

This Opinion Is Not a
Precedent of the TTAB

Mailed: January 31, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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Christian Dior Couture, S.A.
v.
Gramkey Investments, Modeling and Consulting

—
Opposition No. 91281244
—

Thomas M. Williams and Scott J. Slavick of Barack Ferrazzano Kirschbaum & Nagelberg LLP for Christian Dior Couture, S.A.

Gramkey Investments, Modeling and Consulting, pro se.

—
Before Kuhlke, Dunn, and Stanley, Administrative Trademark Judges.

Opinion by Dunn, Administrative Trademark Judge:

Gramkey Investments, Modeling and Consulting (Applicant) applied to register the mark GIGI DIOR (standard characters) on the Principal Register for “Entertainment services, namely, personal appearances by a porn star; Entertainment services, namely, providing a web site featuring non-downloadable adult-themed photographs and videos,” in International Class 41.¹ The application

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¹ Application Serial No. 97099328 filed October 29, 2021 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based upon Applicant’s claim of first use anywhere and use in commerce since at least as early as April 27, 2021.

states “The [name] shown in the mark identifies Stephanie Hodge, whose consent to register is made of record.”

Christian Dior Couture, S.A. (Opposer) opposes registration of Applicant’s mark on three grounds. First, that Applicant’s mark so resembles Opposer’s previously used and registered DIOR mark for clothing, jewelry and bags that, when used in connection with Applicant’s service, is likely to cause confusion under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).² Second and third, that Opposer’s mark is famous, and Applicant’s mark is likely to dilute its distinctiveness by blurring and to tarnish its reputation under Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c).

Applicant’s answer admits that its mark includes the word DIOR, and that Opposer has prior rights in its DIOR marks. The answer otherwise denies the salient allegations of the notice of opposition.

The opposition has been fully briefed by the parties.³

We sustain the opposition on the ground of dilution by blurring.

References to the application are to the downloadable .pdf version of documents available from the USPTO’s TSDR (Trademark Status and Document Retrieval) database. The TTABVUE citations refer to the Board’s electronic docket, with the first number referring to the docket entry and the second number, if applicable, referring to the page within the entry.

² Opposer’s attachment of TSDR printouts of its pleaded registrations, Registrations Nos. 1848630 and 1923564, to the Notice of Opposition (1 TTABVUE 11-31), showing current status and title, suffices to make the registrations of record for purposes of trial. *See* Trademark Rule 2.122(d)(1), 37 C.F.R. § 2.122(d)(1).

³ Opposer filed two versions of its briefs [25 and 27 TTABVUE (public trial and reply briefs) and 24 and 28 (confidential trial and reply briefs)]. As with evidence filed under seal, the Board will cite to the public versions and describe confidential information in general terms.

I. The Record

The record includes the pleadings and, pursuant to Trademark Rule 2.122(b), 37 CFR § 2.122(b), the file of the opposed application.

A. Opposer's evidence:

Testimony declaration of Hien Tran Trung, Opposer's Chief Financial Officer,⁴ and exhibits listing U.S. sales of and advertising expenses for DIOR goods,⁵ a summary of monthly promotional activities during 2021-2023,⁶ and records of promotions by celebrities wearing DIOR goods at high profile events from 2012-2022.⁷

Notice of reliance⁸ on Applicant's discovery responses, including social media posts authenticated by Applicant's responses to requests for admission;⁹ TSDR status and title copies of three of Opposer's unpleaded DIOR registrations;¹⁰ Internet materials, namely Opposer's social media posts promoting DIOR marks;¹¹ third party articles featuring Opposer's DIOR mark, including Brand

⁴ 15 TTABVUE (public) and 16 (confidential and under seal).

⁵ 16 TTABVUE 12-13.

⁶ 15 TTABVUE 13-101.

⁷ 15 TTABVUE 106-426.

⁸ 17 TTABVUE (public) and 18 (confidential and under seal).

⁹ 17 TTABVUE 21-101.

¹⁰ 17 TTABVUE 103-116. While the registrations will be considered for the strength of Opposer's DIOR marks and the scope of Opposer's rights in the DIOR mark, because they were not pleaded, they will not be considered as proof of Opposer's priority. See *Keystone Consol. Indus. v. Franklin Inv. Corp.*, 2024 TTAB LEXIS 290, *14 ("We find the unpleaded registrations have not been tried by implied consent of the parties such that we can treat the pleadings amended to assert the registrations under Fed. R. Civ. P. 15(b).").

As part of an internal Board pilot citation program on broadening acceptable forms of legal citation in Board cases, the citation form in this opinion is in a form provided in TBMP § 101.03. This opinion cites decisions of the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Customs and Patent Appeals only by the page(s) on which they appear in the Federal Reporter (e.g., F.2d, F.3d, or F.4th). For decisions of the Board, this opinion employs citation to the LEXIS database.

¹¹ 17 TTABVUE 118-174.

Finance's annual brand strength report "Apparel 50 2022",¹² and documents produced and authenticated by Applicant.¹³

B. Applicant's evidence

Testimony declaration of Stephanie Hodge, President and sole owner of Applicant;¹⁴

Notice of reliance¹⁵ on Opposer's discovery responses;¹⁶ Internet materials including excerpts from Opposer's website;¹⁷ and excerpts and search results pages from the Internet Adult Film Database (IAFD) listing movies including Dior in the title and/or performers named Dior;¹⁸

Notice of reliance on search results from different state Secretary of State/Division of Corporations/Business Registration databases for business entities that include Dior in their name;¹⁹ and TSDR copies of third-party federal trademark registrations and one state trademark registration including DIOR in the literal element;²⁰

Notice of reliance on excerpts from third party websites and social media accounts of businesses using Dior as part of the business name;²¹ search results from Social Security Administration name search;²² Huffington Post online article about popularity of Dior as baby name.²³

¹² 17 TTABVUE 176-258.

¹³ 17 TTABVUE 260-344.

¹⁴ 20 TTABVUE.

¹⁵ 21 TTABVUE (confidential and under seal) and 31 TTABVUE (public).

¹⁶ 31 TTABVUE 11-31.

¹⁷ 31 TTABVUE 33-257.

¹⁸ 31 TTABVUE 259-466.

¹⁹ 22 TTABUVE 12-176.

²⁰ 22 TTABUVE 178-246, 247-252.

²¹ 23 TTABVUE 10-423.

²² 23 TTABVUE 425.

²³ 23 TTABVUE 427-431.

II. Entitlement to a Statutory Cause of Action

To establish statutory entitlement to oppose under Section 13 of the Act, 15 U.S.C. § 1063, Opposer must demonstrate a real interest in the proceeding and a reasonable belief of damage. *Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC*, 965 F.3d 1370, 1372 (Fed. Cir. 2020). “Once [entitlement to the claim] is established, the opposer is entitled to rely on any of the grounds set forth in section 2 of the [Trademark] Act which negate applicant’s right to its subject registration.” *Coach Servs. v. Triumph Learning LLC*, 668 F.3d 1356, 1377 (Fed. Cir. 2012) (citation omitted). Opposer’s ownership of the two pleaded registrations summarized below, and submission of copies showing their current status and title, demonstrate an interest falling within the zone of interests protected by Section 13 of the Trademark Act and a reasonable belief in damage proximately caused by the proposed registration of Applicant’s mark. *Id.*, at 1377 (“[b]ecause opposer’s registrations are of record, opposer has established its standing [to assert] ... likelihood of confusion, dilution, and mere descriptiveness.”).

<p>Registration No. 1848630</p> <p>DIOR (standard characters)</p> <p>Issued 08/09/94, renewed</p>	<p>clothing for use by men, women and children; namely, anoraks; bandanas; bathing suits; bathrobes; belts; blazers; blousons; bodysuits; boots; caps; cardigans; chemises; suit coats; top coats; dresses; gloves; hats; headbands; hosiery; jackets; jeans; moccasins; neckties; neckwear; overcoats; pajamas; pants; parkas; pullovers; sandals; scarves; shawls; shirts; shorts; shoes; skirts; slacks; socks; suits; sweat pants; sweat shirts; sweaters; T-shirts; trousers; vests, in Int. Cl. 25</p>
<p>Registration No. 1923564</p>	<p>belt buckles of precious metals for clothing; brooches; charms; costume jewelry; ear clips; jewelry; jewelry lapel</p>

<p>Dior</p> <p>Issued 10/03/95, renewed</p>	<p>pins; ornamental pins; pendants; watch bands; watch chains; watch fobs; watches, in Int. Cl. 14.</p> <p>billfolds; business card cases; carry-on bags; change purses; clutch bags; clutch purses; coin purses; credit card cases; drawstring pouches; handbags; key cases; overnight bags; passport cases, holders or wallets; purses; shoulder bags and wallets, in Int. Cl. 18.</p>
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Opposer has proven its entitlement to bring each of its asserted claims.

III. Dilution By Blurring

Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c), provides:

the owner of a famous mark that is distinctive, inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

15 U.S.C. § 1125(c)(1). Opposer alleges dilution by both blurring and tarnishment. To prevail, it must show that: (1) it owns a famous mark that is distinctive; (2) Applicant is using a mark in commerce that allegedly dilutes Opposer's famous mark; (3) Applicant's use of its mark began after Opposer's became famous; and (4) Applicant's use of its mark is likely to cause dilution by blurring or tarnishment. *Coach Servs.*, 668 F.3d at 1372.

Trademark Act Section 43(c)(2)(B) defines dilution by blurring as an "association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark." 15 U.S.C. § 1125(c)(2)(B). We rely on the pleaded standard character DIOR mark for clothing, identified above, as the basis for the dilution by blurring claim, because the evidence most directly supports a

finding of fame for that mark. *See TiVo Brands LLC v. Tivoli, LLC*, 2018 TTAB LEXIS 439, *20 (“We have narrowed our consideration of the dilution claim to the mark that we believe stands the best chance of serving as a basis for its dilution claim.”). As stated earlier and discussed below, we find Opposer has proven dilution by blurring, and as a result need not reach whether use of Applicant’s mark is also likely to dilute Opposer’s mark by tarnishment, or to create a likelihood of confusion with Opposer’s mark.

A. Opposer’s DIOR Mark is Distinctive and Famous

“To be vulnerable to dilution, a mark must be not only famous, but also so distinctive that the public would associate the term with the owner of the famous mark even when it encounters the term apart from the owner’s goods or services, i.e., devoid of its trademark context.” *Toro Co. v. ToroHead, Inc.*, 2001 TTAB LEXIS 823, *40. As to distinctiveness, the record shows that Opposer’s DIOR mark is derived from the surname of its French founder, Christian Dior.²⁴ As Applicant notes, a surname “would ordinarily suffer some inherent weakness as a source identifier.”²⁵ However, a term with surname significance may not be primarily merely a surname if that term also identifies a historical person. *See In re Pyro-Spectaculars, Inc.*, 2002 TTAB LEXIS 62, *8 (“The primary significance of the term SOUSA, as used in connection with these [fireworks] goods and services, is as the name of a specific person well known in American history for his patriotic music. Although ‘Sousa’ may

²⁴ 15 TTABVUE 3.

²⁵ 26 TTABVUE 16.

also be a surname in current use in the United States, any such connotation of the term would clearly be secondary in significance when consideration is given to the particular nature of applicant's goods and services."). We take judicial notice that the term DIOR appears in the dictionary, and is defined as "biographical name" and "Christian 1905-1957 French fashion designer."²⁶ We also note that none of Opposer's registrations include a claim of acquired distinctiveness, and so DIOR is presumed to be inherently distinctive as applied to any of the registered goods and services. *See New Era Cap Co. v. Pro Era LLC*, 2020 TTAB LEXIS 199, *29 ("Opposer's mark is inherently distinctive as evidenced by its registration on the Principal Register without a claim of acquired distinctiveness under Section 2(f) of the Trademark Act."). In short, we find there is no inherent weakness to the term DIOR in connection with clothing and fashion accessories. Moreover, the record evidence set forth below demonstrates that Opposer's DIOR mark is so distinctive that the public would associate the term with Opposer even when it encounters the term apart from Opposer's goods.

For the purpose of dilution, "a mark is famous if it is 'widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner.'" *Coach Servs.*, 668 F.3d at 1372 (quoting 15 U.S.C. § 1125(c)(2)(A)). "To establish the requisite level of fame, the mark's owner must demonstrate that the common or proper noun uses of the term and third-party uses

²⁶ Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/Dior>. Accessed 30 Jan. 2025.

of the mark are now eclipsed by the owner's use of the mark. An opposer must show that, when the general public encounters the mark in almost any context, it associates the term, at least initially, with the mark's owner. In other words, a famous mark is one that has become a household name." *Id.* at 1373 (internal citation omitted).

Under the statute, in determining whether a mark possesses the requisite degree of recognition, we may consider all relevant factors, including:

- (i) The duration, extent, and geographic reach of advertising and publicity of the mark, whether advertised or publicized by the owner or third parties.
- (ii) The amount, volume, and geographic extent of sales of goods or services offered under the mark.
- (iii) The extent of actual recognition of the mark.
- (iv) Whether the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

In support of its allegations that the DIOR mark is famous, Opposer, through the testimony of its CFO Trung, avers that it was founded in France in 1946 by fashion designer Christian Dior, launched its first fashion collection in 1947, and since its inception has been known for using only the highest quality materials and craftsmanship in its goods sold under the DIOR trademark, becoming one of the world's leading fashion houses and luxury brands.²⁷ CFO Trung also avers that Opposer "takes great care in maintaining the pristine reputation and tremendous goodwill associated with the DIOR mark," and owns multiple DIOR registrations worldwide, including several registered with the USPTO.²⁸

²⁷ 15 TTABVUE 3.

²⁸ 15 TTABVUE 3. CFO Trung also testified that Opposer "aggressively enforces its trademarks" worldwide, including in the United States, by filing civil suits against infringers

Opposer submitted status and title copies of the three registrations summarized below, in addition to the two pleaded registrations for DIOR marks for clothing, jewelry, and bags (summarized earlier):

<p>Registration No. 2932805</p> <p>Dior</p> <p>Issued 03/15/05, renewed</p>	<p>management of exhibition locations, namely, providing facilities for exhibitions; retail store services featuring various goods, namely, leatherwear clothing, luggage, small leather goods, jewelry, clocks, watches, spectacles, stationary, sporting goods, clothing, and footwear, in Int. Cl. 35.</p>
<p>Registration No. 2749176</p> <p>Dior</p> <p>Issued 08/12/03, renewed</p>	<p>athletic bags; backpacks; beach bags; billfolds; book bags; business card cases; carry-on bags; change purses; clutch bags; clutch purses; coin purses; cosmetic cases sold empty; credit card cases; diaper bags; document cases; duffel bags; gym bags; handbags; key cases; knapsacks; luggage; overnight bags; overnight cases; passport cases, holders and wallets; pocketbooks; purses; satchels; school bags; leather shopping bags; mesh shopping bags; textile shopping bags; shoulder bags; all-purpose sports bags; suitcases; toiletry cases sold empty; tote bags; travel bags; trunks for traveling; umbrellas; valises; vanity cases sold empty; waist packs; wallets, in Int. Cl. 18.</p> <p>clothing for use by men, women and children; namely, anoraks; babushkas; bandannas; bathing suits; blazers; blouses; blousons; boleros; boots; boxer shorts; caftans; caps; cardigans; chemises; suit coats; top coats; dresses; gloves; hats; headbands; hosiery; jackets; jeans; jogging suits;</p>

and counterfeiters and also by monitoring and opposing trademark applications filed with the USPTO.” *Id.* While we credit CFO Trung’s testimony generally, we agree with Applicant’s point (26 TTABVUE 7) that the lack of detail or documentary support regarding Opposer’s enforcement efforts precludes giving this evidence any significant probative weight. *Cf. Monster Energy Co. v. Lo*, 2023 TTAB LEXIS 14, at *64 n. 83 (“Finally, we note that we are not concerned with mere efforts at enforcement, but rather with the context surrounding successful enforcement and how that evidence bears on consumer recognition of any place applicant may have in the market.”).

	jumpers; leggings; loungewear; mufflers; neckerchiefs; neckties; neckwear; nightshirts; overalls; overshoes; pajamas; panties; pants; parkas; pocket squares; ponchos; pullovers; sandals; scarves; shawls; shirts; shorts; undershirts; shoes; slacks; socks; sport coats; stoles; sweatshirts; sweaters; t-shirts; trousers; vests; warm-up suits, in Int. Cl. 25.
Registration No. 954415 DIOR [standard characters] Issued 03/06/73, renewed	watches, in Int. Cl. 14.

CFO Trung describes Opposer’s national advertising campaigns by which Opposer advertises DIOR clothing and fashion accessories in the United States in digital and print advertisements, social media, outdoor signage, and newspapers.²⁹ This testimony is supported by excerpts from Opposer’s 2021-2023 media plans detailing Opposer’s multiple promotions of the DIOR mark in national publications each month such as *GQ*, *Bloomberg Business Week*, *Esquire*, *Vanity Fair*, *Hollywood Reporter*, *Architectural Digest* and *Town and Country*; in fashion publications such as *Vogue W*, *Marie Clair*, *Harper’s Bazaar*, *WWD*, and *Elle*; in newspapers with a national circulation such as *The New York Time*, *Financial Times*, and *Wall Street Journal*, on outdoor signage in New York City, Boston, Miami, Chicago, LAX and JFK airports,

²⁹ 15 TTABVUE 3.

in shopping malls, and on digital sites such as Vox, Spotify, Netflix, YouTube, Snapchat, Facebook, Instagram, Pinterest, Twitter, LinkedIn, and TikTok.³⁰

In addition, CFO Trung testifies that an integral part of Opposer's marketing strategy for its DIOR marks is sponsorships with celebrities and entertainers, including actors and musicians, who attract media attention to the DIOR clothing and accessories they wear to high profile events such as the Academy Awards, and Opposer also publicizes these celebrity appearances in DIOR goods in its marketing materials and its social media.³¹ This testimony is supported by detailed annual photo records from 2014-2022 (except 2015) that Opposer calls its "VIP in Dior" reports, which specify the dozens of dates each year when a specified celebrity wore DIOR goods to an event and examples of Opposer's social media posts promoting the celebrity appearances in DIOR goods.³²

As to sales, CFO Trung testifies that Opposer has sold goods under the DIOR trademark in the United States for over fifty years, and testifies as to the number of DIOR goods sold in the United States and the revenues from those sales under the DIOR trademarks from 2000 to 2023.³³ This testimony is supported by spreadsheet summaries listing units sold and revenues for multiple categories of goods.³⁴ While the testimony and supporting documents are confidential, we find they prove

³⁰ 15 TTABVUE 13-101.

³¹ 15 TTABVUE 4-6.

³² 15 TTABVUE 106-426, 17 TTABVUE 119-174.

³³ 15 TTABVUE 3-4.

³⁴ 16 TTABVUE 12-13.

consistently large number of items sold, and high revenues based on those sales, for more than twenty years.

Opposer's DIOR mark was the subject of recognition in third-party online articles (**emphasis added**):³⁵

The Six Fashion Brands That Dominated the Golden Globes Red Carpet (WWD January 11, 2024)³⁶

After dual labor strikes last year, the Hollywood awards show red carpet roared back to life Sunday at the Golden Globes, which drew 9.4 million viewers on CBS, 50 percent more than the 6.3 million in 2023, according to Nielsen. Luxury sales may be seeing a slowdown, but deep-pocketed fashion houses still ruled, with **Dior** alone dressing 19 stars.

...

Natalie Portman nabbed WWD's Style Award for Best-Dressed in a **Dior** Haute Couture evening dress that was a garden of delights with black tulle embroidered with an impressionist landscape of microflowers and vermicelli.

...

Rosamund Pike was a best-dressed close second, channeling her character in "Saltburn" in a **Dior** Haute Couture tea-length lace bustier dress from fall-winter 2019 with a tattoo effect on black mesh sleeves, and a Philip Treacy face mask, which she added to disguise an injured chin from a holiday skiing accident.

...

Showing a more minimalist side of **Dior** women's artistic director Maria Grazia Chiuri's oeuvre, "Beef" Golden Globe winner Ali Wong chose a goddess-like, long, draped white silk crepe dress held up by a braid in the back. **Dior** men's artistic director Kim Jones dressed 12 guests, including "Succession" winner Kieran Culkin in a black silk wool peak-lapel tuxedo and black embroidered shirt.

³⁵ In support of its fame, Opposer also cites decisions in court cases and other Board proceedings to which it has been party as "judicial recognition" that its mark is famous. 25 TTABVUE 22-23. Such instances of past recognition are not evidence in this proceeding. "This duty [to decide the right to registration in an inter partes proceeding] may not be delegated by the adoption of conclusions reached by another court on a different record. Suffice it to say that an opposition must be decided on the evidence of record." *Citigroup Inc. v. Capital City Bank Group Inc.*, 2010 TTAB LEXIS 40, *70, aff'd, 637 F.3d 1344 (Fed. Cir. 2011).

³⁶ 17 TTABVUE 218-231.

Dior Adds More Young Stars To Their Ambassador List (Design Rush Spotlight December 15, 2023)³⁷

Dior has reportedly named actresses Rochel Zegler and Dilraba Dilmurat as its new brand ambassadors, according to Women's Wear Daily.

...

Zegler, a 22-year-old American actress, and Dilmurat, known for her prominence in Chinese television, will represent both **Dior's** fashion creations, helmed by Mario Grazia Chiuri, and its makeup line, led by Peter Philips. Their addition to the **Dior** family aligns with the brand's vision of embracing diverse and dynamic talents.

Anya Taylor-Joy Makes Her Relationship With Dior Official (Grazia USA 2021)³⁸

The actress, who will be honored at next month's CFDA Awards as "Face of the Year," also just snagged a glossy new title as **Dior's** latest Global Ambassador for Women's Fashion and Makeup, announced earlier this morning.

...

One of the **Dior** looks we can't get out of our heads from this year is undoubtedly the yellow **Dior** Haute Couture gown she donned at the 73rd Primetime Emmy Awards, dazzling just as bright as the Emmys statue itself.

...

Taylor-Joy is added to the list of **Dior's** latest ambassadors, including fellow actress, Yara Shahidi who's also been donning Grazia Chiuri's sparkling **Dior** Haute Couture designs all over the red carpet.

Jennifer Lawrence dazzles in new Dior campaign (Fashion Network September 2, 2016)³⁹

Jennifer Lawrence has returned to her popular role as the face of **Dior**, with a new campaign for the French fashion house.

...

Dior and Lawrence have a long-standing working relationship, with the star fronting the brand's AW15 accessories campaign and being named the face of its **Dior** Addict makeup line in the spring of last year.

Rihanna and Dior Collaborate on Sunglass Collection (WWD May 24, 2016)⁴⁰
Dior's search for a creative director continues, but in the meantime, there's one major name designing for the house: Rihanna. The singer has created a

³⁷ 17 TTABVUE 240-243.

³⁸ 17 TTABVUE 246-248.

³⁹ 17 TTABVUE 235-237.

⁴⁰ 17 TTABVUE 256-257.

range of futuristic sunglasses in collaboration with **Dior** as part of her brand ambassadorship.

...

The sunglasses will be sold exclusively at **Dior** stores beginning in early June, though Rihanna has been teasing tile shades on her Instagram account.

*30 years of **Dior** ambassadors, from Isabelle Adjani to Rihanna* ((Fashion Network March 16, 2015) ⁴¹

The French fashion house has announced Rihanna as the star of its next advertising campaign, making the sultry and controversial pop icon the first black spokesmodel for **Dior**. She will follow several beautiful predecessors who have left a lasting impression in the brand's campaigns over the past three decades.

...

When it comes to spokesmodels, **Dior** has always selected men and women with strong personalities. Far from bland, the **Dior** brand ambassador wears his or her distinctiveness with pride and always elicits a reaction, whether through a striking physical appearance, an original career path or an intriguing personal history.

...

In partnering with the Barbadian singer, **Dior** has made a bold statement, and not just because she is the brand's first black spokesmodel. Rihanna is also one of the hottest celebrities of the moment, and the majority of her fans are younger than the average **Dior** client.

As further evidence of actual recognition of Opposer's DIOR mark, Opposer submitted the Apparel 50 2022 Annual Report of Brand Finance, described in the report as an UK chartered accounting firm specializing in brand valuation, which issues annual reports ranking brands across different business sectors and countries using methodology certified by global independent auditors.⁴² In pertinent part, the report states:

Luxury brand Dior defends world's strongest apparel brand title with elite AAA brand strength rating

...

⁴¹ 17 TTABVUE 252-253.

⁴² 17 TTABVUE 186-215.

Compliant with ISO 20671, Brand Finance’s assessment of stakeholder equity incorporates original market research data from over 100,000 respondents in more than 35 countries and across nearly 30 sectors. Dior is named the strongest apparel brand in the ranking with AAA brand rating and a corresponding Brand Strength Index (BSI) score of 88.4 out of 100. The brand performed exceedingly well in Brand Finance Apparel 50 2022, going from the 12th rank in 2021 to the top of the table. The luxury fashion brand continued to host socially distanced fashion shows and events to launch new collections. Over the past year, Dior engaged in a number of digital campaigns to engage with customers online. Most importantly, the brand leveraged the online medium to a great capacity with influencer marketing campaigns on YouTube, Tiktok, Douyin, the Chinese version of TikTok and Chinese video sharing mobile application Bilibili.⁴³

The report was the subject of an April 11, 2022 online article on The Fashion Law website which reported, in pertinent part:⁴⁴

Breaking down the methodology for its “apparel” ranking, Brand Finance examines the 5,000 “biggest brands” across segments, such as “luxury, sportswear; fast fashion, watches, accessories and jewelry, high street designer, underwear, and footwear,” and ranks companies by “brand value.” The London-based consultancy defines its central metric as “the value of the names, terms; signs, symbols, logos, and designs” that a company uses to identify and distinguish its “goods, services or entities” from those of others, thereby creating “distinctive images and associations in the minds of stakeholders, and generating economic benefits for the company as a result.”

...

Beyond ranking companies in accordance with the most valuable brands metric, Brand Finance also judges companies by their “Brand Strength,” which takes into account a company’s “marketing investment, customer familiarity, staff satisfaction, and corporate reputation.” There were some changes on this list compared to last year, with Dior taking the top spot from Rolex, which landed in the number 4 spot this year. Dior “performed exceedingly well in 2022,” per Brand Finance, “going from the 12th rank in 2021 to the top of the table,” as the brand “continued to host socially distanced fashion shows and events to launch new collections,” “engaged in a number of digital campaigns to engage with customers online,” and “most importantly, leveraged the online medium to a great capacity with influencer marketing campaigns.”⁴⁵

⁴³ 17 TTABVUE 198.

⁴⁴ 17 TTABVUE 177-185.

⁴⁵ 17 TTABVUE 177-178, 180.

Applicant's challenges to the sufficiency of Opposer's considerable evidence of fame are not convincing. In characterizing the evidence as relying "solely on sales and advertising figures,"⁴⁶ Applicant overlooks or mistakes the probative value of the third-party recognition via the report on brand valuation and the third-party articles regarding Opposer's celebrity endorsements; and the breadth and consistency of Opposer's promotional efforts. More specifically, actual recognition does not require a survey commissioned by the party arguing fame; the Board has accepted third-party valuations of the strength of a mark, such as the Brand Finance report submitted here. *See Coach Servs.*, 668 F3d at 1374 ("The name [COACH] also resonates with consumers. The brand ranked eighth among the top 10 in accessories firms in the latest Fairchild 100 consumer survey of fashion labels, in 1995."); *Spotify AB v. U.S. Software Inc.*, 2022 TTAB LEXIS 2, *28 ("Opposer's SPOTIFY brand is so strong that it has been ranked among the 'best' or most 'relevant' in the United States and beyond.").⁴⁷

⁴⁶ 26 TTABVUE 4. Applicant also dismisses evidence of fame dated after the October 29, 2021 filing date of its application. This is a mistaken view; Opposer must prove that its mark is famous as of trial. "Registrability of a mark must be determined on the basis of facts as they exist at the time when the issue of registrability is under consideration." *McCormick & Co. v. Summers*, 354 F.2d 668, 674 (CCPA 1966) citing *Dewalt, Inc. v. Magna Power Tool Corp.*, 289 F2d 656, 659-60 (CCPA 1961). *See also, TiVo Brands*, 2018 TTAB LEXIS 439, *42 (plaintiff must prove mark remains famous at time of trial). We properly consider the record as a whole when determining whether Opposer has established that its mark is famous. However, as a separate requirement discussed later in this opinion, Opposer also must prove that its mark was famous prior to Applicant's first use.

⁴⁷ *See also Chanel, Inc. v. Makarczyk*, 2014 TTAB LEXIS 217, *26 ("Opposer's CHANEL mark has been consistently ranked as one of the most recognized and famous brands in the United States."); *Research in Motion Ltd. v. Defining Presence Mktg. Group, Inc.*, 2012 TTAB LEXIS 45, *17 ("Over the past decade, BLACKBERRY has repeatedly been ranked among the most

We also reject Applicant's contention that "[t]here is no evidentiary basis for the Board to conclude that [the] geographic reach of Opposer's ... advertising is diverse, rather than concentrated in a few U.S. cities such as New York, Los Angeles, and Miami. This abject lack of context is especially concerning because of the unaffordability of Opposer's goods to most of the general consuming public."⁴⁸ Applicant's argument about Opposer's advertising having limited geographic reach ignores the evidence that Opposer's mark is displayed in many publications with national circulation, in general audience venues such as Netflix, on outdoor signage in airports which are hubs for travel to other destinations, and at high profile events covered by general media as well as the fashion media. With its "unaffordability" argument, Applicant presumes that consumers are not exposed to, and do not recognize, any brands but the ones for goods that they personally purchase. We find that presumption unwarranted,⁴⁹ and note that marks have been found famous for dilution purposes even if the goods are purchased by a particular and not a general market. *See, e.g., Research in Motion Ltd*, 2012 TTAB LEXIS 45, *17-18 ("By mid-decade, BLACKBERRY products had become ubiquitous in the United States, and proved to be an important tool for business executives, government officials and many other professionals as a means for round-the-clock mobile communications.").

famous and valuable trademarks in the world by industry publications that track the powerful reach of global brands.").

⁴⁸ 26 TTABVUE 6-7.

⁴⁹ In fact, in response to a request for admission, Applicant admits that prior to selecting her mark, she was aware of Opposer's DIOR mark; had seen at least one of Opposer's goods bearing the DIOR mark; and was aware of Opposer's engagement of celebrities and entertainers to promote DIOR goods. 17 TTABVUE 32, 33.

Applicant argues “[a]lthough Opposer may take pride in the appeal of its couture to celebrities, such appeal has little bearing or probative value with respect to evaluating whether the DIOR mark has become a household name.”⁵⁰ The value of celebrity promotion at high profile events in assessing fame is not the individual fashion choice of the celebrity, but the fact that, by virtue of being a celebrity at a high profile event, the fashion choice will be publicized through the multiple outlets to a general audience interested in celebrity news. *See Spotify AB v. U.S. Software Inc.*, 2022 TTAB LEXIS 2, *25 (“Opposer has ‘exclusive podcast partnership deals’ with famous celebrities including Michelle Obama, Joe Rogan and Kim Kardashian West, three quite different people whose partnership with Opposer likely exposed a variety of Americans, including many who do not stream music, to the SPOTIFY mark.”); *Chanel, Inc.*, 2014 TTAB LEXIS 217, *24 (“Such photographs [of prominent celebrities and fashion icons either carrying CHANEL-branded handbags or wearing CHANEL fashions] frequently appear in publications in which opposer does not advertise (for example, in tabloid magazines), thereby broadening the exposure of opposer’s CHANEL mark.”).

We also are unconvinced by Applicant’s argument that the carefully documented celebrity promotions for more than a decade do not contribute to the fame of the DIOR mark because “inspection of Opposer’s thousands of photos of individuals purportedly wearing Opposer’s clothing fails to show any garments displaying the DIOR mark on

⁵⁰ 26 TTABVUE 9.

their exterior.”⁵¹ It is clear from the record that Opposer has formal relationships with the photographed celebrities, and CFO Trung’s declaration⁵² describes these celebrity relationships as including both celebrity appearances at high profile events (such as the Academy Awards), and “brand ambassador engagements.” We take judicial notice of the following facts regarding the Academy Awards:

The Academy Awards were first televised in the United States in 1953, and since 1969 they have been broadcast internationally. By the late 20th century, the ceremony had become a major happening, viewed by millions. ... Red-carpet interviews also became an integral part of the event, with much attention focused on the attendees’ ensembles.⁵³

We find that a designer with a formal arrangement with a celebrity to either wear the designer’s clothing on the red carpet for the purpose of discussing the celebrity’s outfit, or to appear at “brand ambassador engagements,” that on their face are events that occur for promotion of the brand by the celebrity brand ambassador, does not have to make a tag visible on the clothing for the celebrity promotion to contribute to the fame of the designer’s mark.

Finally, Applicant contends that Opposer has failed to show that “the DIOR mark is widely recognized by the general consuming public rather than the narrow niche of wealthy couture consumers.”⁵⁴ See *In re Mr. Recipe, LLC*, 2016 TTAB LEXIS 80,

⁵¹ 26 TTABVUE 8.

⁵² 17 TTABVUE 4-5.

⁵³ <https://www.britannica.com/art/Academy-Award>. See *Int’l Dairy Foods Ass’n v. Interprofession Du Gruyere*, 2020 TTAB LEXIS 268, *58 n.115 (“We do, however, take judicial notice of the following definition of ‘Gruyere Cheese’ located at <https://www.britannica.com/topic/Gruyere> (accessed on August 4, 2020).”

⁵⁴ 26 TTABVUE 4-5.

*11, 12 (“Niche fame’ is the renown of a mark in a specialized market (e.g., a specific geographic area or field of endeavor) [and] relevant to counter a showing of fame in the dilution context”). Applicant’s only support for this argument is the undisputed fact that Opposer is recognized as a “luxury” brand. However, as discussed, DIOR goods do not have to be purchased by the general public for the DIOR mark to be recognized by the general public. The duration, extent, and geographic reach of the advertising and publicity of Opposer’s DIOR mark is exceptional, and has resulted in the DIOR mark remaining in the eye of the general public for decades.

In sum, Opposer owns multiple DIOR federal registrations, some issued decades ago; has demonstrated decades of consistently large numbers of DIOR goods sold each year and high revenues based on those sales; has documented decades of promotional efforts through multiple outlets and featuring celebrities and high profile events; has been the subject of third party articles on its promotional relationships with celebrities; and was recently recognized for its brand strength by a third-party brand valuation study. We find the record shows that DIOR is a household name, and for the purposes of dilution, a famous mark.

B. Applicant is using GIGI DIOR, a Mark That Allegedly Dilutes Opposer’s DIOR Mark

The record establishes that Applicant is using its GIGI DIOR mark in commerce,⁵⁵ as well as seeking to register it in the United States. Because Opposer bases one of its grounds for opposition on its allegation that use and registration of the mark GIGI

⁵⁵ 20 TTABVUE 2, 4.

DIOR dilutes Opposer's DIOR mark, this element is satisfied. *Advance Magazine Publs., Inc. v. Fashion Elecs., Inc.*, 2023 TTAB LEXIS 223, *46.

C. Opposer's DIOR Mark Was Famous Before Applicant's First Use of GIGI DIOR

While the application alleges a date of first use in commerce prior to the application filing date, Applicant did not submit any evidence proving use as of that date. Ms. Hodges' declaration does not state when she first began using the GIGI DIOR mark. Accordingly, we assess Opposer's fame as of the October 29, 2021 filing date of the application.

As noted above, the DIOR mark has been in use in the United States for more than 50 years, all five of DIOR registrations have been in effect for decades prior to Applicant's first use, the documented sales since 2000 show consistently large number of items sold, and high revenues based on those sales, and CFO Trung's testimony averred that Opposer has engaged in extensive advertising in digital and print advertisements, social media, outdoor signage, and newspapers, including as examples three detailed media plans listing by month the multiple outlets through which Opposer's DIOR goods were promoted in 2021-2023, and documentation of ten years of celebrities promoting the DIOR mark. Because only ten months of the 2021 media plan occurred before Applicant's first use, Applicant contends that the advertising evidence is not probative of fame. We disagree.

CFO Trung's testimony made clear that the recent media plans were examples; and did not state that his testimony about the wide scope of Opposer's extensive advertising in digital and print advertisements, social media, outdoor signage, and

newspapers occurred only in the last three years. In fact, as already discussed, Opposer also submitted its “VIP in DIOR” reports for 10 years, and its significant advertising expenditures for twenty years. While the Brand Finance report proclaimed DIOR the strongest brand in 2022, it also compared Opposer’s rise from its position as the 12th strongest mark in 2021.

We find that the DIOR mark was famous prior to October 29, 2021, and this element too is satisfied.

D. Applicant’s Use of Its GIGI DIOR Mark is Likely to Cause Dilution By Blurring

Dilution by blurring occurs:

[W]hen a substantial percentage of consumers, on seeing the junior party’s mark on its goods, are immediately reminded of the famous mark and associate the junior party’s mark with the owner of the famous mark, even if they do not believe that the goods emanate from the famous mark’s owner. The concern is that the gradual whittling away of distinctiveness will cause the trademark holder to suffer death by a thousand cuts. Blurring may occur regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

Advance Magazine Publr., 2023 TTAB LEXIS 223, *47-48 (internal citation omitted).

To determine whether Applicant’s use of its mark is likely to cause dilution by blurring, we consider below the six “relevant factors” set forth in the statute. 15 U.S.C. § 1125(c)(2)(B)(i-vi).⁵⁶ However, because Applicant relies on evidence of third

⁵⁶ The statutory dilution by blurring factors are: (i) the degree of similarity between the mark or trade name and the famous mark; (ii) the degree of inherent or acquired distinctiveness of the famous mark; (iii) the extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark; (iv) the degree of recognition of the famous mark; (v) whether the user of the mark or trade name intended to create an association with the famous mark; and (vi) any actual association between the mark or trade name and the famous mark.

party registration and use with respect to multiple factors, we first will describe that evidence, and then apply it as relevant.

Applicant contends that “there are 20 registrations of record that incorporate DIOR in a similar fashion to the applied-for GIGI DIOR mark, as part of a composite mark.”⁵⁷ Only 19 federal registrations were submitted, and one (Registration No. 5511638) was cancelled during the pendency of this proceeding and will be given no consideration.⁵⁸ *See Action Temp. Servs Inc. v. Labor Force Inc.*, 870 F.2d 1563, 1566 (Fed. Cir. 1989) (“[A] cancelled registration does not provide constructive notice of anything.”). As shown below, of the eighteen current registrations submitted, four registrations are for the same mark (and owned by the same person), meaning that there are 15 registered marks that include the four letters DIOR.⁵⁹

Registration No. 6774770 (issued 06/28/22)		Registration No. 5708279 (issued 03/26/19)	
Registration No. 6101873 (issued 07/14/20)	DIORLV	Registration No. 5931894 (issued 12/10/19)	SINDIOR
Registration No. 6109206 (issued 07/21/20)	CHADIOR	Registration No. 6372510 (issued 06/01/21)	VZDIOR
Registration No. 7009437 (issued 03/28/23)	DAWNDIOR	Registration No. 5374783 (issued 01/09/18)	VONDIOR

⁵⁷ 26 TTABVUE 16.

⁵⁸ We also give no consideration to the Colorado state registration (22 TTABVUE 248) submitted. *See Faultless Starch Co. v. Sales Producers Assocs., Inc.*, 530 F.2d 1400, 1401 n.2 (CCPA 1976) (“State registrations alone do not establish use.”).

⁵⁹ 22 TTABVUE 178-252.

Registration No. 6690378 (issued 04/05/22)	SUERDDIOR	Registration No. 6327399 (issued 04/20/21)	EVEDIOR
Registration No. 5806729 (issued 07/16/19)	HYDIOR	Registration No. 6361336 (issued 05/25/21)	LVPRADIOR
Registration No. 651715 (issued 10/12/21)0	CADIOR	Registration No. 5560475 (issued 09/11/18)	KALADIOR
Registration No. 5794074 (issued 07/02/19) 7321448, 7321452, 7321308 (all issued 03/05/24)	KORADIOR		

In general, third-party registrations do not prove that the marks in those registrations are in use. *See DC Comics v. Cellular Nerd LLC*, 2022 TTAB LEXIS 453, *82 (“[I]t would be sheer speculation to draw any inferences about which, if any of the marks subject of the third[-]party registrations are still in use.”) (quoting *In re Hub Distrib.*, 1983 TTAB LEXIS 129, *6). “[T]hird[-]party registration evidence proves nothing about the impact of the third-party marks on purchasers in terms of dilution of the mark in question or conditioning of the purchasers as to their weakness in distinguishing source.” *Id.*⁶⁰

⁶⁰ Applicant disputes this point, arguing that the existence of use-based registrations reflects use, citing *Spireon, Inc. v. Flex LTD*, 71 F.4th 1355 (Fed. Cir. 2023). In fact, the Federal Circuit confirmed the applicant’s burden to show registered marks are in use as evidence rebutting the strength of the mark in a likelihood of confusion case:

[I]n prior cases, we and our predecessor court appear to have assumed, without explicitly stating, that in connection with the analysis of commercial strength, the burden rested on the applicant to establish that prior marks were actually in use. ...

In addition, as Opposer points out, the third-party registrations submitted here are for marks that are not similar to Opposer's famous DIOR mark, but merely single term marks that include the same four letters.⁶¹ Applicant contends that three of the registered marks (KORADIOR, EVEDIOR, and DAWNDIOR) will be perceived as the female names KORA DIOR, EVE DIOR, and DAWN DIOR, similar to its mark GIGI DIOR.⁶² The record includes no evidence that the letters DIOR, in that order, are perceived as creating a separate commercial impression when part of a term with other letters.⁶³ In fact, the term DIOR appears in the dictionary terms DIORAMA and DIORITE, and both terms create different commercial impressions than that of

We need not decide the broader question of which party bears the burden of establishing non-use as a general matter. This case presents the far narrower question of whether the burden of showing non-use of identical marks for identical goods rests with the opposer. We think it necessarily does.

Spireon, 71 F4th at 1365. Because this is a dilution case, and none of the third-party registrations feature marks identical to Opposer's mark DIOR, *Spireon* does not dictate that we presume that non-identical registered marks are in use.

⁶¹ 25 TTABVUE 50.

⁶² 26 TTABVUE 17. We give no consideration to Applicant's unsupported references to oppositions purported to be brought by Opposer. 26 TTABVUE 17 n.57.

⁶³ We acknowledge that, for the purposes of assessing likelihood of confusion or whether an amendment to a mark is a material alteration, marks combining two recognizable terms are treated as the same whether presented as one term or two. See *Mini Melts, Inc. v. Reckitt Benckiser LLC*, 2016 TTAB LEXIS 151, at *16 ("Opposer's mark MINI MELTS is essentially identical to each of Applicant's marks MINIMELTS and MINI-MELTS."); *In re Innovative Cos., LLC*, 2008 TTAB LEXIS 30, *7-8 ("we agree that the amendment of the drawing from FREEDOMSTONE to FREEDOM STONE does not result in a material alteration."). However, the principle is not applicable here because there is no evidence that any of the registered third-party marks are perceived as two terms, with one being DIOR.

DIOR alone.⁶⁴ Accordingly, the registered third-party marks do not create the same commercial impression as Opposer's famous DIOR mark.⁶⁵

Applicant also contends that there are "hundreds more business names incorporating Dior."⁶⁶ For the business names, Applicant relies on "official records from secretary of state databases,"⁶⁷ a sample of which is displayed below:

⁶⁴ We take judicial notice that a diorama is "a scenic representation in which sculptured figures and lifelike details are displayed usually in miniature so as to blend indistinguishably with a realistic painted background" and diorite is "a granular crystalline igneous rock commonly of acid plagioclase and hornblende, pyroxene, or biotite." Both definitions from Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/>. Accessed 30 Jan. 2025.

⁶⁵ Assuming, arguendo, any of the third-party marks were considered similar to DIOR, we question whether any period of alleged co-existence has been long enough to impact the public's perception of the famous DIOR mark. In contrast to the uncontested use of Opposer's famous mark since 1947, the registration for one mark (DAWNDIOR) had not even issued as of the October 18, 2022 commencement of this proceeding. The remaining 14 registered marks all issued in the last few years. More specifically, two registrations (GDIOR and design and SUERDDIOR) issued earlier in 2022, four (VZDIOR, LVPRADIOR, CADIOR and EVEDIOR) issued in 2021, two (CHADIOR and DIORLV) issued in 2020, and four (ND NKEMDIOR and design and SINDIOR) issued in 2019. The oldest registrations (KALADIOR, HYDIOR, KORADIOR and VONDIOR) issued in 2018.

⁶⁶ 26 TTABVUE 18-19.

⁶⁷ 22 TTABVUE 12-175.

Department of State / Division of Corporations / Search Records / Search By Entity Name /

Next List

Entity Name List

Corporate Name	Document Number	Status
D'IOR INCORPORATED	F16980	INACT
D. I. Q. B., INC.	K38721	INACT
DIOR, LLC	L06000025424	Active
DIOR CORP.	P01000045924	INACT
DIOR2GO LLC	L24000090497	Active
DIORA EXPRESS INC	P21000045482	INACT
DIORA HAIR LLC	L12000121398	INACT
DIORAMA INC	P04000150797	INACT
DIORAMICS CORPORATION	J59135	INACT
DIORA NURSING INC.	P05000143335	INACT
DIOR APARTMENTS, LLC	L20000272680	Active
DIORA PROFESSIONNEL, LLC	L10000118409	NAME HS
DIORA PROFESSIONNEL, LLC	M11000003838	Active
DIOR, BABEZ BOUTIQUE LLC	L20000358654	InActive
DIOR BEAUTIC LLC	L21000281586	INACT
DIOR BEAUTY & ESTHETIC LOUNGE, LLC	L20000395538	Active
DIOR BEAUTY POST OP RECOVERY HOME, LLC	L21000038159	INACT
DIOR BEHAVIOR THERAPY LLC	L23000115324	Active
DIOR BELLA INC	P17000095202	INACT
DIOR BELLA FASHION INC	P18000084774	INACT

Next List

Figure 1 Search results from FL Secretary of State⁶⁸

These are not “official records” but a listing of results from a search of an electronic database of official records. Obviously, a document list resulting from a search is not accorded the same probative value as the documents. *See Edom Labs., Inc. v. Lichter,*

⁶⁸ 22 TTABVUE 35.

2012 TTAB LEXIS 81, *12 (“Likewise, while the listing that applicant has submitted, of third-party marks downloaded from the USPTO’s Trademark Electronic Search System (TESS), is of record, the registrations listed therein are not of record, and the list itself has little, if any, probative value.”).

The probative value accorded search results depends on the extent of the information resulting from the search and its context – the purpose for which the search results are offered and their relevance to that purpose. *See In re Bayer AG*, 488 F.3d 960, 967 (Fed. Cir. 2007) (“Search engine results--which provide little context to discern how a term is actually used on the web page that can be accessed through the search result link--may be insufficient to determine the nature of the use of a term or the relevance of the search results to registration considerations.”); *In re DePorter*, 2019 TTAB LEXIS 7, *15 n.14 (quoting TMEP 1202.04(b)) (“supporting evidence may include ... Internet search results lists if sufficient surrounding text is included ... showing the applicant’s manner of use and the manner of use by third parties.”).

Here, the Secretary of State search results are unconvincing on two fronts. Aside from the bare assertion that the evidence shows “hundreds” of DIOR businesses, Applicant makes no effort to point out where those hundreds can be found. As illustrated by the example above, Applicant tacitly invites the Board to wade through dozens of pages (22 TTABUVE 12-176) with results that include businesses specified to be inactive or which include DIOR as part of a unitary term making a different commercial impression, such as DIORA or DIORAMICS. Some results just list

business names with no reference to the businesses' current status.⁶⁹ In the example shown below, the search results also include the letters DIOR across two separate words that also make a different commercial impression, such as CIOFFREDI ORTHOPEDIC & SPORTS THERAPY CENTERS and ELECTRONIC AUDIO REPAIR SERVICES.

⁶⁹ 22 TTABVUE 33, 66, 71, 73-75, 98, 155-156, 169. Applicant also includes a page (22 TTABVUE 176) with 16 search results for carriers that include DIOR in the federal SAFER (Safety And Fitness Electronic Records) system search. These results list the city and state without any note from Applicant as to whether any of the listings repeat the same entity listed in the relevant state records.

NEW HAMPSHIRE DEPARTMENT OF STATE		SECRETARY OF STATE David M. Scanlan					
Search Business Names							Back to Home
Search Result							
Business Name	Business ID	Homestate Name	Previous Name	Business Type	Principal Office Address	Registered Agent Name	Status
Advanced Radio Research	534871			Trade Name	21 Hillside Drive, Brookline, NH, 03033, USA	N/A	Active
AUDIO RESEARCH, INC.	94534	AUDIO RESEARCH, INC.		Foreign Profit Corporation	8 INDUSTRIAL WAY, BLDG D-4, SALEM, NH, 03079, USA	Giglio, Paul	Admin. Suspension
AUDIO ROAR	466509			Trade Name	19 TERRACE ST, KEENE, NH, 03431, USA	N/A	Expired
BISHOP'S VINTAGE CAR AUDIO REPAIR LLC	924753			Domestic Limited Liability Company	62 Hillcroft Road, Manchester, NH, 03104, USA	Brandon A Bishop	Good Standing
Bobby Dees Rock & Roll Caravan/Records & Audio Repair	735025			Trade Name	132 Main Street, Pembroke, NH, 03275, USA	N/A	Active
CIOFFREDI ORTHOPEDIC & SPORTS THERAPY CENTER	104620			Trade Name	P.O. BOX 727 ROUTE 120 HEATER ROAD, LEBANON, NH, 03766, USA	N/A	Expired
D. C. AUDIO REPAIRS	25873			Trade Name	122 LAFAYETTE ROAD, NORTH HAMPTON, NH, 03862, USA	N/A	Expired
DIORAMA MODELERS MAGAZINE	463851			Trade Name	75 MIDDLE ST, LANCASTER, NH, 03584, USA	N/A	Expired
Dioreg Realty LLC	539833			Domestic Limited Liability Company	292 Route 101, Bedford, NH, 03110, USA	Dionne, Michael P	Admin Dissolution
Diorio Flooring LLC	670835			Domestic Limited Liability Company	59 Purgatory Rd, Mont Vernon, NH, 03057, USA	United States Corporation Agents, Inc.	Good Standing
DON'S T.V. & RADIO REPAIR	29914			Trade Name	5 GAGNE ST, ROCHESTER, NH, 03867, USA	N/A	Expired
ELASTIC RADIO RECORDS	466425			Trade Name	115 SOUTH STATE ST, CONCORD, NH, 03301, USA	N/A	Expired
ELECTRONIC AUDIO REPAIR SERVICES	52783			Trade Name	501 SANDOWN ROAD, FREMONT, NH, 03044, USA	N/A	Expired
FOUR SEASONS STUDIO RESTAURANT OF ANTRIM	117349			Trade Name	MAIN ST, ANTRIM, NH, 03440, USA	N/A	Expired
FRIENDS OF ODIORNE POINT STATE PARK AND THE SEACOAST SCIENCE CENTER, INC.	75081		FRIENDS OF ODIORNE POINT, INC.	Domestic Nonprofit Corporation	ODIORNE STATE PARK 570 OCEAN BLVD, RYE, NH, 03870, USA	N/A	Admin Diss LLP-CC-NP
GREG'S AUDIO RECORDING	30418			Trade Name	140 SO. MAIN STREET, GOFFSTOWN, NH, 03045, USA	N/A	Expired
HENRY'S RADIO REPAIR	880338			Trade Name	7227 Pleasant Street, Loudon, NH, 03307 - 1615, USA	N/A	Active
Indio Rose	745543			Trade Name	12 Magnolia Drive, Dover, NH, 03820, USA	N/A	Expired

Figure 2 Search results from NH Secretary of State⁷⁰

⁷⁰ 22 TTABVUE 95.

More importantly, assuming *arguendo* that the Secretary of State search results include business names with an active status in which DIOR is a separable component, Applicant does not connect the dots between such a listing in state government records and use of the name as a business to which the public would be exposed. *Compare Smith Bros. Mfg. Co. v. Stone Mfg. Co.*, 476 F.2d 1004, 1005 (Fed. Cir. 1985) (“The purchasing public is not aware of registrations reposing in the Patent Office and though they are relevant, in themselves they have little evidentiary value on the issue before us.”). That is, there is no reason on this record to find that any listed business in the search results uses its registration name as its business name in commerce, or constitutes a viable business interacting with consumers. In sum, we find the evidence of DIOR business names registered with a Secretary of State is insufficient to demonstrate commercial use of DIOR. *See UMG Recordings, Inc. v. Mattel, Inc.*, 2011 TTAB LEXIS 286, *67 (“[O]pposer’s substantially exclusive use of its MOTOWN mark is not diminished by the noted non-commercial uses [by the media and most others of MOTOWN to refer to Detroit].”).⁷¹

We turn next to the various webpages for third-party businesses with DIOR in their name.⁷² Such evidence can be considered only for what it shows on its face, and not for the truth of any matter asserted on the webpage. *Spiritline Cruises LLC v. Tour Mgmt. Servs. Inc.*, 2020 TTAB LEXIS 3, *7 (“[W]e consider Internet printouts

⁷¹ Although Applicant does not mention this evidence (23 TTABVUE 425-431) in its brief, we find that the printouts of the Social Security Administration name search results for DIOR and the Huffington Post online article about popularity of Dior as a baby name also refer to noncommercial uses.

⁷² 23 TTABVUE 10-423.

and other materials properly introduced under a notice of reliance without supporting testimony only for what they show on their face rather than for the truth of the matters asserted therein.”). More specifically, the webpages do not demonstrate that the business services actually are offered under the DIOR mark, but may be considered for how they affect public perception of Opposer’s famous DIOR mark. *Id.* (“[S]uch materials are frequently competent to show, on their face, matters relevant to trademark claims (such as public perception), regardless of whether the statements are true or false.”) (citation omitted).

Applicant has submitted hundreds of webpages from websites, social media, and scheduling applications to show “rampant third-party use and commonality of DIOR as part of a name or pseudonym.”⁷³ What these pages have in common is the lack of any testimony or indicia as to when the business or webpage was created, whether there have been visitors to the webpage, or, if so, how many. In an opinion addressing an ex parte refusal, the Federal Circuit rejected the view that any one webpage is presumed to be known to the relevant American public:

The internet (and websites such as Wikipedia) contains enormous amounts of information: some of it is generally known, and some of it is not. There is simply no evidence that the relevant American consumer would have any meaningful knowledge of all of the locations mentioned in the websites cited by the PTO. Further, it is simply untenable that any information available on the internet should be considered known to the relevant public.

⁷³ 26 TTABVUE 20; 23 TTABVUE 9-431. Applicant also submits a page from Apple Podcasts describing the podcast “Dior University” as 5 episodes ranging from 12 seconds to 4 minutes that were posted from July 2020 to April 2022; the Spotify page for an artist named Dior; an Apple Music page for artist Paris Dior’s two songs; a YouTube home page for artist Dess Dior; and a GoFundMe page for Dior Academy. 23 TTABVUE 61, 200-203, 306, 332, 339. There is no evidence showing any public awareness of these uses.

In re Newbridge Cutlery Co., 776 F.3d 854, 863 (Fed. Cir. 2015) (internal citation omitted).⁷⁴ “Without such evidence [as to the extent of the third-parties’ use and promotion of their marks], we cannot assess whether third-party use has been so widespread as to have had any impact on consumer perceptions.” *7-Eleven, Inc. v. Wechsler*, 2007 TTAB LEXIS 58, *51.⁷⁵ Compare *In re Country Music Ass’n Inc.*, 2011 TTAB LEXIS 343 , *15 (“On balance, we find that the data obtained from the www.Alexa.com web site measuring Internet traffic confirms the comparatively obscure nature of the third-party usages.”). The mere existence of a webpage on the Internet is proof neither of an “active web presence” as claimed by Applicant⁷⁶ nor exposure to the information on the webpage by the U.S. public.

The webpages from third-party social media accounts similarly lack indicia of consumer exposure to use of DIOR. Some accounts do not have any dated posts, others do not appear to be “active” but have only a handful of posts over multiple years or the most recent post is multiple years ago.⁷⁷ See *In re GJ & AM, LLC*, 2021 TTAB LEXIS 203, *52 (“[B]ecause Applicant has not provided any testimony or evidence estimating the size of the relevant consumer base, there is no context by which we

⁷⁴ *Accord In re White Jasmine LLC*, 2013 TTAB LEXIS 9, *37 (In finding evidence of acquired distinctiveness insufficient, “Applicant states that it advertises its WHITE JASMINE teas and spices on its website, but applicant fails to indicate how many visitors its website attracts.”).

⁷⁵ *Cf. Tao Licensing, LLC v. Bender Consulting Ltd.*, 2017 TTAB LEXIS 437, *48-49 (“Respondent did not show how long or how extensively these apparent third-party marks [shown on third-party webpages] have been used. We have no sense of the degree of consumer exposure to these marks.”).

⁷⁶ 26 TTABVUE 19.

⁷⁷ 23 TTABVUE 13-14, 26-37, 44-47, 186, 212-218, 386-398, 400-413.

can assess the extent or effectiveness of Applicant’s social media reach.”) (citations omitted).

Several webpages issued from a scheduling website for beauty professionals with names such as KrowndByDior, and The Dior Experience.⁷⁸ An example of the enlarged URL and a scheduling webpage is set forth below:

Document title: Schedule Appointment with Dior Minks
Capture URL: <https://app.acuityscheduling.com/schedule.php?owner=19342486>
Capture timestamp (UTC): Thu, 04 Apr 2024 07:02:29 GMT

⁷⁸ 23 TTABVUE 63-174.

⁷⁹ 23 TTABVUE 107.

Dior Minks

Returning? [Log In](#)

Hi! Thank you for choosing DIORMINKS!

CASH & CASH APP ONLY!!

*** DEPOSITS***

ALL Deposits are NON-REFUNDABLE!!

\$10 deposits are due after booking.

*** RESCHEDULE/CANCELLATION POLICY***

- If you wish to reschedule please do so 24 hours in advance.
- **NO CALL NO SHOWS WILL NOT BE TOLERATED, YOU WILL BE BLOCKED FROM BOOKING!**

If you are more than 10 minutes late there will be a \$10 LATE FEE .

SAME DAY APPOINTMENTS WILL BE CHARGED \$20 EXTRA.

AFTER HOUR APPOINTMENTS \$25 EXTRA. (Contact me after booking to confirm time)

If you are more than 30 minutes late without notice your appointment will be cancelled.

NO EXTRA GUEST !! SEATS ARE LIMITED !! NO EXCEPTIONS !!

Make sure face is clean and free of oils and makeup .

NO APPOINTMENT IS CONFIRMED UNTIL DEPOSIT IS PAID IN FULL. NO DEPOSIT NO APPOINTMENT.

If you are not satisfied with your lashes , let me know the same day. **NO REFUNDS!**

You will receive a text the day before your appointment with address.

SAllFor2K - Cashapp

1 Choose Appointment



Classic Set

1 hour 40 minutes @ \$75.00

Book

A Lash on every single nature lash to make a natural look! This is a very natural more professional look! (8-16)



Volume set

1 hour 40 minutes @ \$80.00

Book

Lash extensions applied to every natural lash, giving you a full look. This look is between a Classic and Volume set , full GLAM lashes.
for EXTENDED LENGHTS (21&UP) \$10

The record includes no indication that the third-party uses of DIOR occur outside the scheduling website, or any information about the traffic to the scheduling website.

Turning next to the pornographic actors with the pseudonymic first name or surname Dior, Applicant contends third party use of DIOR “as a common part of adult actress psuedonyms – is competent to show there is no (longer) uniqueness or singularity in DIOR such that Opposer should enjoy rights in gross.”⁸⁰ In support, Applicant submits the results from a search for DIOR in the Internet Adult Film Database (IAFD) which show multiple individuals named Dior featured in adult film titles, and individual pages for those actors.⁸¹

As with Applicant’s other Internet materials, the IAFD search results are submitted with no explanation of how the presence of the film data on the Internet translates into public recognition sufficient to affect Opposer’s famous DIOR mark. Notwithstanding this being Applicant’s area of expertise, the record has no information on the traffic to either the IAFD database in general or the individual profiles of DIOR actors in particular.

Moreover, Applicant errs in arguing that Opposer’s famous mark must be unique or singular. On its face, “substantially exclusive” use is use which admits minor other

⁸⁰ 26 TTABVUE 21. Applicant also errs in its contention “Opposer’s apparent decision only to address the porn star seeking federal registration of her pseudonym (i.e., ‘protect the register’) is not a distinction recognized by the Lanham Act.” *Id.* In fact, a trademark owner “is not required to act immediately against every possible infringing use.” *Wallpaper Mfrs., Ltd. v. Crown Wallcovering Corp.*, 680 F.2d 755, 766 (CCPA 1982). As will be discussed, it was Applicant seeking a trademark registration which brought her mark to Opposer’s attention.

⁸¹ 31 TTABVUE 259-466.

uses. *See UMG Recordings, Inc.*, 2011 TTAB LEXIS 286, at *67 (“[O]pposer’s substantially exclusive use of its MOTOWN mark is not diminished by the noted non-commercial uses of the term [or] ... third-party use of MOTOWN in marks or trade names identifying organizations and businesses, presumably to indicate their location in or near Detroit.”). Because Applicant has provided zero evidence tying the Internet materials in the record to views by the public, we view the uses as minor. In short, while Applicant has collected many instances of webpages featuring the term “Dior,” Applicant has failed to demonstrate the impact of any one of these uses on the public perception of Opposer’s famous mark DIOR.

Having addressed Applicant’s third-party registration and third-party use evidence, we now apply the dilution by blurring factors.⁸²

1. The degree of similarity between GIGI DIOR and DIOR

We consider the degree of similarity or dissimilarity of the marks “in their entireties as to appearance, sound, connotation, and commercial impression.” *Advance Magazine Publs.*, 2023 TTAB LEXIS 223, *47-48 (internal citation omitted). In the dilution context, “the similarity between the famous mark and the allegedly blurring mark need not be substantial in order for the dilution by blurring claim to succeed.” *Nike Inc. v. Maher*, 2011 TTAB LEXIS 234, *39-40 (citation omitted). We must determine whether Applicant’s GIGI DIOR mark is sufficiently similar to Opposer’s famous DIOR mark as to “trigger consumers to conjure up” Opposer’s mark. *Id.* at *42 (internal citation omitted).

⁸² *See supra* at n.56.

Applicant contends that GIGI DIOR “has the commercial impression of a person’s name,”⁸³ and we agree. However, we diverge when Applicant argues that DIOR is a common surname, and so the addition of “GIGI” is enough to give it a “youthful,” “playful,” and “feminine” commercial impression which differentiates it from Opposer’s DIOR mark.⁸⁴ In fact, there is no evidence that DIOR is a common surname, and we find that DIOR connotes Opposer’s DIOR, and its founder, the fashion designer Christian Dior. While the prefatory term GIGI makes the marks different, it does not change the connotation of DIOR or the strong similarity created by Applicant adopting Opposer’s famous mark in its entirety.

Another degree of similarity concerns the format of Applicant’s mark. Applicant has applied to register GIGI DIOR in standard characters. Applicant’s mark therefore has the potential to be used in exactly the same manner, as Opposer’s registered standard character mark or stylized mark DIOR. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1324 (Fed. Cir. 2017).

This factor favors finding a likelihood of dilution by blurring.

2. The degree of inherent or acquired distinctiveness of Dior

This factor requires us to analyze how distinctive the DIOR mark is to the public. As discussed, DIOR’s pleaded registered mark for clothing is registered on the Principal Register without resort to Section 2(f). In fact, none of Opposer’s DIOR

⁸³ 26 TTABVUE 15. To the extent that Ms. Hodge testified (17 TTABVUE 21-22, 20 TTABVUE 2-3) that she chose her pseudonym based on the French term “of gold,” or “d’or,” we do not credit that testimony because the terms D’OR and DIOR are not interchangeable, and do not look or sound the same.

⁸⁴ 26 TTABVUE 15.

registrations, pleaded and not pleaded, for clothing and different fashion accessories, include a Section 2(f) claim of acquired distinctiveness.

“Our inquiry into distinctiveness does not end merely because opposer’s mark is on the Principal Register and was registered without resort to a claim of acquired distinctiveness, because distinctiveness for dilution purposes requires that the famous mark be ‘so distinctive that the public would associate the term with the owner of the famous mark even when it encounters the term apart from the owner’s goods or services.’” *NASDAQ Stock Market Inc. v. Antartica S.r.l.*, 2003 TTAB LEXIS 391, *59 (citation omitted). As stated earlier, the fashion designer DIOR is a historical figure with a dictionary entry, and we have testimony and documentation demonstrating that DIOR has remained in the public eye through Opposer’s assiduous promotion through celebrity relationships, and has ranked high in brand strength in a third-party study. In addition, the record is devoid of any third-party registered or common law DIOR marks for clothing items or fashion accessories. In these circumstances, we find that the origin of Opposer’s mark as a surname does not detract from its distinctiveness. “Even if the mark is not viewed as inherently distinctive, we found above that the mark is famous, which necessarily subsumes a finding that the mark has high acquired distinctiveness.” *N.Y. Yankees P’ship*, 114 USPQ2d at 1507.

This factor also weighs in favor of finding dilution by blurring.

3. The extent to which Opposer is engaging in substantially exclusive use of the DIOR mark

We have carefully examined the evidence of third-party use of DIOR and need not repeat it here. We reiterate our conclusion that mere appearance of the letters DIOR in connection with a business on the Internet with no supporting information regarding public awareness of the third-party use is insufficient to demonstrate that Opposer's use of DIOR is not substantially exclusive.

This factor favors finding a likelihood of dilution by blurring.

4. The degree of recognition of the famous DIOR mark

The DIOR mark is widely recognized and has been reported as one of the most valuable brands in the apparel industry.

This factor favors finding a likelihood of dilution by blurring.

5. Whether Applicant intended to create an association with the famous DIOR mark

Opposer's testimony that its famous mark DIOR is recognized as a luxury fashion brand is uncontradicted.⁸⁵ The record shows DIOR is not Applicant's first or middle name, or her surname.⁸⁶ Applicant does not have a license to use Opposer's DIOR mark in connection with her services, or in connection with any goods and services.⁸⁷ Applicant uses GIGI DIOR to promote her services on Instagram, Twitter, and

⁸⁵ Applicant's brief refers to Opposer's "high-priced goods" and their appeal to "wealthy couture consumers." 26 TTABVUE 6-7.

⁸⁶ 17 TTABVUE 35.

⁸⁷ 17 TTABVUE 34.

YouTube.⁸⁸ Applicant admits use of Opposer's DIOR poster as a background to her still photos and videos advertising her services. That is, in response to requests for admission, Applicant admitted promoting GIGI DIOR with adult-themed photographs and videos that depict one or more of the DIOR Marks, including live or recorded images or videos on the platform Chaturbate; admitted promoting GIGI DIOR services with images that depict the DIOR mark on TikTok, Twitter, Instagram (cropped examples shown below); and admitted posting photos to promote GIGI DIOR services that depict the DIOR mark in the photo.⁸⁹



Figure 3 Opposer's DIOR mark on Applicant's X/Twitter account ⁹⁰

⁸⁸ 17 TTABVUE 35.

⁸⁹ 17 TTABVUE 39-40.

⁹⁰ 17 TTABVUE 269.

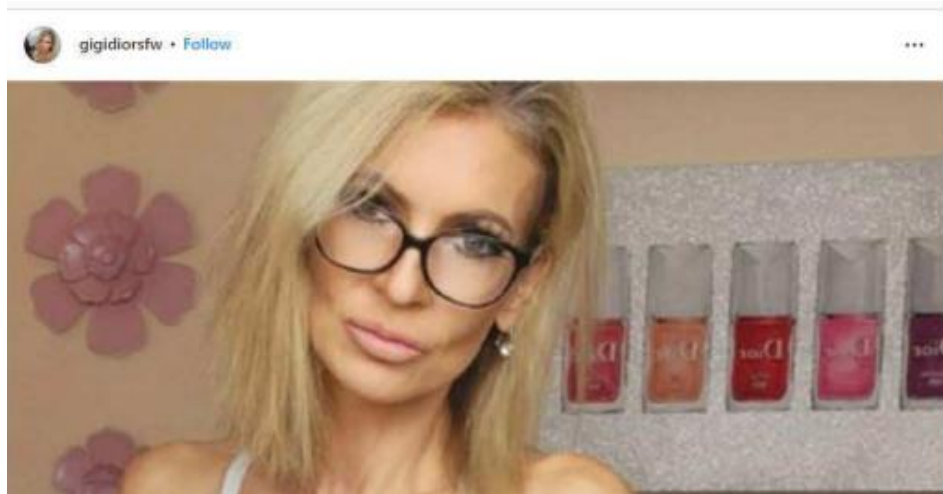


Figure 4 Opposer's DIOR mark on Applicant's Instagram account⁹¹



Figure 5 Opposer's DIOR mark on Applicant's TikTok account⁹²

Applicant's declaration indicates that, "because an adult film industry standard practice is that an outfit, which must typically be provided by the performer at the

⁹¹ 17 TTABVUE 70.

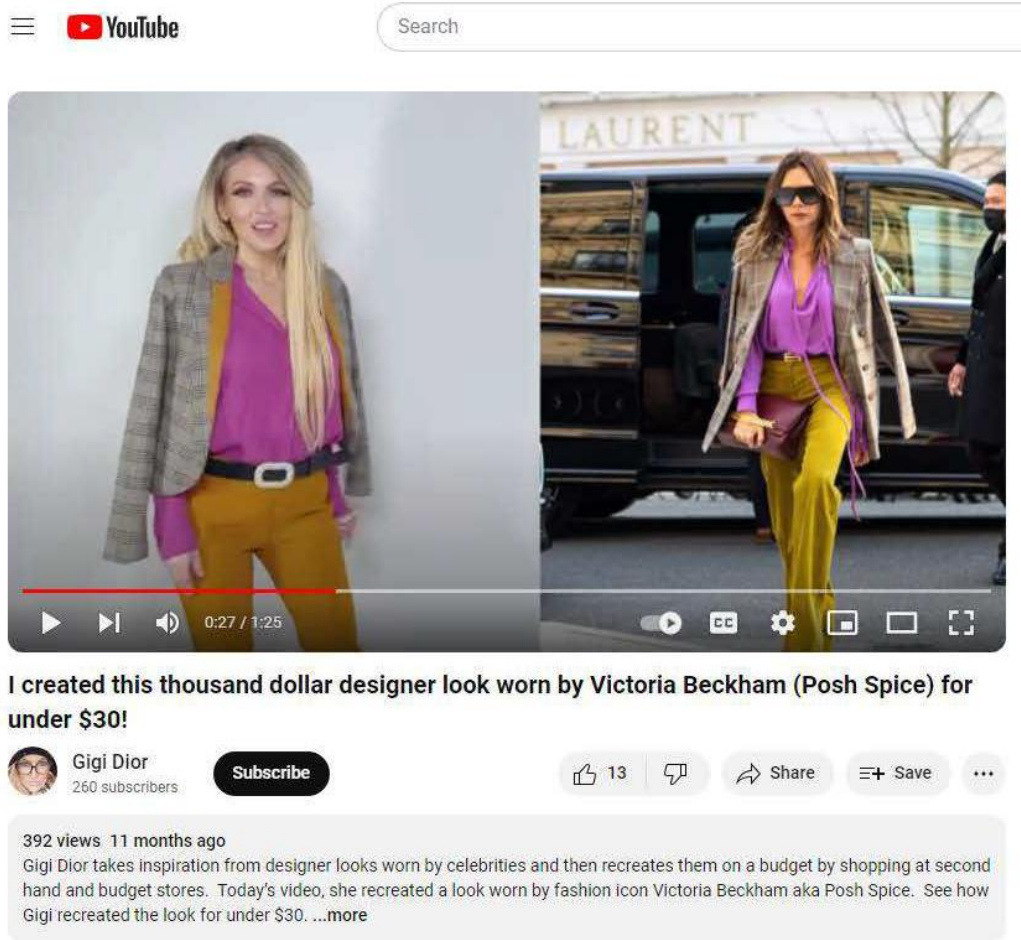
⁹² 17 TTABVUE 77.

performer's expense, can only be worn for one professional shoot and that outfit can never be worn again for another professional shoot," she pays some attention to the visual impact of her services and promotions.⁹³ We find this fact, in conjunction with the admitted repeated use of Opposer's mark in connection with rendering and promoting her services, indicates Applicant intended to create an association with the famous DIOR mark.

To a lesser degree, we also find that Applicant's efforts to expand her services to fashion advice also indicates an intent to create an association with DIOR. In response to the interrogatory asking Applicant to "Identify and describe Applicant's use of 'GIGI DIOR' in connection with YouTube videos referred to or described as 'Fashion on a Budget,'" Applicant listed seven different YouTube videos, and in response to requests for admission admitted announcing her "new project" assembling fashion ideas on a budget on Facebook and Instagram, and directing followers to her YouTube channel and videos in which she recreated celebrity looks and "designer fashion looks," including a Gucci outfit.⁹⁴

⁹³ 20 TTABVUE 4.

⁹⁴ 17 TTABVUE 24, 36-38, 40.



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This factor favors finding a likelihood of dilution by blurring.

6. Any actual association between the GIGI DIOR mark and the famous DIOR mark

There is no record evidence of an actual association between Applicant's use of her GIGI DIOR mark and Opposer's DIOR mark. Opposer is currently unaware of any instance where a member of the general public inquired regarding the relationship between Opposer and Gigi Dior.⁹⁶ The record shows that Opposer has no sponsorship

⁹⁵ 17 TTABVUE 28.

⁹⁶ 31 TTABVUE 18, 29.

agreements or endorsement deals with any pornographic performer, and no actual knowledge of the use of DIOR by pornographic performers, and learned of Applicant when the GIGI DIOR mark was published for opposition.⁹⁷ Opposer has no plans for expansion of its use of the DIOR Marks into personal appearances by a porn star or into providing a web site featuring non-downloadable adult-themed photographs and videos.⁹⁸

Applicant's declaration does not indicate significant commercial activity. That is, Applicant does not provide facts regarding when her use of GIGI DIOR as her pseudonym began, how much money she makes from her services, how much money she uses to promote her GIGI DIOR mark, or how much traffic to her website, social media accounts, or on specialty site featuring adult content occurs. Applicant did aver that her "adult content is primary available on specialty sites featuring only my adult content and other adult content,"⁹⁹ but does not provide any information regarding the scope of this niche market.

This factor is neutral as to a likelihood of dilution by blurring.

7. Conclusion

There is no question that DIOR is a famous mark, that DIOR goods are widely used and recognized by a large percentage of the United States population, and that Opposer's DIOR mark is distinctive. This was the case prior to Applicant's proven

⁹⁷ 31 TTABVUE 17; 31 TTABVUE 29..

⁹⁸ 31 TTABVUE 17; 31 TTABVUE 28.

⁹⁹ 20 TTABVUE 4.

date of first use of its mark. This impairs the distinctiveness of Opposer's previously registered mark. In view thereof, we find dilution by blurring.¹⁰⁰

IV. Decision

The opposition is sustained on the ground of dilution by blurring.

¹⁰⁰ In view of our determination on dilution by blurring, we do not reach the other claims of likelihood of confusion or dilution by tarnishment. *See Weidner Publ'ns, LLC v. D&D Beauty Care Co.*, 2014 TTAB LEXIS 2, *49 (Board, after sustaining opposer's Section 2(d) claim, did not consider opposer's dilution by blurring claim), appeal dismissed per stipulation, No. 14-1461 (Fed. Cir. Oct. 10, 2014); *see also Azeka Bldg. Corp. v. Azeka*, 2017 TTAB LEXIS 123, *4 (Board has "discretion to decide only those claims necessary to enter judgment and dispose of the case" as its "determination of registrability does not require, in every instance, decision on every pleaded claim.").