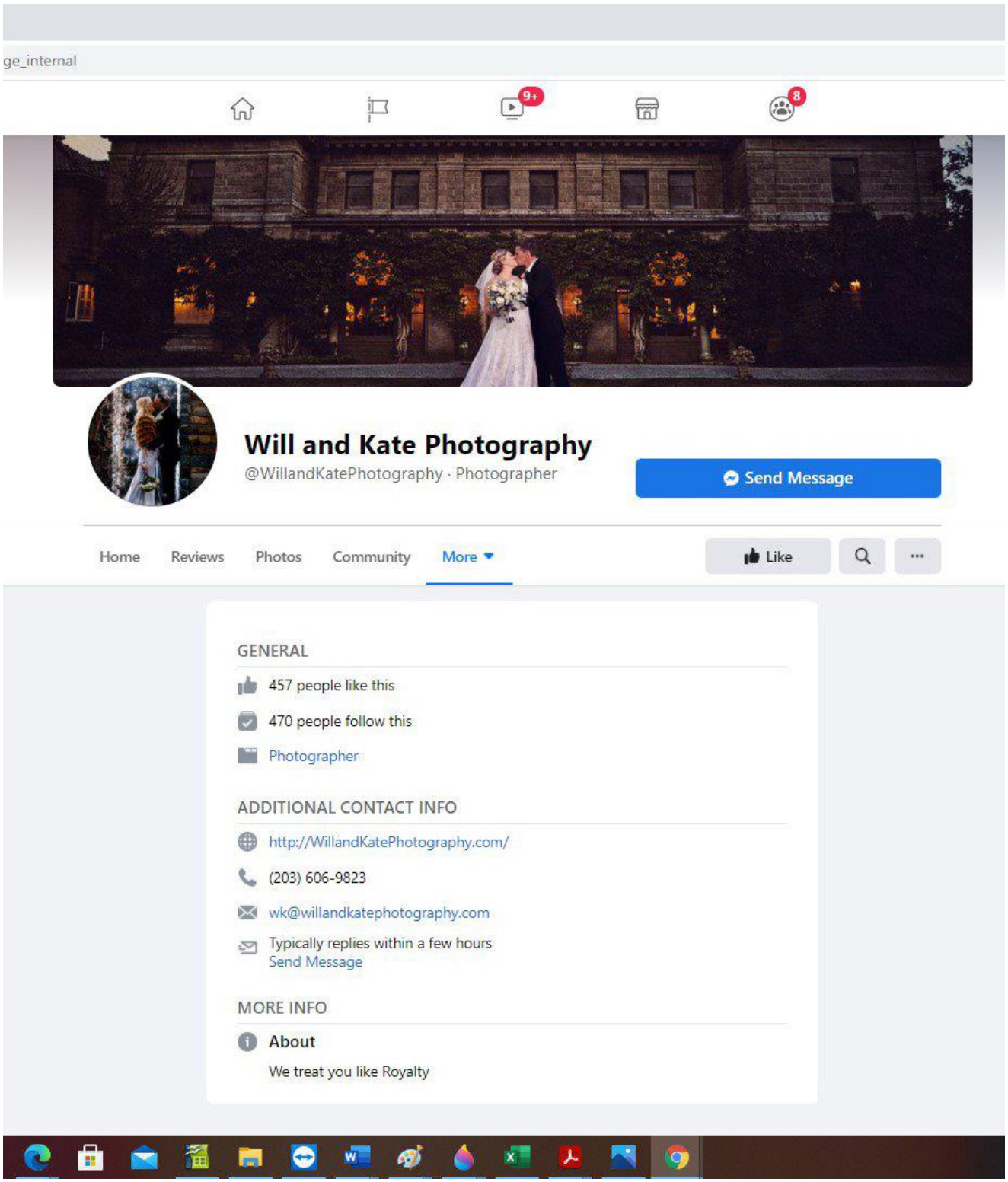
Second, we note that the evidence of record does not point to "widespread" use of "Will and Kate" to refer to William Windsor and Kate Middleton. The evidence rather suggests they are more commonly referred to as "William and Kate."

The Examining Attorney further argues:

> when viewed in the context of Applicant's use of the mark, consumers are certain to recognize WILL AND KATE as uniquely and unmistakably pointing to the British royals. The specimen submitted with the application consists of a social media profile page in which the "About" field states "We treat you like Royalty." Additionally, Applicant's website shows a crown design behind the words WILL AND KATE and likewise uses the tagline "We Treat you like Royalty." Office action dated October 6, 2021, at 37. Although Applicant claims that the phrase "treat you like royalty" is common among event service providers, the phrase has particular meaning when used in conjunction with the names WILL AND KATE, which emphasizes the suggested royal connection to the Duke and Duchess of Cambridge.[9]

Applicant's specimen of record is reproduced in part below.

[9] 7 TTABVUE 7.



In response, Applicant introduced into the record screenshots from the websites of seventeen third-party vendors in the hospitality and wedding industries indicating

that it is not uncommon for service providers to promise they will "treat you like royalty."[10] The following examples are illustrative:

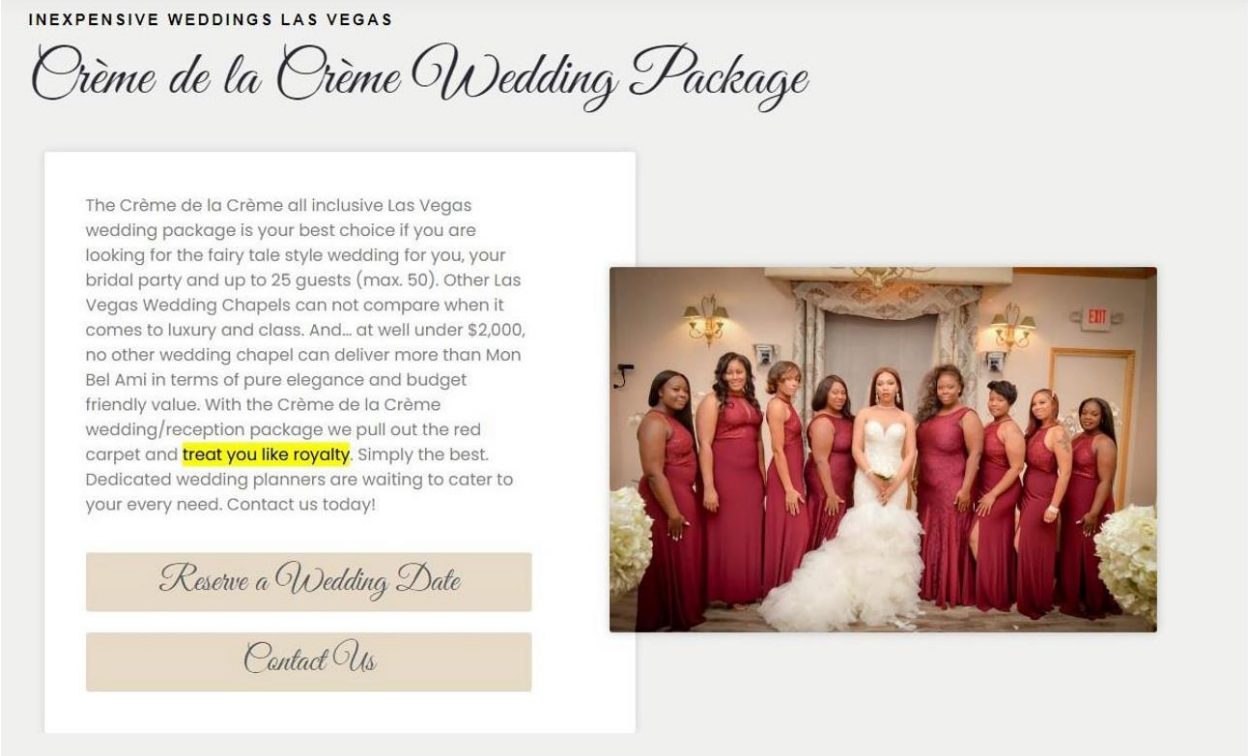
Posh Bridal Couture

810 Lake St E, Wayzata, MN 55391

952-249-8000

We're happy to be named the perfect destination for brides to find the luxury wedding dress of their dreams. Not only are the gowns beautiful — our boutique is too! Posh Bridal overlooks legendary Lake Minnetonka in Wayzata and we offer spacious appointment suites in a relaxed, intimate setting. Also, our full-service consultants have one goal in mind: making you happy for your big day! Upon entering, a personal bridal consultant will treat you like royalty as they greet you with refreshments and snacks. We'll hand pick a selection of gowns based on your preferences and work closely with you to find the perfect one!

[10] November 16, 2021 Response to Office Action at 21-37.



None of the third-party websites suggest any affiliation with any member of a royal family. We agree with Applicant that its mark, which includes "Will and Kate," does not point uniquely to William Windsor and Kate Middleton, particularly in light of evidence that other bridal and event vendors promise to treat their clients and customers "like royalty."

Given the number of third-party uses of "Will and Kate" formatives for a variety of goods and services, relevant consumers will perceive the designation as identifying couples or pairs of individuals named "Will and Kate." Applicant's use of its mark is similar to the use prevalent among these third parties. Accordingly, the requirement that the name or identity serve to point uniquely to a single entity has not been satisfied.

3. Whether William Windsor and Kate Middleton are connected with the services provided or intended to be provided under Applicant's mark?

Applicant acknowledges that William Windsor and Kate Middleton are not connected with the services provided or intended to be provided under its WILL AND KATE PHOTOGRAPHY mark, but rather contends that "Will and Kate, of the present application are, Caitlin "Kate" Terry and William "Will" Oakley. Their consent has been made of record per the examiner's request."[11]

4. Whether the fame or reputation of William Windsor and Kate Middleton is such that, when Applicant's mark is used with Applicant's services, a connection with them would be presumed?

The record shows that William Windsor and Kate Middleton are British royalty and are the subject of great public interest in the United States and the world. The record further shows that Kate Middleton, like many parents, photographs her family and, in an apparent break from tradition, posts some of these photos for the public.[12] In addition, Kate Middleton is credited with having her photographs of Holocaust survivors included in an exhibit and she has published a book of photography.[13] The Examining Attorney argues "Given the fame of the Duke and Duchess of Cambridge, a connection would be presumed when Applicant's mark is used in connection with photography services. This is particularly true because Kate Middleton is known for her photography, having regularly used her own photographs in official social media

[11] 4 TTABVUE 3 (Applicant's brief).

[12] October 8, 2021 first Office Action at 24-30; December 11, 2021 final Office Action at 16-22.

[13] October 8, 2021 first Office Action at 31-36; December 11, 2021 final Office Action at 23-25.

and recently shown her works in a museum show."[14] The Examining Attorney cites to our decision in *Nieves* in support of this contention. However, in *Nieves*, 113 USPQ2d at 1647-48, we found an association between Kate Middleton and the cosmetics, jewelry, handbags and clothing items identified by the mark ROYAL KATE due to evidence of her notoriety in the field of fashion.

However, in the present case, the evidence is insufficient to support a finding that William Windsor and Kate Middleton will be associated with Applicant's photography services, despite their fame and Kate Middleton's interest in photography. The record in this case is far less developed than the record in *Nieves*, which clearly established a connection between Kate Middleton and applicant's goods. Simply put, on the record before us there is insufficient evidence that consumers of Applicant's photography services will presume an association with members of British royalty. Even consumers viewing Applicant's specimen of record, including a crown and the promise to treat clients "like royalty," are unlikely to believe Applicant and its services are associated with William Windsor and Kate Middleton. Accordingly, the requirement that the name or identity of William Windsor and Kate Middleton are of such notoriety that a connection with Applicant's photography services under its WILL AND KATE PHOTOGRAPHY mark would be presumed, has not been satisfied.

5. Summary

In order to falsely suggest a connection with another entity by using the same or close approximation of a mark owned by the entity, the mark must be recognized as

[14] 7 TTABVUE 9.

pointing uniquely and unmistakably to it. Here, because there are other companies that use the designation "Will and Kate" to indicate their own goods and services, the mark WILL AND KATE PHOTOGRAPHY does not point uniquely to the William Windsor and Kate Middleton. In addition, there is an insufficient association in this record between Prince William, Duke of Cambridge, and Catherine, Duchess of Cambridge by their nicknames "Will and Kate" and Applicant's photography services. Thus, there is no false suggestion of a connection with them arising from Applicant's similar use of the term "Will and Kate" in its WILL AND KATE PHOTOGRAPHY mark.

Decision: The refusal to register Applicant's mark because it falsely suggests a connection with William Windsor and Kate Middleton is reversed.