

This Opinion Is Not a
Precedent of the TTAB

Mailed: September 30, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Airbnb, Inc.

v.

Alan Tillman

Cancellation No. 92083886

Christopher T. Varas and Sara K. Stadler of Kilpatrick Townsend & Stockton LLP
for Airbnb, Inc.

Alan Tillman, pro se.

Before Wellington, Dunn, and English, Administrative Trademark Judges.

Opinion by Dunn, Administrative Trademark Judge:

Alan Tillman (Respondent) owns the Principal Register registration for the mark
COMPLETE BNB (standard characters, BNB disclaimed) for:

Booking of temporary accommodation; Booking of temporary accommodation
via the Internet; Travel agency services, namely, making reservations and
booking for temporary lodging for other travel agencies, travel suppliers, and
corporations, via on-line computer networks; Providing online reservations and
bookings for temporary lodging and accommodations for military families,
soldiers, individuals, business groups, dog-owners, solo travelers, families,” in

International Class 43.¹

Airbnb, Inc. (Petitioner) seeks to cancel the involved registration on the ground of priority and likelihood of confusion under Section 2(d), 15 U.S.C. § 1052(d), based on its mark AIRBNB, the subject of common law use and eight pleaded registrations.² USPTO status and title copies of the pleaded registrations, all for the mark AIRBNB in standard characters, were submitted with the petition to cancel and are summarized below:³

Reg. No. 3890025, renewed	Providing online business directories featuring temporary lodging, in International Class 35
Reg. No. 3890027, renewed	Arranging temporary housing accommodations; Providing online reservation services for temporary lodging; Travel agency services, namely, making reservations and bookings for lodging; Providing temporary lodging information via the Internet, in International Class 43
Reg. No. 3971784, renewed	Computer services in the nature of customized web pages featuring user-defined information, personal profiles and information, in International Class 42

¹ Registration No. 6421453 issued July 13, 2021 from an application filed June 8, 2020 alleging first use anywhere and in commerce at least as early as June 1, 2020.

² 1 TTABVUE 1-8, 90-98. Petitioner also pleaded dilution by blurring under Trademark Act Sections 14(1) and 43(c). However, this claim was not addressed in the brief and is forfeited. *Alcatraz Media, Inc. v. Chesapeake Marine Tours, Inc.*, 2013 TTAB LEXIS 347, at *2, *aff'd*, 565 F. App'x 900 (Fed. Cir. 2014) (mem.).

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 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 legal 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(s) within the entry. References to the subject registration are to the downloadable .pdf version of documents available from the USPTO's TSDR (Trademark Status and Document Retrieval) database.

³ 1 TTABVUE 10-89.

<p>Reg. No. 4289397, renewed</p>	<p>Providing an online interactive website featuring the listing and rental of temporary lodging; Providing online computer database and online searchable databases featuring information, listings and announcements about housing, apartments, condominiums, townhouses, real estate, and rental and leasing advertisements for the foregoing; Real estate listing, rental and leasing services for residential housing, apartments, rooms in homes, sublets, vacation homes, cabins and villas on a global computer network; Providing reviews and feedback about listers and renters of real estate, in International Class 36</p> <p>Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking featuring the rental and listing of real estate, in International Class 42</p> <p>On-line social networking services, in International Class 45</p>
<p>Reg. No. 4329542, renewed</p>	<p>Online trip and travel recommendations and reservation services; Providing travel information over global computer networks, namely, providing search services for travel listings, travel information and related topics and for making reservations and bookings for transportation; Providing reviews and recommendations of local attractions via a global computer network, in International Class 39</p> <p>Providing travel information over global computer networks, namely, providing search services for travel listings, travel information and related topics and for making reservations and bookings for lodging, in International Class 43</p>
<p>Reg. No. 4385613, Sec. 8 accepted</p>	<p>Providing an online interactive website obtaining users comments concerning business organizations, service providers, and travel and social activities; Providing information, namely, compilations, rankings, ratings, reviews, referrals and recommendations relating to business organizations, service providers, and travel and social activities using a global computer network; Advertising and promotion services and related consulting; dissemination of advertising for others via a global communications network; online advertising services for others, namely, providing advertising space on internet web sites; Providing a searchable online advertising guide featuring the goods and services of online vendors; providing a searchable online evaluation database for buyers and sellers; promoting the goods and services of others; advertising and advertisement services; advertising and information distribution services, namely, providing classified advertising space via the global computer network; providing consumer product and service information via the Internet; providing</p>

	<p>an online business information directory on the Internet; providing on-line computer databases and on-line searchable databases featuring classified listings; computer services, namely, providing on-line computer databases and on-line searchable databases featuring consumer information on a wide variety of topics of general interest to the consuming public, in International Class 35</p>
<p>Reg. No. 4884815, Sec. 8 accepted</p>	<p>Vacation real estate listing services and providing such services via a global computer network; Real estate listing services, namely, providing an interactive website and online database of rental properties, rental information, rental property descriptions and images, rental locations and amenities, availability and rates for vacation rental homes, condominiums, cabins, villa, apartments, and time-shares; Real estate services, namely, arranging of rental agreements for real estate for others by through a website where users can post and receive requests to rent short-term houses, condos, and apartments, in International Class 36</p> <p>Providing a website for the arrangement and booking of travel tours and excursions; Providing a website featuring travel information and commentary; Providing an online searchable computer database featuring information on travel; Providing reviews of travel service providers; Travel guide and travel information services; Travel agency services, namely, making reservations and bookings for transportation, excursions, travel tours and travel, in International Class 39</p> <p>Providing online reservation, booking and search services for temporary lodging, temporary accommodations and temporary vacation rentals; Providing an online interactive website featuring temporary lodging, temporary accommodations, temporary vacation rentals and temporary rental listings; Providing a website featuring information in the field of temporary lodging, temporary accommodations and temporary vacation rentals; Travel agency services, namely, making reservations and bookings for temporary lodging, temporary accommodations and temporary vacation rentals; Providing rental information for temporary lodging, temporary accommodations and temporary vacation rentals, namely, property descriptions and images, reviews, locations and amenities, availability and rates for temporary lodging, temporary accommodations and temporary vacation rentals, in International Class 43</p>
<p>Reg. No. 4983513, Sec. 8 accepted</p>	<p>Computer application messaging software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to communicate with each other; computer application software for mobile phones, portable</p>

	<p>media players, handheld computers and related mobile devices, namely, software that allows messaging among guests of lodging accommodations owned and hosted by others and among the hosts who list lodging accommodations for rent; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to plan, announce, invite others to attend and evaluate real world meetings and events; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to solicit each other to perform a wide range of personal and customized services, personalized travel, itinerary and private tour and activity services; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to arrange for the remote exchange of keys to lodgings, homes and for locking and unlocking lodgings homes computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software management tools to permit users to manage, organize, calendar and share with others travel bookings, activity dates, photographs, opinions and preferences; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software management tools to permit users to arrange for temporary lodging check-in help; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that permits listers of goods, real property and services for rent or sale to receive suggested improvements to their listing advertisements; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that permits listers of goods, real property and services for rent or sale to arrange for professional photographs of the listed goods, property and services; computer application software for mobile phones, portable media players, handheld computers and related mobile devices; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software to facilitate the sale of goods and services by others via a computer network and to provide evaluative feedback and ratings of sellers' goods and services, the value and prices of sellers' goods and services, buyers' and sellers' performance, delivery, and overall trading experience in connection therewith; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to list and rent temporary lodging, access</p>
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	<p>information, listings and announcements about housing, apartments, condominiums, townhouses, real estate and rental and leasing advertisements for the foregoing; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to provide reviews and feedback about listers and renters of real estate, temporary lodging, transportation, and temporary parking; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to make and receive payments for the rental, purchase and sale of goods and services; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to search for travel, transportation, temporary accommodation, and temporary vehicle parking listings, travel information and related topics and for making reservations and bookings for transportation, temporary accommodations, and temporary parking; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to provide travel reviews and recommendations for local attractions; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows vehicle owners and users to list, computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to list, arrange and reserve temporary parking of vehicles at residences; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to list temporary parking; computer application software for mobile phones, portable media players, handheld computers and related mobile devices, namely, software that allows users to engage in social networking featuring travel, transportation, temporary lodging, temporary parking and the rental and listing of real estate, in International Class 9</p>
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Respondent's answer denied the salient allegations of the petition to cancel.⁴

⁴ 8 TTABVue. Respondent's answer also pleaded various affirmative defenses. However, Respondent offered no evidence in support of these defenses and they warrant no further consideration.

Petitioner filed a trial brief, Respondent did not.

For the reasons discussed below, we deny the petition to cancel.

I. The Record

The record includes the pleadings and, pursuant to Trademark Rule 2.122(b), 37 CFR § 2.122(b), the file history of Respondent's subject registration.

Testimony filed by Petitioner:

- Declaration of Rebecca Williams, Petitioner's Director of Business Affairs, accompanied by excerpts from Petitioner's website and Instagram account, and Petitioner's 2023 and 2022 annual SEC filings;⁵
- Declaration of Hal Poret, survey researcher and consultant, accompanied by his March 2021 survey on the extent to which the AIRBNB mark is famous in connection with rental property reservation services, and his June 24, 2024 survey on whether the COMPLETE BNB mark is likely to cause confusion with respect to Airbnb and its AIRBNB marks;⁶
- Declaration of Phillip M. Carter, professor of linguistics, accompanied by his report on the term BNB and exhibits;⁷
- Declaration of Attorney Christopher Varas accompanied by excerpts from Respondent's and Petitioner's websites;⁸

Petitioner's notices of reliance on:

- Certified copies and TSDR printouts showing current status and title of Petitioner's pleaded registrations;⁹
- TTABVUE printouts of USPTO records of Board proceedings involving Petitioner;¹⁰

⁵ 13 TTABVUE 438-847.

⁶ 13 TTABVUE 2-130; 132- 297.

⁷ 13 TTABVUE 298-416.

⁸ 13 TTABVUE 417-437.

⁹ 12 TTABVUE 10-93. As set forth above, TSDR printouts for these registrations were attached to the petition to cancel, making this evidence redundant. 1 TTABVUE.

¹⁰ 12 TTABVUE 94-327.

- Internet materials, namely June 21, 2021 online article “Short Term Rental Lingo for Beginners” from a third-party website;¹¹
- Respondent’s discovery responses;¹²
- Printouts from Respondent’s website.¹³

Respondent did not take any testimony or file a notice of reliance.

II. Entitlement to a Statutory Cause of Action

To establish statutory entitlement to oppose, Petitioner 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). Petitioner’s ownership of the pleaded registrations, and submission of copies showing their current status and title,¹⁴ support its plausible likelihood of confusion claim against the involved registration, and show its real interest in this proceeding and a reasonable basis for its belief of damage. *Coach Servs. v. Triumph Learning LLC*, 668 F.3d 1356, 1377 (Fed. Cir. 2012).

Petitioner has established its statutory entitlement to bring this cancellation.

III. Trademark Act Section 2(d) Claim

Under Section 2(d) of the Trademark Act, a mark may not be registered if it “consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with

¹¹ 12 TTABVUE 328-334.

¹² 12 TTABVUE 339-386.

¹³ 12 TTABVUE 387-553.

¹⁴ 12 TTABVUE 10-93.

the goods of the Respondent, to cause confusion” 15 U.S.C. § 1052(d). As the plaintiff in this proceeding, Petitioner bears the burden of proof. *Bose Corp. v. QSC Audio Prods.*, 293 F.3d 1367, 1370 (Fed. Cir. 2002); *see also Cerveceria Centroamericana S.A. v. Cerveceria India Inc.*, 892 F.2d 1021, 1023 (Fed. Cir. 1989) (“Because a trademark owner’s certificate of registration is ‘prima facie evidence of the validity of the registration’ and continued use of the registered mark, the burden of proof is placed upon those who seek cancellation.”) (internal citations omitted).

A. Priority

“In a cancellation proceeding such as this one where both parties own registrations, priority is in issue.” *Sabhnani v. Mirage Brands, LLC*, 2021 TTAB LEXIS 464, *19 (citation omitted). “A petitioner seeking cancellation on [the ground of likelihood of confusion] bears the burden of proving the alleged prior use by a preponderance of the evidence.” *Metro Traffic Control, Inc. v. Shadow Network Inc.*, 104 F.3d 336, 337 (Fed. Cir. 1997). “To establish priority, the petitioner must show proprietary rights in the mark that produce a likelihood of confusion.” *Herbko Int’l Inc. v. Kappa Books Inc.*, 308 F.3d 1156, 1162 (Fed. Cir. 2002).

Trademark Act Section 7(c) provides, in pertinent part, that “the filing of the application to register [a] mark shall constitute constructive use of the mark, conferring a right of priority, nationwide in effect, on or in connection with the goods or services specified...”. 15 U.S.C. § 1057(c). The applications that matured into Petitioner’s pleaded registrations each have a filing date before Respondent’s June 8, 2020 constructive use priority date.

Petitioner has established its priority for each of its registered marks for the services identified in the registrations, including Registration No. 3890027.¹⁵

B. Likelihood of Confusion

Our determination of the issue of likelihood of confusion is based on an analysis of all the probative facts in evidence relevant to the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973)(*DuPont*). “Not all of the *DuPont* factors are relevant to every case,” and we consider each *DuPont* factor for which there are arguments and evidence. *Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1372 (Fed. Cir. 2018). In this case, our analysis centers on the relatedness of the services and the channels of trade, the strength of Petitioner’s mark, the similarity between the marks, and survey results directed to a likelihood of confusion. As detailed below, we conclude that a likelihood of confusion has not been established.

While Petitioner pleaded ownership of several registrations, we focus our analysis on Petitioner’s Registration No. 3890027 for the standard character mark AIRBNB for “Arranging temporary housing accommodations; Providing online reservation services for temporary lodging; Travel agency services, namely, making reservations and bookings for lodging; Providing temporary lodging information via the Internet.” All the pleaded registrations involve the identical standard character mark AIRBNB, and the services in Registration No. 3890027, as we find below, are identical to Respondent’s services. If we do not find a likelihood of confusion with respect to this

¹⁵ Petitioner did not prove by a preponderance of the evidence prior common law rights in its mark AIRBNB for any services other than those identified in its pleaded registrations.

mark and these services, then there would be no likelihood of confusion with the marks and services in Petitioner's other registrations. *See In re Max Cap. Grp. Ltd.*, 2010 TTAB LEXIS 1, at *5.¹⁶

1. Relationship Between the Services and the Channels of Trade

We begin with *DuPont* factors two and three regarding the similarity or dissimilarity of the parties' respective services and their trade channels. *DuPont*, 476 F.2d at 1361. With both of these factors, our determination must be based on the recitation of services in Petitioner's registration and the subject registration. *See Stone Lion Cap. Partners, LP v. Lion Cap. LLP*, 746 F.3d 1317, 1324 (Fed. Cir. 2014) ("[T]he services recited in the application determine the scope of the post-grant benefit of registration.").

Because "arrange" is a broad term defined as "to prepare or plan,"¹⁷ Petitioner's services "arranging temporary housing accommodations" encompass Respondent's more specific "booking of temporary accommodation" and "booking of temporary accommodation via the Internet." *See In re Fiesta Palms LLC*, 2007 TTAB LEXIS 51,

¹⁶ As will be discussed, Petitioner's fame survey focuses on "finding, listing, and reserving rental properties, either for vacation, travel, or other purposes," and these services align more closely with Petitioner's services in pleaded Registration Nos. 4289397 and 4884815. However, even if considered inherently related to the services in Respondent's registration, as we explain in connection with the fame survey, any greater weight in that one factor would not alter the balance of factors, or our conclusion on likelihood of confusion.

¹⁷ COLLINS DICTIONARY (American English) (<https://www.collinsdictionary.com/us/dictionary/english/arrange> (accessed Sep. 23, 2025)). The Board may take judicial notice of dictionary definitions, including online dictionaries that exist in printed format or have regular fixed editions. *In re Cordua Rests. LP*, 2014 TTAB LEXIS 94, at *6 n.4, *aff'd*, 823 F.3d 594 (Fed. Cir. 2016).

at *3 (“Inasmuch as we do not read limitations into applicant's identification of services, its casino services would include all types of casino services including [registrant's] casino services offered to preferred customers identified by special identification cards.). Similarly, because Petitioner's “providing online reservation services for temporary lodging” and “providing temporary lodging information via the Internet” are unrestricted as to prospective customers, they encompass Respondent's more specific “providing online reservations and bookings for temporary lodging and accommodations for military families, soldiers, individuals, business groups, dog-owners, solo travelers, families.” Finally, Petitioner's “travel agency services, namely, making reservations and bookings for lodging” include Respondent's more specific “travel agency services, namely, making reservations and booking for temporary lodging for other travel agencies, travel suppliers, and corporations, via on-line computer networks.” Accordingly, we find that the services are identical.

As to trade channels, because there are no limitations on trade channels in the pleaded registrations, we must presume that the identical services travel in the same channels of trade. That is, to the extent that some of Respondent's services travel in trade channels to “military families, soldiers, individuals, business groups, dog-owners, solo travelers, families” and “other travel agencies, travel suppliers, and corporations,” Petitioner's unrestricted services include those trade channels. *See Cai v. Diamond Hong*, 901 F.3d at 1372 (“[T]he TTAB properly followed our case law and ‘presume[d] that the identical goods move in the same channels of trade and are

available to the same classes of customers for such goods”). We find the ordinary channels of trade for Respondent’s and Petitioner’s services overlap.

In sum, *DuPont* factors two and three weigh in favor of finding a likelihood of confusion.

2. Strength of Petitioner’s Mark

Before we compare the marks, we consider the strength of Petitioner’s AIRBNB mark and the scope of protection to which it is entitled. *Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023). The fifth *DuPont* factor enables Petitioner to prove that its pleaded mark is entitled to an expanded scope of protection by adducing evidence of “[t]he fame of the prior mark (sales, advertising, length of use).” *DuPont*, 476 F.2d at 1361.¹⁸ “[T]he strength of a mark is not a binary factor, but varies along a spectrum from very strong to very weak.” *In re Coors Brewing Co.*, 343 F.3d 1340, 1345 (Fed. Cir. 2003).

We first address conceptual strength, or where the mark falls on the distinctiveness spectrum. *In re N.C. Lottery*, 866 F.3d 1363, 1366 (Fed. Cir. 2017) (“there are four categories of trademarks [generic, merely descriptive, suggestive, and arbitrary (or fanciful)] that lie along a spectrum”) (citation omitted). The term AIRBNB does not appear in the dictionary,¹⁹ and Petitioner’s pleaded registrations

¹⁸ The sixth *DuPont* factor allows Respondent to contract that scope of protection by adducing evidence of “[t]he number and nature of similar marks in use on similar [services].” Contrary to Petitioner’s argument (14 TTABVue 39-40), the absence of evidence on this factor does not favor Petitioner but makes the factor neutral in our analysis.

¹⁹ In our comparison of the marks, we will address whether AIRBNB would be recognized as combining the word AIR and the initialism BNB. This factor addresses only the evidence of the strength of the mark as a whole.

for AIRBNB marks are on the Principal Register, without a claim of acquired distinctiveness, so the mark is presumed to be inherently distinctive for the services for which it is registered. Trademark Act Section 7(b), 15 U.S.C. § 1057(b); *Brooklyn Brewery Corp. v. Brooklyn Brew Shop, LLC*, 17 F.4th 129, 147 n.7 (Fed. Cir. 2021) (noting the presumption that a registered mark is distinctive).

With respect to the commercial strength, or fame, of the AIRBNB mark, we assess “the extent to which the relevant public recognizes a mark as denoting a single source.” *Joseph Phelps Vineyards, LLC v. Fairmont Holdings, LLC*, 857 F.3d 1323, 1324-1325 (Fed. Cir. 2017). Petitioner identifies the relevant consumer as “the general consuming public,”²⁰ and we agree. The general public may require need of temporary housing accommodations, not limited to those who travel for business or pleasure, but including those whose regular housing accommodations are temporarily unavailable. In particular, we note that Petitioner’s registered services are not offered exclusively online and so we must presume that they compete with traditional brick-and-mortar businesses “arranging temporary housing accommodations” and “travel agency services, namely, making reservations and bookings for lodging,” as well as “providing online reservation services for temporary lodging and providing temporary lodging information via the Internet.”²¹

²⁰ 14 TTABVUE 7.

²¹ In fact, Petitioner’s annual SEC filing for 2023 states “our competitors include ... Hotel chains, such as Marriott, Hilton, Accor, Wyndham, InterContinental, OYO, and Huazhu, as well as boutique hotel chains and independent hotels. [and] Property management companies, such as Vacasa, Sonder, Inspirato, Evolve, Awaze, and other regional property management companies.” 13 TTABVUE 465.

Likelihood of confusion commercial strength, or fame, “varies along a spectrum from very strong to very weak.” *Id.* at 1325 (citation omitted). “[T]he Lanham Act’s tolerance for similarity between competing marks varies inversely with the fame of the prior mark. As a mark’s fame increases, the Act’s tolerance for similarities in competing marks falls.” *Kenner Parker Toys, Inc. v. Rose Art Indus.*, 963 F.2d 350, 353 (Fed. Cir. 1992) (finding the Board erred in discounting the import of Kenner’s famous prior mark). Commercial strength, or fame, may be measured by consumer polls, and indirectly “by the volume of sales and advertising expenditures of the [services] traveling under the mark, and by the length of time those indicia of commercial awareness have been evident.” *Omaha Steaks Int’l, Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 1319 (Fed. Cir. 2018) (quoting *Bose Corp. v. QSC Audio Prods.*, 293 F.3d 1367, 1371 (Fed. Cir. 2002) (internal citations omitted)). Commercial strength may also be measured by “widespread critical assessments; notice by independent sources of the goods or services identified by the marks; the general reputation of the goods or services; and social media presence.” *See Heil Co. v. Tripleye GmbH*, 2024 TTAB LEXIS 494, at *51.

To prove the commercial strength of its AIRBNB mark, Petitioner relies on its enforcement efforts and a survey.²² More specifically, Petitioner contends “Airbnb has successfully opposed registration of numerous marks incorporating Airbnb’s distinctive BNB suffix,” and in support provides copies of USPTO records of

²² 14 TTABVUE 31-33.

proceedings involving Petitioner and third-party marks.²³ While the records show Petitioner's enforcement efforts via filing oppositions, the oppositions generally do not involve findings that the term BNB is distinctive as applied to Petitioner's services of arranging temporary housing accommodation services.

These records include an order granting summary judgment (SEABNB) and a final decision following trial (TREEBNB).²⁴ The remainder of the oppositions do not involve a decision on the merits but were sustained by default judgment (VR-BNB, SHARPBNB, THE ARTBNB, BNB CLASS:SIMPLIFIED, CARBNB, LIMITLESSBNB, 420BNB, PETBNB, BNB BOSS, PINESBNB), as a discovery sanction (MAILBNB), or following the applicants' withdrawal or abandonment of the application (BAGBNB, SUITESBNB.COM, @HOMEBNB, GRADBNB, CAREBNB, THE REAL BNB SHORT TERM RENTAL, FURBNB, CLTBNB, TALLYBNB).²⁵ While the successful oppositions demonstrate Petitioner's efforts to protect its AIRBNB mark, they are not particularly probative of whether AIRBNB is famous. *See Omaha Steaks Int'l, Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 1323 (Fed. Cir. 2018) ("But, the mere fact that lawsuits were filed is not reasonably probative of the fame inquiry, which is focused on whether the mark has achieved 'extensive

²³ 12 TTABVUE 94-327.

²⁴ 12 TTABVUE 101-121, 179-198. The decision granting summary judgment issued against a pro se party (SEABNB) against whom admissions were deemed admitted for failure to respond. The final decision issued in a case involving a party (TREEBNB) who filed neither evidence nor brief and, unlike in the instant case, the Board found "there is no evidence in the record to support a finding that BNB is not distinctive." 12 TTABVUE 191. We are not bound by prior decisions decided on different records.

²⁵ 12 TTABVUE 127, 133, 139, 153, 160, 166, 205, 211, 218, 224, 230, 237, 243, 250, 255, 262, 269, 274, 287, 294.

public recognition and renown,’ not on enforcement efforts.”) (internal citation omitted); *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.”).²⁶

We turn then to the results of Petitioner’s March 2021 survey, conducted online with 300 participants representing the general U.S. consuming public, to measure the extent to which the AIRBNB mark is famous in connection with “finding, listing, and reserving rental properties, either for vacation, travel, or other purposes.”²⁷ Participants were screened to identify those who work in “rental property management” and then to choose from eight businesses (Airbnb, Luxbnb, Expedia, Orbitz, Kayak, VRBO, Flipkey, Vacasa) as many as applied to them.²⁸

As part of the survey, participants were first asked to list all companies, websites, or mobile apps that they are aware of that offer “finding, listing, and reserving rental

²⁶ Petitioner also provided TTABVUE records showing applications for the following marks were abandoned following Petitioner’s filing of an extension of time to oppose: HAIRBNB, SMARTBNB, MBNB, COHOBNN, SOUNDBNB. 12 TTABVUE 301-326.

²⁷ 13 TTABVUE 2-130. The survey was conducted by Hal L. Poret of Hal Poret, LLC. We find that based on the evidence of his experience, education, and training, Mr. Poret is qualified to offer his expert opinion, based on his survey, regarding the fame of the AIRBNB mark for purposes of assessing likelihood of confusion.

Because Respondent is a party to this proceeding, where Mr. Poret refers to a “respondent” to his survey, we substitute “participant.”

²⁸ 13 TTABVUE 17. As is custom in such surveys, the screening also sought to identify those who work in advertising and market research.

properties, either for vacation, travel, or other purposes.”²⁹ The results show 32.7% of all participants named AIRBNB, unaided, and this was the top response, with ZILLOW at 12% being the next most frequently named.³⁰ When shown the AIRBNB word mark (of choices including VRBO, VACASA, WIMDU, 9FLATS, MYSTAY, and the fictitious name TROUBA, used as a control), 90.3% of participants answered that they had seen or heard of AIRBNB. The next most frequently recognized mark was VRBO at 40%. Based on the survey results, Mr. Poret concludes that “the AIRBNB word mark is famous.” The survey and Mr. Poret’s findings stand unrebutted.

While we concur that the survey demonstrates the significant commercial strength of the mark AIRBNB, we find it falls short of fame for Petitioner’s registered services “arranging temporary housing accommodations; providing online reservation services for temporary lodging; travel agency services, namely, making reservations and bookings for lodging; providing temporary lodging information via the Internet.”

The survey is four years old. And while ostensibly directed to the general public, including those seeking temporary housing from non-online or brick and mortar sources, the screening questions and suggested responses focus exclusively on online platforms, and make no mention of, for example, hotels, a source of temporary housing identified by Petitioner as its competition. As will be discussed, the more

²⁹ 13 TTABVUE 9-10. To be clear, we find that “finding, listing, and reserving rental properties, either for vacation, travel, or other purposes” is a service within the scope of the services offered by both Petitioner and Respondent.

³⁰ 13 TTABVUE 14.

recent likelihood of confusion survey identifies Petitioner's services as "booking or making reservations for temporary lodging and accommodations" but the fame survey participants were asked about "finding, listing, and reserving rental properties, either for vacation, travel, or other purposes." The elimination of the term "temporary" and the substitution of "rental properties" for "housing and lodging" indicate a narrower range of services.³¹ Finally, the survey and its conclusion of fame for the services listed in the pleaded registration is essentially uncorroborated. The declaration of Ms. Williams, Petitioner's Director of Business Affairs, is scant, and the most relevant testimony regarding fame avers:³²

Airbnb is the owner of the AIRBNB brand, known worldwide as identifying a community marketplace in which people can list, view, and book unique accommodations and experiences around the world through its people-powered hospitality service offered on its website at www.airbnb.com and through its mobile app.

The declaration does not provide any supporting indicia of fame such as sales and advertising expenditures,³³ the length and breadth of use, the extent of social media

³¹ This difference is borne out by Zillow, the online real estate marketplace, being the second result in the responses.

We acknowledge that the survey results focused on rental properties would weigh somewhat more heavily for the services in pleaded Registration Nos. 4289397 ("real estate listing, rental and leasing services for residential housing, apartments, rooms in homes, sublets, vacation homes, cabins and villas on a global computer network) and 4884815 ("real estate services, namely, arranging of rental agreements for real estate for others by through a website where users can post and receive requests to rent short-term houses, condos, and apartments"). However, the other deficiencies in the survey, and the fame showing generally, would apply to the services in these registrations. That is, an analysis focused on these registrations would still find the strength short of fame.

³² 13 TTABVue 438.

³³ While some of those numbers are available from the SEC annual filings, it remains notable that neither the testimony nor the brief directs us to those numbers.

presence, or whether Petitioner has received unsolicited media attention. While none of this is required, where we find the facts established by the survey do not square up exactly with the rights described by the registration, we give the survey less weight.

Based on the entirety of the record, we find that AIRBNB is on the strong side of the distinctiveness spectrum, and entitled to a broad scope of protection against confusingly similar marks. We find *DuPont* factor five favors a likelihood of confusion.³⁴

3. Similarity or Dissimilarity of the Marks

The first *DuPont* factor requires consideration of “[t]he similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.” *DuPont*, 476 F.2d at 1361. The proper test regarding similarity “is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that persons who encounter the marks would be likely to assume a connection between the parties.” *Coach Servs.*, 668 F.3d at 1368 (internal quotation marks and citation omitted).

Here, the marks are AIRBNB and COMPLETE BNB. We find the marks combine different distinctive terms followed by the same highly descriptive acronym. Petitioner’s use of one term where Respondent uses two would not prevent

³⁴ Were we to find that the fame of AIRBNB in connection with services “finding, listing, and reserving rental properties, either for vacation, travel, or other purposes” as demonstrated by the survey extended to Petitioner’s broader services “arranging temporary housing accommodations; providing online reservation services for temporary lodging; travel agency services, namely, making reservations and bookings for lodging; providing temporary lodging information via the Internet,” and weigh that factor more heavily, it still would not outweigh our findings regarding the dissimilarity of the marks or alter the outcome of this cancellation.

Petitioner's mark AIRBNB being readily recognized as combining AIR and BNB. *See Seaguard Corp. v. Seaward Int'l, Inc.*, 1984 TTAB LEXIS 75, at *10 (“[T]he marks ‘SEAGUARD and ‘SEA GUARD’ are, in contemplation of law, identical.”); *In re Best W. Family Steak House, Inc.*, 1984 TTAB LEXIS 173, at *1 (“There can be little doubt that the marks [BEEFMASTER and BEEF MASTER] are practically identical”).

The record includes the following entry from an online reference source, the Acronym Finder, frequently relied upon by the Board:

BNB stands for Bed 'N Breakfast ³⁵

In re BetaBatt Inc., 2008 TTAB LEXIS 59, at *11 (“The Examining Attorney has made of record sufficient exhibits, including, but not limited to, the entry from the Acronym Finder, showing the use of DEC to reference the term ‘direct energy conversion.’”).³⁶

As further support for our finding as to which terms are distinctive and which are descriptive, we take judicial notice of the following definitions:³⁷

³⁵ Application file for subject Registration No. 6421453, September 11, 2020 Office Action TSDR 3.

³⁶ *See also In re Ala. Tourism Dep't*, 2020 TTAB LEXIS 191, at *15 n.18; *RxD Media, LLC v. IP Application Dev. LLC*, 2018 TTAB LEXIS 37, at *36 n.60; *In re Tapco Int'l Corp.*, 2017 TTAB LEXIS 126, at *15 n.13; *In re Hitachi High-Techs. Corp.*, 2014 TTAB LEXIS 32, at *14 n.16; *In re AOP LLC*, 2013 TTAB LEXIS 344, at *4; *Baroness Small Estates, Inc. v. Am. Wine Trade, Inc.*, 2012 TTAB LEXIS 335, at *16; *In re E5 LLC*, 2012 TTAB LEXIS 267, at *5; *In re Thomas Nelson, Inc.*, 2011 TTAB LEXIS 9, at *15-16; *In re Petroglyph Games, Inc.*, 2009 TTAB LEXIS 465, at *19-20; *In re IP Carrier Consulting Grp.*, 2007 TTAB LEXIS 66, at *5; *In re Fiesta Palms, LLC*, 2007 TTAB LEXIS 51, at *5; *In re Finisar Corp.*, 2006 TTAB LEXIS 57, at *4; *In re Microsoft Corp.*, 2003 TTAB LEXIS 442, at *4; *In re Zanova, Inc.*, 2001 TTAB LEXIS 340, at *7; *In re Styleclick.com Inc.*, 2000 TTAB LEXIS 721, at *6.

³⁷ All definitions from Collins English dictionary (American English), accessed Sep. 25, 2025.

<https://www.collinsdictionary.com/dictionary/english/air>

<https://www.collinsdictionary.com/dictionary/english/complete>

<https://www.collinsdictionary.com/dictionary/english/bed-and-breakfast>

AIR

the elastic, invisible mixture of gases (chiefly nitrogen and oxygen, as well as hydrogen, carbon dioxide, argon, neon, helium, etc.) that surrounds the earth; atmosphere

COMPLETE

lacking no component part; full; whole; entire

BED-AND-BREAKFAST

an accommodation offered by an inn, hotel, or esp. a private home, consisting of a room for the night and breakfast the next morning for one inclusive price
Abbreviation: B&B. Also: bed and breakfast

B&B

a system of accommodation in a hotel or guest house, in which you pay for a room for the night and for breakfast the following morning. B&B is an abbreviation for 'bed and breakfast.'

AMPERSAND

a character or symbol (&) for and

'N

and

The Board and its primary reviewing court regularly rely on dictionary definitions to assess the common understanding of terms. *See Stratus Networks, Inc. v. UBTA-UBET Commc'ns Inc.*, 955 F.3d 994, 996 (Fed. Cir. 2020) ("The Board relied on dictionary definitions of the terms 'stratus' and 'strata' to evaluate similarities in the connotation of each mark."); *Bourns, Inc. v. Gen. Scientific Corp.*, 361 F.2d 482, 483 (CCPA 1966). ("The dictionaries which are available to us do not indicate that the terms 'quick' and 'easy' are synonyms or even have similar suggestive connotations.");

<https://www.collinsdictionary.com/dictionary/english/bandb>

<https://www.collinsdictionary.com/dictionary/english/ampersand>

<https://www.collinsdictionary.com/dictionary/english/n>

TPI Holdings, Inc. v. TrailerTrader.com, LLC, 2018 TTAB LEXIS 121, *44 (“Respondent relies on various definitions of the term, including ‘a person who trades; a merchant or businessman,’ and contends that the ‘average purchaser would be well aware that the term ‘trader’ is used in connection with buying and selling something’.”).

In addition, because “the services include bookings of temporary accommodation which include bed ‘n breakfasts,” the Examining Attorney required Respondent to disclaim the descriptive term BNB.³⁸ *See In re DNI Holdings Ltd.*, 2005 TTAB LEXIS 515, at *25 (“[I]t has long been held that the disclaimer of a term constitutes an admission of the merely descriptive nature of that term, as applied to the goods or services in connection with which it is registered, and an acknowledgment of the lack of an exclusive right therein at the time of the disclaimer”). *See also Quaker State Oil Refin. Corp. v. Quaker Oil Corp.*, 453 F.2d 1296, 1299 (CCPA 1972) (“when [appellant] disclaimed said term [SUPER BLEND] in applications for registrations of compound marks, it again admitted the merely descriptive nature of the mark”).³⁹

³⁸ Application file for subject Registration No. 6421453, September 11, 2020 Office Action TSDR 1.

³⁹ Respondent’s disclaimer of BNB does not stand alone. Petitioner submitted, and we considered as part of our assessment of the consumer perception of the AIRBNB mark, excerpts from opposition proceedings that Petitioner brought against third-party trademark applications for marks which include the term BNB. While most of the marks in the third-party applications used BNB as a part of a compound term (like Petitioner), in all of the third-party applications in which BNB was separable, it was disclaimed:

@HOME BNB for, among other services, “Advertising; business management; business administration; providing office functions; price comparison services in relation to prices for short and mid term rentals of homes, flats, apartments, peer to peer rentals, hostels, and bed and breakfast accommodations;”

Based on this evidence, we find the first term AIR in Petitioner's mark AIRBNB is arbitrary as applied to reservation services for temporary accommodations. *See Nautilus Grp., Inc. v. Icon Health & Fitness, Inc.*, 372 F.3d 1330, 1340 (Fed. Cir. 2004) ("An arbitrary mark is a "known word used in an unexpected or uncommon way."). Petitioner's explanation "Airbnb's AIRBNB word mark is a coined term inspired by the fact that the company's founders once rented out a room with three airbeds in their apartment to make extra money, adding free breakfast as a perk"⁴⁰ is not to the contrary. Petitioner nowhere argues that AIR in its mark would be perceived as short for "AIRBED," and its "origin story" admits its current services originated in offering bed-and-breakfast services, albeit on a modest scale with airbeds rather than conventional beds.

We find the first term COMPLETE in Respondent's mark COMPLETE BNB is suggestive as applied to reservation services for temporary accommodations as it suggests generally that there will be nothing lacking in the services. Respondent's affirmative defense stating its services focus on "comprehensive property management" and its discovery response stating that it desires to be a "full service

BNB CLASS: SIMPLIFIED for "Continuing education services, namely, providing live and on-line continuing professional education seminars in the legal, medical, accounting, and real estate fields;"

BNB FORMULA for, among other services, "Education services, namely, providing courses, online non-downloadable videos in the field of real estate;" and

BNB BOSS for, among other services, "Entertainment services, namely, providing podcasts in the fields of the acquisition, management, promotion, and growth of short-term rental units, bed-and-breakfasts, and hotels."

¹² TTABVUE 173, 225, 244, and 275.

⁴⁰ ¹⁴ TTABVUE 29.

management company” are not admissions that the phrase COMPLETE BNB is merely descriptive.⁴¹ Petitioner’s argument that COMPLETE is “obviously” descriptive of Respondent’s services is otherwise unsupported.⁴²

Based on the record and definitions, we find the common second term BNB in the marks AIRBNB and COMPLETE BNB is descriptive as applied to reservation services for temporary housing accommodations because it describes a subject of the reservation services, a type of temporary housing accommodation, namely a bed-and-breakfast.

In opposition, Petitioner makes three arguments we find unconvincing:

For purposes of comparison to Airbnb’s AIRBNB Marks, the dominant and therefore most salient element of Respondent’s mark is the distinctive term “BNB.”⁴³

Further, even if BNB were generic for bed and breakfast services (it is not), none of the Airbnb Registrations recites bed and breakfast services, making the meaning of BNB as to those services irrelevant to any of the issues here.⁴⁴

Giving each element of Respondent’s mark appropriate weight, the parties’ marks are highly similar because the dominant feature of Respondent’s COMPLETE BNB Mark—the BNB suffix—is identical to the distinctive BNB suffix in Airbnb’s AIRBNB Marks.⁴⁵

Each statement is a flat contradiction of the definitions and recitations of services set forth above, which establish that the term BNB will be perceived by the relevant public for booking short term accommodations as the acronym for bed-and-breakfast,

⁴¹ 8 TTABVUE 6, 12 TTABVUE 348.

⁴² 14 TTABVUE 31.

⁴³ 14 TTABVUE 30.

⁴⁴ 14 TTABVUE 32.

⁴⁵ 14 TTABVUE 33.

which is a type of temporary housing accommodation and the subject of the services. On the second point, asserting that bed-and-breakfast is not descriptive of Petitioner's services, Petitioner's services do not have to state "bed and breakfast" specifically for the term to be descriptive. As discussed earlier, both parties' services, as registered, encompass booking temporary housing services, and a bed-and-breakfast is by definition a type of temporary housing.

On the first and third points, arguing that the public would not perceive BNB as generic for bed-and-breakfast services, Petitioner relies on the report of its linguistic expert, Phillip M. Carter, professor of linguistics, who was retained by Petitioner "to draft an expert report concerning the character sequence 'BNB,'" including the description "when the sequence *bnb* became popularized in American English," "how the sequence is being used in the language today," and the "historical and contemporary linguistic context for the term *bed and breakfast* and the various terms used to abbreviate it."⁴⁶ Professor Carter concludes:⁴⁷

The findings reported herein are based on data drawn from a broad range of sources and time periods, including dictionary evidence from 1913-2024, usage data from three linguistic corpora collectively spanning the period 1820-2024, book publication data from 1800-2019, and internet search term data from 2004-2024. Taken together, these analyses tell a very clear story about the recent emergence of the term *bnb* in American English, and about the continued use of the longstanding terms "B&B" and "B and B" as abbreviations for an even older concept, "bed and breakfast."

⁴⁶ 13 TTABVUE 298, 302-303. We find that based on the evidence of his experience, education, and training, Professor Carter is qualified to offer his opinion, based on his research, regarding public perception of the term BNB for purposes of assessing likelihood of confusion.

⁴⁷ 13 TTABVUE 339, 341.

94. In summary, ample linguistic data from a variety of sources and type of sources – including dictionary evidence, search data, corpus data, and frequency data – show that the sequence bnb is a new form in the English language, appearing systematically in the language sometime in 2009 or 2010.

95. If bnb were a long-term abbreviation for the term “bed and breakfast” in the English language, it would appear as such in the major lexicographical sources of the contemporary language. It does not appear in these sources.

96. Analysis of collocates (words that cluster together) and search term data shows that the sequence bnb is by and large associated with the brand Airbnb.

97. The terms “B&B” and “B and B” appear stable in the language and remain the primary shorthand ways to refer to the term “bed and breakfast.”

Professor Carter’s conclusions that recent online references to BNB largely refer to Petitioner’s mark AIRBNB do not persuade us of Petitioner’s argument that the term BNB is distinctive as part of its mark AIRBNB. An online association based on proximity is not the same as a trademark inquiry as to the perception of the relevant public seeking bed-and-breakfast services who encounters the term BNB. *See Anheuser-Busch, Inc. v. Holt*, 2009 TTAB LEXIS 599, at *24 (“there is simply nothing that persuades us that the lone opinion of opposer's asserted linguistics expert should substitute for evidence of the perception of the consuming public of the involved marks”).

Moreover, Professor Carter’s conclusions that the “longstanding” terms “B&B” and “B and B” remain the primary shorthand ways to refer to the term “bed and breakfast” do not preclude us from finding, based on the recognized use of the letter N as a substitute for both the word “and” and the ampersand symbol, as well as the listing of BNB in the Acronym Finder, that the relevant public encountering bed and

breakfast services under a mark that ends in BNB will perceive BNB as describing the bed and breakfast services. *See In re White Swan Ltd.*, 1988 TTAB LEXIS 37, at *3 (“Obviously, both marks [SHAKE SCATTER & GROW and SHAKE-N-GROW] begin with the word SHAKE and end with the word GROW. The only difference of any consequence is that applicant's mark contains the additional word SCATTER. The fact that the registrant’s mark contains the letter ‘N’ surrounded by hyphens and applicant’s mark contains an ampersand constitutes but a very minor difference. The letter ‘N’ and the ampersand are pronounced either in identical fashion or in near identical fashion.”).⁴⁸

In short, BNB does not have to be either the exclusive or the most popular short reference to bed-and-breakfast to be descriptive of those services and reservation services for the same. *See In re Fat Boys Water Sports LLC*, 2016 TTAB LEXIS 150, at *10 (“Under the current standard [for assessing mere descriptiveness], there is no requirement that the Examining Attorney prove that others have used the mark at issue or that they need to use it, although such proof would be highly relevant to an

⁴⁸ *See also* (nonprecedential) *In re Cookies & Dreams A Series LLC*, App. Ser. No. 90500102, 2023 TTAB LEXIS 467 (TTAB issued Nov. 1, 2023) (“The marks [COOKIES & DREAMS and COOKIES N’ DREAMS] are essentially identical; the only difference is that Applicant substitutes an ampersand (&) for the letter ‘N.’”); (nonprecedential) *In re Car Wash Co.*, App. Ser. Nos. 86011273 and 86011285, 2015 TTAB LEXIS 133 (TTAB issued May 4, 2015) (“In addition, the difference in the appearance of ‘N’ and the ampersand (&) and the sound of the letter ‘N’ versus the word ‘and’ (pointed out by Applicant), are minor in comparison with the remaining wording in the marks [SHINE ‘N’ SHIELD and SHINE & SHIELD].”); and (nonprecedential) *In re Starr Rest. Org., L.P.*, App. Ser. No. 77424964, 2011 TTAB LEXIS 190 (TTAB issued Jun. 3, 2011) (“The letters TNT are phonetically equivalent to T&T and the terms TACOS ‘N’ TEQUILA and TACOS TEQUILA are phonetically similar. In this regard, the ampersand (&) in T&T is a symbol for the word ‘and’ and ‘N’ is a contraction of the word ‘and.’”).

analysis under Section 2(e)(1). The correct test is whether the phrase forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods.”). *See also KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc.*, 543 U.S. 111, 122 (2004) (acknowledging “the undesirability of allowing anyone to obtain a complete monopoly on use of a descriptive term simply by grabbing it first.”).

Based on the evidence of record including the Acronym Finder, dictionary definitions, and Respondent’s disclaimer of BNB, we reject Petitioner’s argument that BNB is not recognized as an alternate to the highly descriptive term B&B when applied to bed-and-breakfast reservation services but only as the “distinctive BNB suffix in Airbnb’s AIRBNB Marks.”⁴⁹ *See Heil Co. v. Tripleye GmbH*, 2024 TTAB LEXIS 494, at *79-80 (Opposer asks us to take too far a leap by ignoring the understood meaning of the phrase ‘third eye.’”). We find that the relevant public for such services will perceive the term BNB as describing reservation services for temporary accommodations, which encompass bed-and-breakfast accommodations.

Returning to our comparison of the marks, we find the marks AIRBNB and COMPLETE BNB have first and dominant terms which differ significantly in appearance, sound, and connotation, and, when combined with the highly descriptive term BNB applied to services involving the reservation of short term accommodations, including bed-and-breakfasts, create different commercial impressions. While the Board may not dissect marks for comparison, finding that the

⁴⁹ 14 TTABVUE 29-30.

first term in a mark is the most distinctive in both placement and connotation is entirely permissible. *See In re Nat'l Data Corp.*, 753 F.2d 1056, 1058 (Fed. Cir. 1985) (“There is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entirety.”). Further, the common term BNB will be recognized as equivalent to B&B, a term commonly used in the temporary housing field that cannot function as the distinguishing feature of either Petitioner’s or Respondent’s mark for the identified services. *See Citigroup Inc. v. Capital City Bank Group, Inc.*, 637 F.3d 1344, 1351 (Fed. Cir. 2011) (“As the first word of the mark, the Board determined that ‘Capital’ gives CCB’s marks a distinct look and sound from Citigroup’s marks. Further, CCB’s applications disclaim BANK and when a mark consists of two or more words, some of which are disclaimed, the word not disclaimed is generally regarded as the dominant or critical term.”); *Safer, Inc. v. OMS Invs., Inc.*, 2010 TTAB LEXIS 51, *43-44 (“The fact that the marks [DEER-B-GON and DEER AWAY and DEER AWAY PROFESSIONAL] have a similar highly suggestive meaning is insufficient to support a likelihood of confusion finding where, as here, the marks otherwise differ in appearance and sound.”).

We find under *DuPont* factor one that the dissimilarity of the marks weighs against finding a likelihood of confusion.

4. Actual Confusion

Under the seventh *DuPont* factor, we consider “the nature and extent of any actual confusion.” *DuPont*, 476 F.2d at 1361. Historically, a properly conducted survey has

been considered akin to actual confusion. *See Blue Cross and Blue Shield Ass’n v. Harvard Comty. Health Plan Inc.*, 1990 TTAB LEXIS 43, at *8 n.7 (Even though “applicant’s study/survey ... had certain defects ... it nevertheless constitutes evidence of specific instances of actual confusion.”). More recently, it has been considered not direct evidence of actual confusion, but rather circumstantial evidence from which we may infer likelihood of confusion. *ProMark Brands, Inc. v. GFA Brands, Inc.*, 2015 TTAB LEXIS 67, at *49.

We turn to the results of Petitioner’s June 2024 survey, conducted online with 400 participants (200 in the Test Group and 200 in the Control Group) comprised of those who within the past 12 months had used services “booking temporary lodging and accommodations,” in which “the allegedly confusing mark is shown in the proper context, and [participants] are questioned to determine if they make a mistaken mental connection to the [Petitioner] or its marks” (an Everready survey).⁵⁰ More specifically, the survey involved showing and asking the Test Group:

Please review the following name of a service for booking or making reservations for temporary lodging and accommodations.
Complete BnB

What company do you think offers the service we just told you about, if you have an opinion?

Results showed 63 participants out of 200 (31.5%) named AIRBNB as the company offering the COMPLETE BNB services for booking or making reservations for temporary lodging and accommodations.⁵¹ However, when asked to explain the

⁵⁰ 13 TTABVUE 137, 146.

⁵¹ 13 TTABVUE 160-162.

answer, several participants indicated that the choice was not based on source confusion.

We do not agree with the decision to include as examples of actual confusion several answers which indicate that the participant thinks the AIRBNB company offers the COMPLETE BNB service because BNB names the service and not the source. For example, we do not count as confused as to source the answer which by spelling out “Air B and B services” indicates that AIR, and not AIRBNB, is the mark (498). Nor would we count as source confusion the answers that explain as the reason for their choice that BNB names, not the company, but the service: “Because they are both BNB type places,” (174); “It’s a B&B service”(217); “because of the ‘BnB’ in both of the names and they are both for traveling accommodations”(316); “they all offer the same services, booking homes for short and long term rentals” (450); “they offer temporary rentals” (923); “acomadations” [sic] (969). We would not count as source confusion the answer that includes not just AIRBNB but several companies: “Complete BnB, Airbnb, expedia, booking.com, ksyak [sic], others” and explains “I’m going by the name of the company that you expressed on the first page, Complete BnB, but I have actual knowledge of, or experience with, the others listed” (976). Finally, we would not count as source confusion answers that do not connect the choice of AIRBNB as the source of COMPLETE BNB services to the mark, but provide a non sequitur – “sounds like a good fit” (241), “one of the few I know” (275), “rentals” (297); “yes I do” (1023); “It’s a lodging company I am familiar with” (1173); “just a guess” (972).

The survey also asked a second question:

Do you think the service we told you about is affiliated with, or sponsored or approved by, any other company or brand?

The results showed an additional 16 participants (8%) named AIRBNB. Again, we find the results showing actual confusion are overstated. We find only the answers that link to the AIRBNB name suggest potential actual confusion, and the answers indicating that BNB names the services do not: “They have ‘BnB’ in their name meaning bed and breakfast” (580); “Because it’s a bed and breakfast” (1061). Similarly, non-responsive answers do not indicate confusion: “not sure” (868) and “individual owners rent through Airbnb” (912).

In sum, while we would assess the results differently, and think generally that it is unclear whether participants were regarding BNB as a source indicator or the name of the services, the survey presents some indirect evidence of actual confusion. Thus, although the survey is not as persuasive as Petitioner touts it to be, it weighs in favor of a likelihood of confusion.

5. Balancing the Factors

In conclusion, we have considered all of the arguments and evidence of record, and all relevant *DuPont* factors. Notwithstanding the survey results akin to instances of actual confusion, the use of the parties’ marks on identical services in identical trade channels, and the commercial strength of the AIRBNB mark, we find the term BNB is highly descriptive of the common services, and the differences between the marks COMPLETE BNB and AIRBNB too great for confusion to be likely.

Decision: The petition to cancel is denied.