This Opinion is Not a Precedent of the TTAB

Mailed: March 12, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Hinsdale Bank & Trust Company, National Association

Serial No. 97374049

Angelo J. Bufalino, John K. Burke, and Theodore M. Gelderman, of Vedder Price P.C., for Hinsdale Bank & Trust Company, National Association.

Samantha Cruzado, Trademark Examining Attorney, Law Office 128, Travis Wheatley, Managing Attorney.

NOTICE OF CORRECTION

By the Board:

On March 6, 2024, the Board issued a decision ("Decision") in an ex parte appeal affirming the Trademark Examining Attorney's refusal to register the mark COMMUNITY BANK OF WILLOWBROOK. The Decision contained an error in the caption that must be corrected. The Board hereby issues the following correction to the Decision:

On page 1, "*In re Hillsdale Bank & Trust Company, National Association*" is corrected to read, "*In re Hinsdale Bank & Trust Company, National Association.*"

The mailing date of the original Decision is not changed by this correction. The period for filing any appeal continues to run from the date of the original Decision. A copy of the corrected Decision is attached to this Order.

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Hearing: November 8, 2023 Mailed: March 6, 2024

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Before Rogers, Chief Administrative Trademark Judge,[1] and Zervas and Johnson, Administrative Trademark Judges.

Opinion by Johnson, Administrative Trademark Judge:

Hinsdale Bank & Trust Company, National Association ("Applicant") seeks registration on the Principal Register of the standard character mark COMMUNITY BANK OF WILLOWBROOK ("Applicant's Mark") for "Banking services"

[1] Judge Hudis, now deceased, participated in the oral hearing of this matter. Chief Judge Rogers is substituted in his place for the purpose of rendering the final decision. *See* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 802.04 (2023); *see also In re Bose Corp.*, 772 F.2d 866, 227 USPQ 1, 4 (Fed. Cir. 1985).

("Applicant's Services") in International Class ("Class") 36.[2] Applicant claims that its whole mark, COMMUNITY BANK OF WILLOWBROOK, has acquired distinctiveness pursuant to Section 2(f) of the Trademark Act, 15 U.S.C. § 1052(f), based on Applicant's five years of continuous and exclusive use of the mark in conjunction with its identified services.[3]

The Examining Attorney issued a final refusal[4] of Applicant's Mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 2(d), on the ground that it is likely to be confused with the typed mark,[5] WILLOWBROOK, registered for "financial management services, investment administration and consulting services, and investment of funds for others" in Class 36 ("Cited Registration").[6]

Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration (*see* 4 TTABVUE),[7] the appeal proceeded, was briefed, and a hearing was held. We affirm the refusal to register.

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[2] Application Serial No. 97374049 was filed on April 21, 2022, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based upon Applicant's claim of first use of the mark anywhere and in commerce at least as early as November 2008. Applicant disclaims the exclusive right to use "COMMUNITY BANK."

[3] *See* Response to Office Action dated Oct. 7, 2022.

[4] In the Appeal Brief, the Examining Attorney mistakenly states that Applicant "amended the application to the Supplemental Register by way of the [Oct. 7, 2022] response to office action, thereby obviating the refusal pursuant to Trademark Act § 2(e)(2)." (8 TTABVUE 2). Applicant disclaimed the words "COMMUNITY BANK" and claimed acquired distinctiveness of "COMMUNITY BANK OF WILLOWBROOK," but Applicant did not amend its application to the Supplemental Register. *See* Response to Office Action dated Oct. 7, 2022 at 18.

[5] A "typed mark" is the legal equivalent of a standard character mark. *In re Viterra Inc.,* 671 F.3d 1358, 101 USPQ2d 1905, 1909 n.2 (Fed. Cir. 2014).

[6] Registration No. 2840736 issued on May 11, 2004; renewed.

[7] Citations to the appeal record are from the publicly available documents in TTABVUE, the Board's electronic docketing system. *See, e.g., Turdin v. Trilobite, Ltd.,* 109 USPQ2d 1473, 1476 n.6 (TTAB 2014). The number preceding "TTABVUE" corresponds to the docket entry

I. Evidentiary Issue

Before turning to the merits of the appeal, we address an evidentiary issue. The Examining Attorney objects to Applicant, for the first time in its brief on appeal, introducing three definitions from the websites netsuite.com, deloitte.com, and sec.gov. (Examining Attorney's Appeal Brief, 8 TTABVUE 10-12). The definitions are detailed explanations of the terms "financial management services," "consulting services for investment management," and "fund," respectively.[8]

Since the record in an application should be complete before the filing of an appeal, Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d), we sustain the Examining Attorney's objection and strike the definitions proffered by Applicant. *See In re tapio GmbH,* 2020 USPQ2d 11387, at *3 (TTAB 2020). Nevertheless, the Board can take judicial notice of dictionary definitions of these terms, including definitions from online dictionaries which exist in printed format or have fixed regular editions. *See In re Cordua Rests. LP,* 110 USPQ2d 1227, 1229 n.4 (TTAB 2014), *aff'd,* 823 F.3d 594, 118 USPQ2d 1632 (Fed. Cir. 2016); *In re CyberFinancial.Net Inc.,* 65 USPQ2d 1789, 1791 n.3 (TTAB 2002); *see also Hancock v. Am. Steel & Wire Co.,* 203 F.2d 737, 97 USPQ 330, 332 (CCPA 1953) ("The meaning of these two words is the crux of the case. Courts take judicial notice of the meaning of words, and the court may always refer to standard dictionaries or other recognized authorities to refresh its memory and understanding as to the common meaning of language."). We take judicial notice

number; the number(s) following "TTABVUE" refer to the page number(s) of that particular docket entry, if applicable.

[8] *See* Applicant's Brief, 6 TTABVUE 18 n.1, 19 nn. 2-3.

of definitions of "financial management," "consulting," "investment consultant," "fund," and "bank," and discuss them in the context of relatedness of the services later in this opinion. *See infra* Section II.C.

II. Likelihood of Confusion

Section 2(d) of the Trademark Act provides that a mark must be refused registration if it "[c]onsists 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 the [services] of the applicant, to cause confusion, or to cause mistake, or to deceive … ." 15 U.S.C. § 1052(d).

To determine whether there is a likelihood of confusion between the marks under Section 2(d), we analyze the evidence and arguments under the *DuPont* factors. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973) ("*DuPont*"). We consider each *DuPont* factor for which there is evidence and argument, *In re Guild Mortg. Co.,* 912 F.3d 1376, 129 USPQ2d 1160, 1161-62 (Fed. Cir. 2019), but "[n]ot all *DuPont* factors are relevant in each case, and the weight afforded to each factor depends on the circumstances." *Stratus Networks, Inc. v. UBTA-UBET Commc'ns Inc.*, 955 F.3d 994, 2020 USPQ2d 10341, at *3 (Fed. Cir. 2020); *see also Citigroup Inc. v. Cap. City Bank Grp. Inc.,* 637 F.3d 1344, 98 USPQ2d 1253, 1260 (Fed. Cir. 2011). Two key considerations are the similarities between the marks and the relatedness of the services. *See Herbko Int'l, Inc. v. Kappa Books, Inc.,* 308 F.3d 1156, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002) ("The likelihood

of confusion analysis … 'may focus … on dispositive factors, such as similarity of the marks and relatedness of the [services].'").

In applying the *DuPont* factors, we bear in mind the fundamental purposes underlying Trademark Act Section 2(d), which are to prevent confusion as to source and to protect registrants from damage caused by registration of confusingly similar marks. *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.,* 469 U.S. 189, 224 USPQ 327, 331 (1985); *Qualitex Co. v. Jacobson Prods. Co.,* 514 U.S. 159, 34 USPQ2d 1161, 1163 (1995); *DuPont,* 177 USPQ at 566.

A. The Strength of the Cited Registration

1. Commercial Strength or Weakness

First, we address Applicant's argument that the mark of the Cited Registration, WILLOWBROOK, is "weak" or "diluted." (*See* 6 TTABVUE 14-17). Specifically, Applicant contends that the mark of the Cited Registration is only entitled to a very narrow scope of protection because "the record contains extensive evidence of third-party usage of the words WILLOW— and BROOK—" for services similar to those of the Cited Registration. (6 TTABVUE 14). Applicant proffered sixteen "plain" registration records for marks containing "WILLOW" or "BROOK,"[9] but no evidence of actual marketplace usage. Applicant concludes that the registrations demonstrate that "the consuming public has become accustomed to seeking out differences among

[9] Request for Reconsideration After Final Action dated Feb. 24, 2023 at 30-31, 35, 39, 47, 49, 51, 55, 61, 62, 65, 67, 71, 77-78, 80, 82.

marks that include WILLOW— and BROOK— for services similar to those offered under the Cited Registration." (6 TTABVUE 15).

Evidence of third-party use and registration typically falls under the sixth *DuPont* factor, "the number and nature of similar marks in use on similar [services]." 177 USPQ at 567. Under the sixth *DuPont* factor, "[t]he purpose of introducing evidence of third-party use is 'to show that customers have become so conditioned by a plethora of such similar marks that customers 'have been educated to distinguish between different [such] marks on the bases of minute distinctions.'" *Omaha Steaks Int'l, Inc. v. Greater Omaha Packing Co.,* 908 F.3d 1315, 128 USPQ2d 1686, 1693 (Fed. Cir. 2018) (quoting *Palm Bay Imps. Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772,* 396 F.3d 1369, 73 USPQ2d 1689, 1694 (Fed. Cir. 2005) (internal citation omitted)). This type of evidence pertains to the commercial strength of the mark. "Evidence of third-party use of similar marks on similar [services] is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection." *Id.* (quoting *Palm Bay Imps.,* 73 USPQ2d at 1693). Evidence of actual third-party use of similar marks can be "powerful on its face" and can "show that customers … have been educated to distinguish between different … marks on the basis of minute distinctions," *Juice Generation, Inc. v. GS Enters., LLC,* 794 F.3d 1334, 115 USPQ2d 1671, 1674 (Fed. Cir. 2015) (citation omitted), particularly if such evidence is "extensive." *Jack Wolfskin Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.,* 797 F.3d 1363, 116 USPQ2d 1129, 1136 (Fed. Cir. 2015) (citing *Juice Generation,* 115 USPQ2d at 1674).

Applicant's third-party registration evidence is not evidence of commercial use. It is not probative of commercial, or marketplace, weakness, inasmuch as it tells us nothing about the extent to which the third-party marks may have been used, or the amount of exposure relevant customers may have had to those marks. *Primrose Ret. Cmtys., LLC v. Edward Rose Sr. Living, LLC,* 122 USPQ2d 1030, 1036 (TTAB 2016). Since we do not have any evidence of the extent of their actual use, none of Applicant's third-party registration evidence "show[s] that customers … have been educated to distinguish between different … [WILLOW-formative or BROOK-formative] marks on the basis of minute distinctions." *Juice Generation,* 115 USPQ2d at 1674; *see also In re Morinaga Nyugyo K.K.,* 120 USPQ2d 1738, 1745 (TTAB 2016) (third-party registrations "standing alone, are not evidence that the registered marks are in use on a commercial scale, let alone that consumers have become so accustomed to seeing them in the marketplace that they have learned to distinguish among them by minor differences."). Thus, we find that Applicant has not demonstrated that the cited mark is commercially weak.

2. Conceptual Strength or Weakness

Turning to the conceptual strength of the cited mark, the third-party registrations have value. In general, third-party registrations "may bear on conceptual weakness if a term is commonly registered for similar goods or services." *Tao Licensing, LLC v. Bender Consulting Ltd.,* 125 USPQ2d 1043, 1057 (TTAB 2017); *see also In re Mighty Leaf Tea,* 601 F.3d 1342, 94 USPQ2d 1257, 1259 (Fed. Cir. 2010).

A review of the registrations shows that eleven identify services unrelated to those listed in the WILLOWBROOK registration. We give these eleven no further

consideration.[10] *See Omaha Steaks,* 128 USPQ2d at 1694 (error to rely on third-party evidence of similar marks for dissimilar goods, as Board must focus "on goods shown to be similar"); *In re i.am.symbolic, llc,* 866 F.3d 1315, 123 USPQ2d 1744, 1751 (Fed. Cir. 2017) (disregarding third-party registrations for other types of goods where the proffering party had neither proven nor explained that they were related to the goods in the cited registration); *Tao Licensing,* 125 USPQ2d at 1058 (third party registrations in unrelated fields "have no bearing on the strength of the term in the context relevant to this case").

The remaining five registrations, though they involve relevant services, include only "WILLOW" or "BROOK" in the mark. None of them are close enough to the mark of the Cited Registration to be relevant. At best, they are evidence that compound word marks that end in "BROOK" coexist on the Principal Register when the first part of each word is different. But that is not the question at hand. Applicant has not shown, by this evidence, any weakness in WILLOWBROOK so that two marks including that term can be registered for similar or related services.[11]

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[10] The eleven registrations are Reg. Nos. 6814130 for Willow Street; 6814127 for WILLOW STREET; 6367466 for ELEVEN WILLOW; 6198286 for WILLOWCREEK RANCH; 6198261 for WILLOWCREEK RANCH; 5210204 for WILLOW VALLEY; 5034990 for WILLOW VALLEY; 4825519 for WILLOW GLEN CHARM; 3939825 for WILLOW GROVE PARK; 3931839 for WILLOW RIDGE LODGE; and 4997914 for PEBBLEBROOK. *See* Request for Reconsideration After Final Action dated Feb. 24, 2023 at 25-87. All citations to prosecution history documents contained in the Trademark Status and Document Retrieval (TSDR) database are to the downloadable .pdf versions of the documents.

[11] The five registrations are Reg. Nos. 3381769 for WILLOW AVIATION SERVICES, LLC ("AVIATION SERVICES, LLC" disclaimed); 6450590 for BIRCHBROOK; 6764077 for GLENBROOK; 6390563 for ARBORBROOK; and 5325683 for SIERRA BROOK. *See* Request for Reconsideration After Final Action dated Feb. 24, 2023 at 25-87.

Other than the Cited Registration, the overall record is devoid of any registrations of WILLOWBROOK, or marks including that term, for "financial management services, investment administration and consulting services, and investment of funds for others," or any type of financial or investment services.

Moreover, the Cited Registration must be considered inherently distinctive for the identified services, as it issued on the Principal Register without a claim of acquired distinctiveness, and is valid. *New Era Cap Co. v. Pro Era, LLC,* 2020 USPQ2d 10596, at *10 (TTAB 2020); 15 U.S.C. § 1057(b) (registration certificate is "prima facie evidence of the validity of the registered mark"). Therefore, the Cited Registration is entitled, at a minimum, to the "normal scope of protection to which [an] inherently distinctive mark[ ] is entitled." *Bell's Brewery, Inc. v. Innovation Brewing,* 125 USPQ2d 1340, 1347 (TTAB 2017) (citing *Joseph Phelps Vineyards, LLC v. Fairmont Holdings, LLC,* 857 F.3d 1323, 122 USPQ2d 1733, 1734 (Fed. Cir. 2017)); *see also In re Fiesta Palms, LLC,* 85 USPQ2d 1360, 1363 (TTAB 2007) (when a mark is registered on the Principal Register, "we must assume that it is at least suggestive").

To support the argument that the Applicant's Mark and that of the Cited Registration are similar, the Examining Attorney states that both marks "connote the same commercial impression of a financial institution located in or around the geographic location of WILLOWBROOK." (8 TTABVUE 5). Applicant seizes on this conclusory statement and points to the record for the Cited Registration showing that the owner of the registration is located in Los Angeles, California. Applicant then

asserts that the mark of the Cited Registration is primarily geographically descriptive and weak, because the "geographic location that the [mark of the] Cited Registration invokes is that of Willowbrook, an unincorporated community in Los Angeles, California." (9 TTABVUE 5). At best, we can only consider the face of the plain registration record for the Cited Registration, which shows that the owner of the registration is located in Los Angeles. But we cannot infer, solely on that information, that the services identified in the Cited Registration are offered or rendered from an unincorporated community in the Los Angeles area. Further, even if we assume consumers of Registrant's services would know Registrant's Los Angeles address, there is no evidence of record to show that the address is within the asserted Willowbrook unincorporated community, or to support the contention the consumers of Registrant's services would draw a connection between Registrant's mark and the Willowbrook community.

We also cannot consider Applicant's argument that the mark of the Cited Registration is primarily geographically descriptive, because a mark registered on the Principal Register without a claim of acquired distinctiveness under Section 2(f) of the Trademark Act is presumed to be inherently distinctive. 15 U.S.C. § 1057(b); *see, e.g., Brooklyn Brewery Corp. v. Brooklyn Brew Shop, LLC,* 17 F.4th 129, 2021 USPQ2d 1069, at *12 (Fed. Cir. 2021). And an argument that the mark of the Cited Registration is primarily geographically descriptive constitutes a collateral attack on its validity, which may be accomplished only in an adversary proceeding brought

against the registration. *See, e.g., In re Nat'l Data Corp.,* 753 F.2d 1056, 224 USPQ 749, 752 n.8 (Fed. Cir. 1985).

Therefore, we find that Applicant has not demonstrated that the mark of the Cited Registration is weak. This *DuPont* factor is neutral.

B. The Similarity of the Marks

Next we consider the *DuPont* factor relating to the similarity or dissimilarity of the respective marks. In comparing the marks we must consider their appearance, sound, meaning, and overall commercial impression when assessing them in their entireties. *Palm Bay Imps.,* 73 USPQ2d at 1692. Similarity as to any one of these elements may be sufficient to support a finding that the marks are similar for likelihood of confusion purposes. *See Krim- Ko Corp. v. Coca- Cola Co.*, 390 F.2d 728, 156 USPQ 523, 526 (CCPA 1968) ("It is sufficient if the similarity in either form, spelling or sound alone is likely to cause confusion."); *see also In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018), *aff'd mem.*, 777 F. App'x 516 (Fed. Cir. Sept. 13, 2019).

"The proper test 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." *In re i.am.symbolic*, 123 USPQ2d at 1748 (quoting *Coach Servs., Inc. v. Triumph Learning LLC,* 668 F.3d 1356, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012)); *see also In re St. Helena Hosp.*, 774 F.3d 747, 113 USPQ2d 1082,

1085 (Fed. Cir. 2014) ("[M]arks must be considered in light of the fallibility of memory and not on the basis of side-by-side comparison.").

Our analysis must focus on the recollection of the average purchaser — here, an ordinary consumer of banking, financial management, investment administration and investment consulting services — who normally retains a general, rather than specific, impression of marks. *See Inter IKEA Sys. B.V. v. Akea, LLC,* 110 USPQ2d 1734, 1740 (TTAB 2014) ("The proper focus is on the recollection of the average customer, who retains a general rather than specific impression of the marks.") (citations omitted).

Overall, "our analysis cannot be predicated on dissecting the marks into their various components; that is, the decision must be based on a comparison of the entire marks, not just part of the marks." *In re Ox Paperboard, LLC,* 2020 USPQ2d 10878, at *4 (TTAB 2020) (citing *Stone Lion Cap. Partners v. Lion Cap. LLP,* 746 F.3d 1317, 110 USPQ2d 1157, 1161 (Fed. Cir. 2014)). In making such a determination, "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 a consideration of the marks in their entireties. Indeed, this type of analysis appears to be unavoidable." *In re Nat'l Data*, 224 USPQ at 751.

Applicant argues that "the Examining Attorney erroneously disregarded everything but the overlapping term WILLOWBROOK," (6 TTABVUE 10), and that its mark, COMMUNITY BANK OF WILLOWBROOK, is distinct visibly, aurally, in

connotation, and in overall commercial impression, from the mark of the Cited Registration, WILLOWBROOK. (6 TTABVUE 11).

We acknowledge that there are differences in sound and appearance between Applicant's Mark, COMMUNITY BANK OF WILLOWBROOK, and the mark of the Cited Registration, WILLOWBROOK, given the wording "COMMUNITY BANK OF." Applicant's Mark is composed of four words, and would differ from the mark of the Cited Registration when fully spoken. However, given "the propensity of consumers to often shorten [service marks]," *Big M Inc. v. U.S. Shoe Co.,* 228 USPQ 614, 616 (TTAB 1985), some consumers may refer to Applicant's bank simply as "WILLOWBROOK bank" when referring to it in conversation or written communication. For such consumers, "WILLOWBROOK financial management" and "WILLOWBROOK bank" are very similar in sound when spoken and in appearance when written. Also, some consumers may consider the mark of the Cited Registration, WILLOWBROOK, as a shortened form of the Applicant's Mark, COMMUNITY BANK OF WILLOWBROOK, or that Applicant's bank is a related enterprise of the WILLOWBROOK entity that provides financial management services.

In addition, when one mark is incorporated within the other, "[l]ikelihood of confusion has often been found where the entirety of one mark is incorporated within another." *Double Coin Holdings Ltd. v. Tru Dev.*, 2019 USPQ2d 377409, at *6-7 (TTAB 2019) (quoting *Hunter Indus., Inc. v. Toro Corp.*, 110 USPQ2d 1651, 1660 (TTAB 2014)). *See also In re Mighty Leaf Tea,* 94 USPQ2d at 1260 (applicant's mark ML found similar to opposer's mark ML MARK LEES both for personal care and skin

products); *In re U.S. Shoe Corp.*, 229 USPQ 707, 709 (TTAB 1985) (CAREER IMAGE for women's clothing stores and women's clothing likely to cause confusion with CREST CAREER IMAGES for uniforms including items of women's clothing).

As to connotation and commercial impression, the term "WILLOWBROOK," found in both marks, is dominant in Applicant's Mark when considered in its entirety; the wording "COMMUNITY BANK OF" is at least descriptive — if not generic, and "COMMUNITY BANK"[12] is disclaimed. It is well-settled that disclaimed, descriptive wording may have less significance in likelihood of confusion determinations. *See In re Detroit Athletic Co.*, 903 F.3d 1297, 128 USPQ2d 1047, 1050 (Fed. Cir. 2018) (citing *In re Dixie Rests., Inc.,* 105 F.3d 1405, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997)); *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1846 (Fed. Cir. 2000) ("Regarding descriptive terms, this court has noted that the 'descriptive component of a mark may be given little weight in reaching a conclusion on the likelihood of confusion.'") (quoting *In re Nat'l Data,* 224 USPQ at 752); *In re Code Consultants, Inc.,* 60 USPQ2d 1699, 1702 (TTAB 2001) (disclaimed matter is often "less significant in creating the mark's commercial impression"). Given its disclaimed, descriptive wording, on which consumers would not be inclined to rely as a source indicator, the meaning or connotation of Applicant's Mark would be derived from "WILLOWBROOK," just as consumers of Registrant's services would rely on WILLOWBROOK as a source indicator. While the dominant "WILLOWBROOK"

[12] "Community bank" is defined as "a commercial bank that derives funds from and lends to the community where it operates, and is not affiliated with a multibank holding company." Office Action dated Aug. 26, 2022 at 65 (lexico.com/en/definition/community_bank).

component of Applicant's and Registrant's marks would be arbitrary for their respective services, whatever meaning or connotation the term would have for the common consumers of such services would be the same.

Consumers' propensity to shorten marks makes the marks here more similar than dissimilar in meaning. In addition, as previously discussed, there is no evidence of record to support the contention that the consumers of Registrant's services would draw a connection between Registrant's mark and a Willowbrook community in a specific geographic location. As a result, we find that the marks share the same connotation and commercial impression.

Overall, we find that Applicant's Mark and the mark of the Cited Registration are similar in appearance, sound, connotation, and overall commercial impression. This *DuPont* factor weighs in favor of a finding of likelihood of confusion.

C. The Similarity and Nature of the Services

Next, we turn to the second *DuPont* factor, which concerns the "similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use." 177 USPQ at 567.

When analyzing the second *DuPont* factor, we look to the identification of services in the application and Cited Registration. *Stone Lion,* 110 USPQ2d at 1162; *Octocom Sys., Inc. v. Hous. Comput. Servs. Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990) ("The authority is legion that the question of registrability of an applicant's mark must be decided on the basis of the identification of [services] set forth in the application regardless of what the record may reveal as to the particular

nature of an applicant's [services], the particular channels of trade or the class of purchasers to which sales of the [services] are directed."). The services do not have to be identical or even competitive in order to find that there is a likelihood of confusion. *In re Iolo Techs., LLC,* 95 USPQ2d 1498, 1499 (TTAB 2010).

The issue is not whether the services will be confused with each other, but rather whether the public will be confused as to their source. *See Recot, Inc. v. Becton*, 214 F.3d 1322, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the [services] in question are different from, and thus not related to, one another in kind, the same [services] can be related in the mind of the consuming public as to the origin of the [services]. It is this sense of relatedness that matters in the likelihood of confusion analysis."). It is sufficient that the identified services of the applicant and the registrant are related in some manner, or that conditions surrounding the marketing of the services could result in the services likely being encountered by the same consumers under circumstances that, because of the marks used in connection with the services, would lead those consumers to mistakenly believe that the services originate from the same source. *Coach Servs.,* 101 USPQ2d at 1722; *On-Line Careline Inc. v. Am. Online Inc.,* 229 F.3d 1080, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000).

Evidence of relatedness under the second *DuPont* factor may include pages from third-party websites showing that the relevant services are used by purchasers for the same or a related purpose; advertisements showing that the relevant services are advertised together; or copies of use-based registrations of the same mark for both Applicant's identified services and the services identified in the Cited Registration.

See, e.g., In re Davia, 110 USPQ2d 1810, 1817 (TTAB 2014) (pepper sauce and agave found related where evidence showed both were used for the same purpose in the same recipes; consumers were likely to purchase the products at the same time and in the same stores).

Applicant contends that the nature of its identified services and the services of the Cited Registration differ. (*See* 6 TTABVUE 17-20). For ease of reference, Applicant's Services are "banking services," and the services identified in the Cited Registration are "financial management services, investment administration and consulting services, and investment of funds for others." In describing the nature of the services, Applicant relies on definitions that were submitted with Applicant's Brief and not made of record prior to appeal.[13] We, however, take judicial notice of definitions of "financial management," "consulting," "investment consultant," "fund," and "bank,"[14]

[13] *See* Part I, *supra* at 3.

[14] "Financial management" is "the branch of financial economics that is concerned with questions of business funding and the management of a business in the interests of shareholders." OXFORD DICTIONARY OF FINANCE AND BANKING (6th ed.) (2018) (https://www.oxfordreference.com/display/10.1093/acref/9780198789741.001.0001/acref-9780198789741-e-4508?rskey=dXYw5R&result=3) (last accessed Mar. 2, 2024).

"Consulting" is defined as "providing professional or expert advice." MERRIAM-WEBSTER DICTIONARY (2024) (https://www.merriam-webster.com/dictionary/consulting) (last accessed Mar. 2, 2024). An "investment consultant" is "a person or company employed to provide advice on financial investments and to help with investment planning and strategy." OXFORD ENGLISH DICTIONARY (2023) (https://www.oed.com/search/dictionary/?scope=Entries&q=investment+consultant) (last accessed Mar. 2, 2024).

"Fund" is defined as "a sum of money, *esp.* one saved or made available for a particular purpose." OXFORD ENGLISH DICTIONARY (2023) (https://www.oed.com/dictionary/fund_n1?tab=meaning_and_use#3563178) (last accessed Mar. 2, 2024).

"Bank" is defined as "an establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds." MERRIAM-WEBSTER DICTIONARY (2024) (https://www.merriam-webster.com/dictionary/bank) (last accessed Mar. 2, 2024). "Banks may also provide financial services such as wealth management, currency

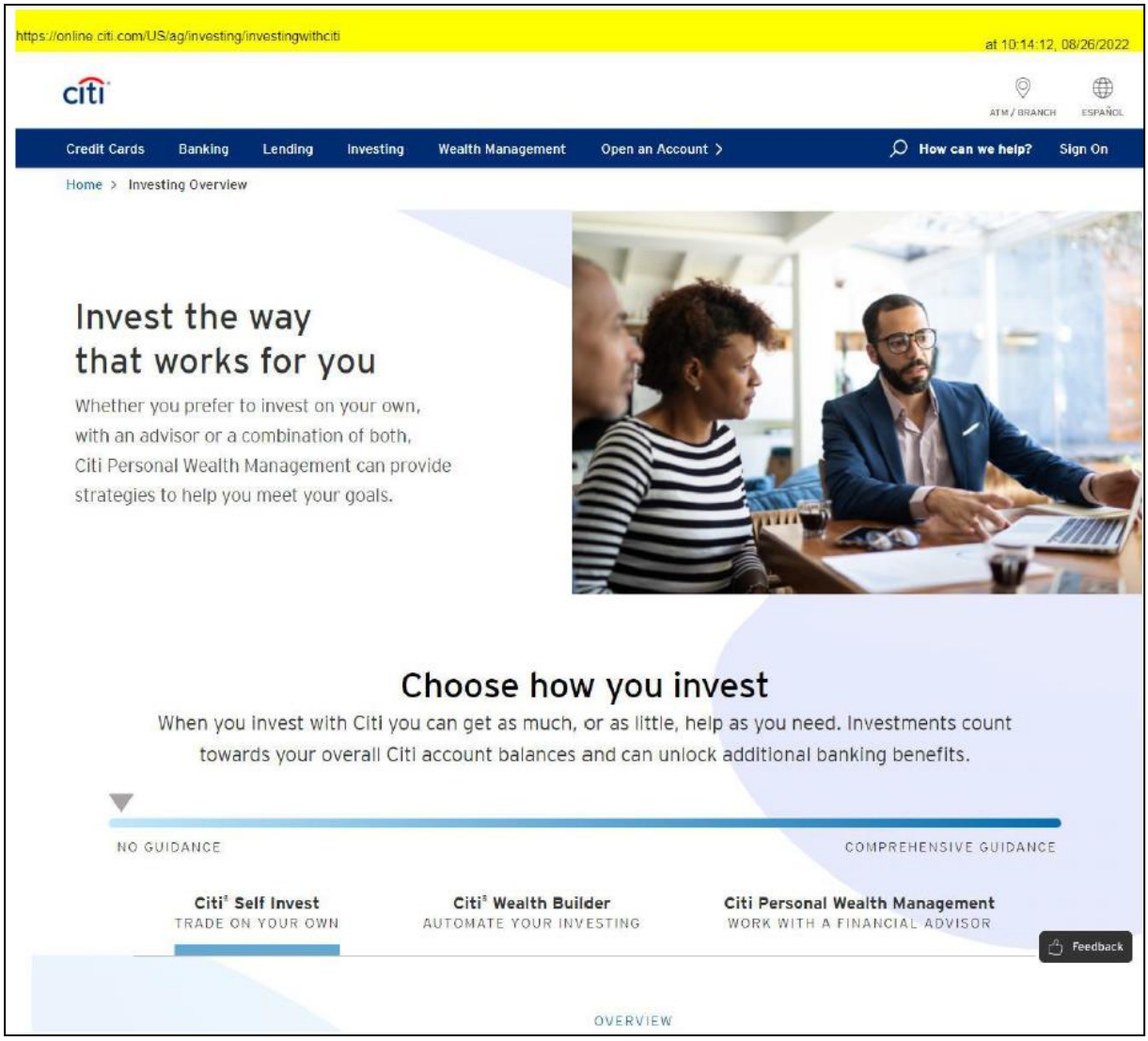
and find that among its various services, a bank facilitates the transmission of funds and may provide financial services such as wealth management.

1. Examining Attorney's Evidence from Websites

The Examining Attorney contends that the services are related. To demonstrate that the same entity commonly provides banking services as well as financial management and investment services and investment consulting services under the same mark, the Examining Attorney submitted screenshots from citi.com, wellsfargo.com, pnc.com, td.com, citizensbank.com, cbna.com, communityinvestmentservices.com, ucbbank.com, and fmcommunity.com.[15] Representative screenshots are shown below.

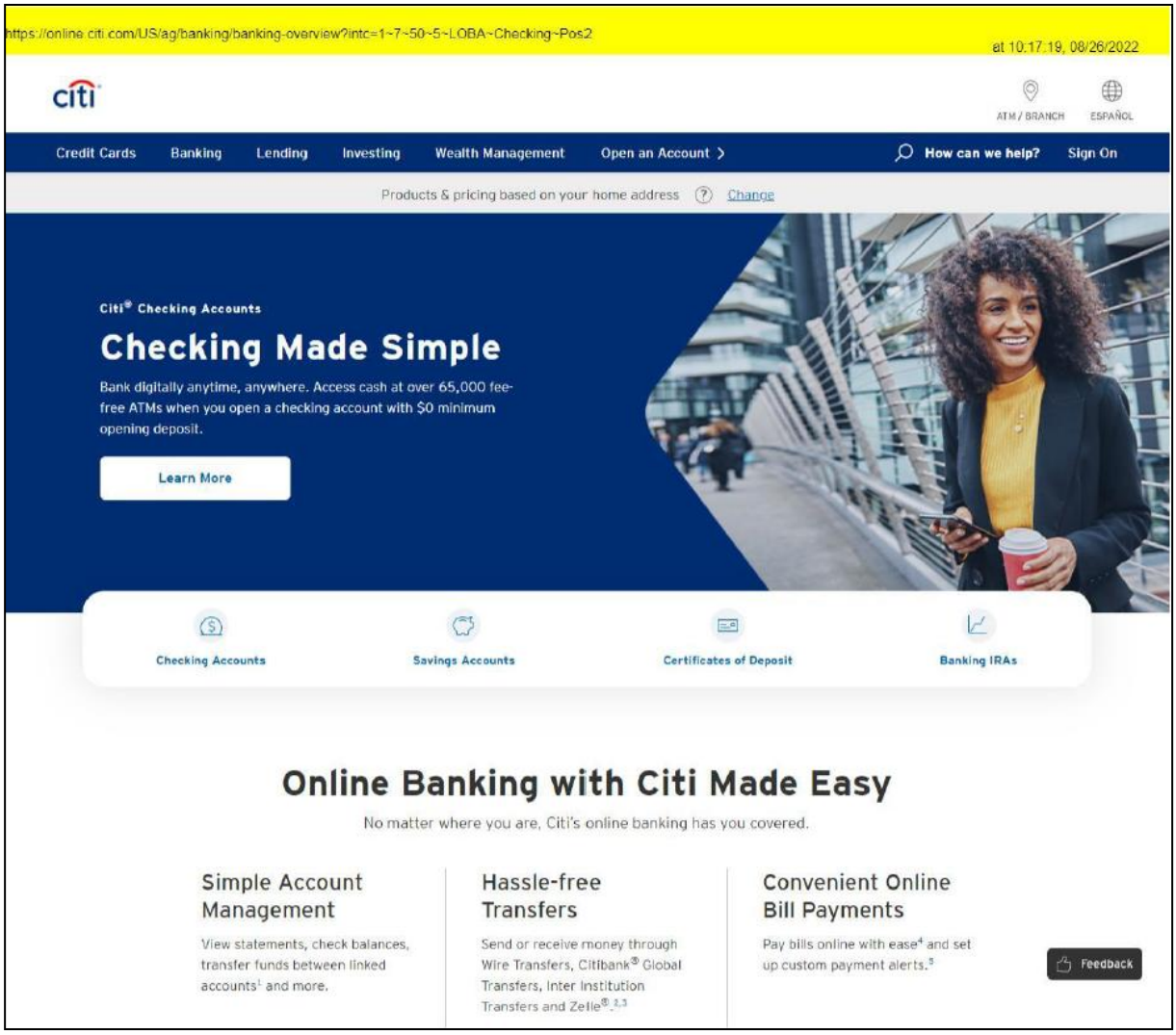
exchange, and safe deposit boxes." Adam Barone, *How Banking Works, Types of Banks, and How To Choose the Best Bank for You,* INVESTOPEDIA (updated Mar. 28, 2023) https://www.investopedia.com/terms/b/bank.asp. The Board may take judicial notice of definitions from online industry specific encyclopedias such as Investopedia, which is an online investment encyclopedia. *DIB Funding, Inc. v. Luma,* 2020 TTAB LEXIS 335, at *6 n.14 (TTAB July 2, 2020); *E. W. Bank Co. v. The Plubell Firm LLC,* 2016 WL 5219824, at *13 n.23 (TTAB Sept. 8, 2016); *see also* Fed. R. Evid. 201(b)(2) ("Kinds of Facts That May Be Judicially Noticed") and (c)(1) ("Taking Notice").

[15] Office Action dated Aug. 26, 2022 at 11-30, 33-60 (citi.com, wellsfargo.com, pnc.com, td.com, citizensbank.com); Office Action dated Nov. 7, 2022 at 9-30 (cbna.com, communityinvestmentservices.com, ucbbank.com, fmcommunity.com).

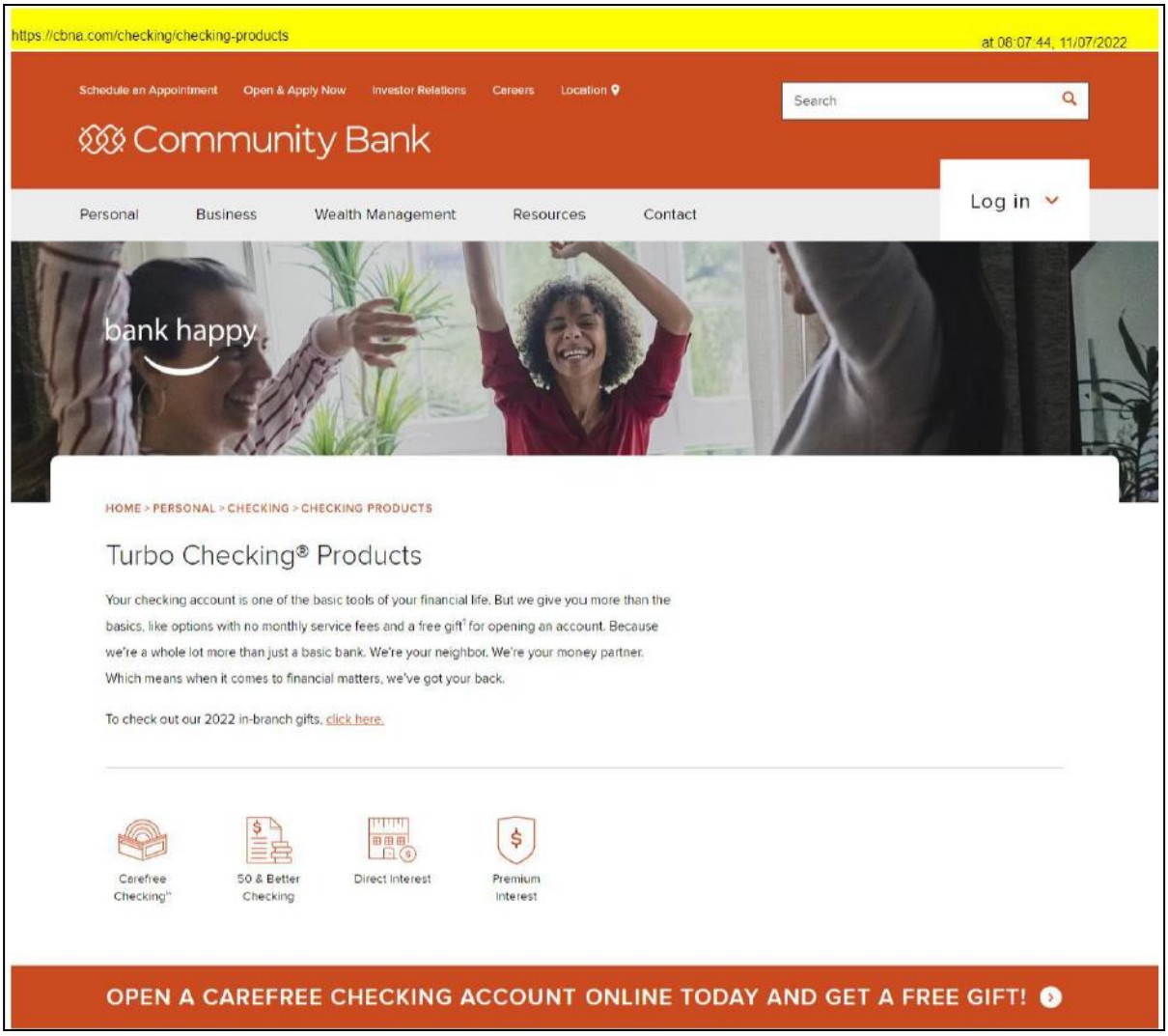


[16]

[16] Office Action dated Aug. 26, 2022 at 11.

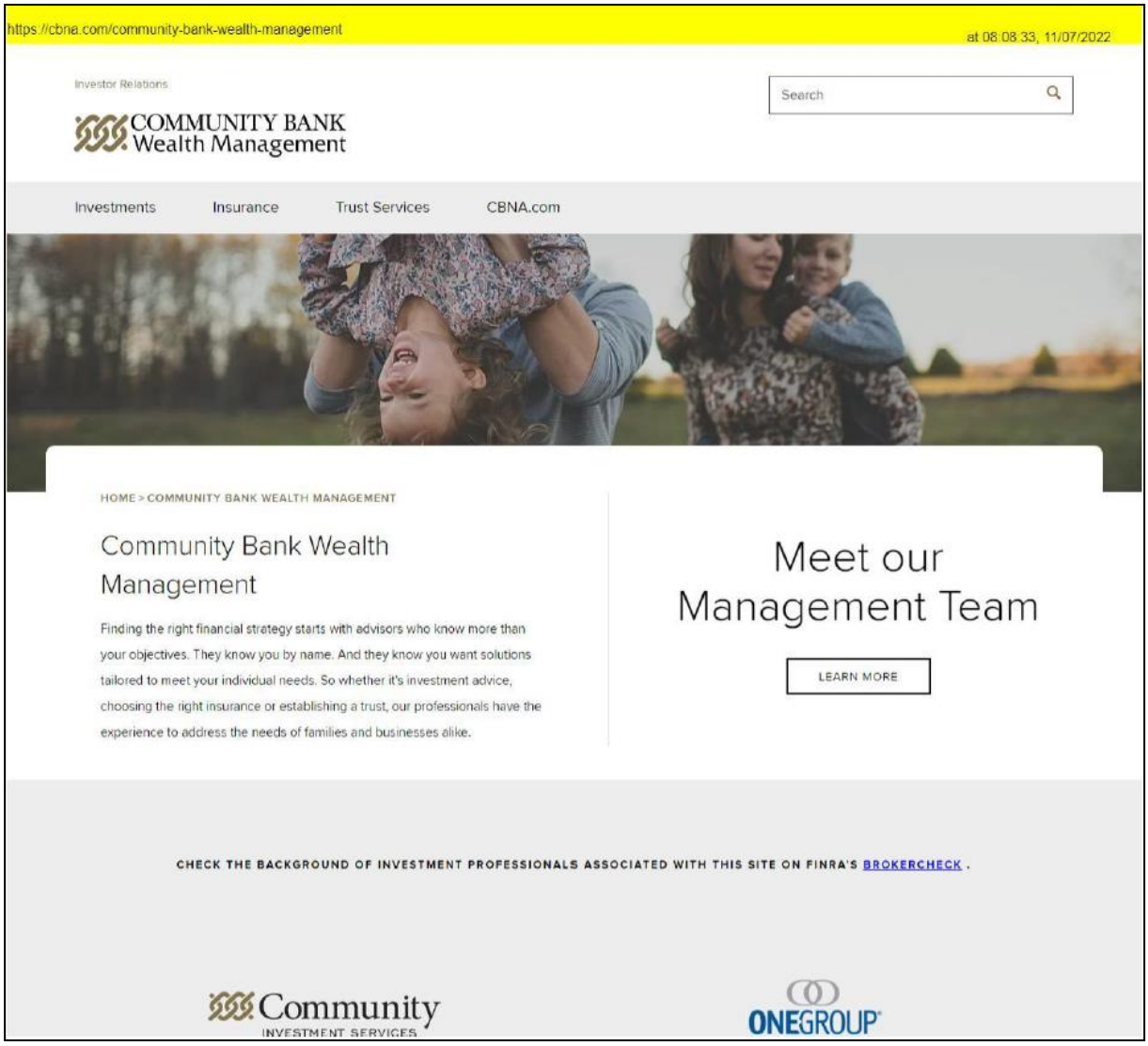

https://online.citi.com/US/ag/banking/banking-overview?intc=1~7~50~5~LOBA~Checking~Pos2
at 10:17:19, 08/26/2022
citi
ATM / BRANCH
ESPAÑOL
Credit Cards
Banking
Lending
Investing
Wealth Management
Open an Account
How can we help?
Sign On
Products & pricing based on your home address
Change
Citi® Checking Accounts
Checking Made Simple
Bank digitally anytime, anywhere. Access cash at over 65,000 fee-free ATMs when you open a checking account with $0 minimum opening deposit.
Learn More
Checking Accounts
Savings Accounts
Certificates of Deposit
Banking IRAs
Online Banking with Citi Made Easy
No matter where you are, Citi's online banking has you covered.
Simple Account Management
View statements, check balances, transfer funds between linked accounts[1] and more.
Hassle-free Transfers
Send or receive money through Wire Transfers, Citibank® Global Transfers, Inter Institution Transfers and Zelle®.[2,3]
Convenient Online Bill Payments
Pay bills online with ease[4] and set up custom payment alerts.[5]
Feedback
[17]

[17] *Id.* at 16.



[18]

[18] Office Action dated Nov. 7, 2022 at 9.



[19]

We find this evidence to be highly probative of relatedness, inasmuch as it demonstrates that consumers are exposed to banking services as well as financial management services, and investment administration and consulting services, offered by the same source under the same mark at the websites. *See, e.g., In re Detroit Athletic*, 128 USPQ2d at 1051 (relatedness supported by evidence that third parties sell both types of goods under same mark, showing that "consumers are

[19] *Id.* at 13.

accustomed to seeing a single mark associated with a source that sells both"); *In re Anderson*, 101 USPQ2d 1912, 1920 (TTAB 2012) (Internet excerpts from "several third-party car dealerships offering 'tires' for sale on their websites" was "evidence that consumers expect to find both 'tires,' . . . "and 'automobiles' . . . emanating from a common source.").

2. Third-Party Registrations Proffered By Applicant

Applicant introduced printouts of nine pairs of third-party registrations from the USPTO trademark search database[20] for marks unrelated to Applicant's Mark and the mark of the Cited Registration to show that banking services, on the one hand, and financial management and investment-related services, on the other, may be offered by different parties under marks which have a common, arguably dominant, term. According to Applicant, these registrations contain "an allegedly dominant term plus the term 'bank'" for banking-related services on one hand, and "a mark containing the same allegedly dominant word offering investment-related services" on the other. (6 TTABVUE 12). Because these pairs of marks were allowed to coexist on the register, Applicant argues that its mark should be allowed to register also, notwithstanding the Cited Registration. (6 TTABVUE 12). Applicant further argues that the pairs are similar and relevant, but the Examining Attorney failed to appreciate the similarity of the pairs. (6 TTABVUE 14). Applicant concludes its argument asserting that confusion is unlikely, since the "coexistence of these marks

[20] Request for Reconsideration After Final Action dated Feb. 24, 2023 at 17-19, 26-27, 29, 32-34, 37, 41-45, 53, 57, 59, 69, 73, 75, 84, 86.

indicates the public is capable of making distinctions between marks with a similar word pattern for use with similar goods/services as the marks at issue." (6 TTABVUE 14).

Prior decisions and actions of other examining attorneys in registering other marks have little evidentiary value and are not binding upon the USPTO or the Trademark Trial and Appeal Board. *In re Midwest Gaming & Entm't,* 106 USPQ2d 1163, 1165 n.3 (TTAB 2013) (citing *In re Nett Designs, Inc.,* 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001)). Each case is decided on its own facts, and each mark stands on its own merits. *In re Binion,* 93 USPQ2d 1531, 1536 (TTAB 2009). Applicant's third-party registration pairings are "not evidence that the registered marks are actually in use or that the public is familiar with them." *In re Midwest Gaming & Entm't,* 106 USPQ2d at 1167 n.5 (citing *In re Mighty Leaf Tea,* 94 USPQ2d at 1259). Whatever probative value there is to Applicant's list of third-party registrations is weighed in conjunction with the website evidence submitted by the Examining Attorney. *Cf. In re Thor Tech, Inc.,* 113 USPQ2d 1546, 1548-51 (TTAB 2015) (refusal reversed where existence of fifty pairs of substantially identical marks for land motor vehicles and for towable recreational vehicle trailers suggested that those goods, which were expensive, were distinctive in the marketplace, making confusion between even identical marks unlikely).

Here, we only have nine pairs of third-party registrations to consider. They are:

ROCKFORD COMMUNITY BANK ("COMMUNITY BANK" disclaimed) Supp. Reg. No. 6886369 "Banking services" (Class 36)	**ROCKFORD TOWER** Reg. No. 5419380 "Financial and investment management services." (Class 36)
COMMUNITY BANKS OF COLORADO ("BANKS" disclaimed) Reg. No. 5884859 "Banking services" (Class 36)	**COLORADO FINANCIAL MANAGEMENT** ("FINANCIAL MANAGEMENT" disclaimed) Reg. No. 4793913 "Financial planning and investment advisory services." (Class 36)
MICHIGAN'S COMMUNITY BANK ("COMMUNITY BANK" disclaimed) Supp. Reg. No. 4599059 "Banking services" (Class 36)	**MICHIGAN CLASS** ("MICHIGAN" disclaimed) Reg. No. 4859169 "Financial services, namely, investment advice, investment management, investment consultation and investment of funds for others, namely, investment program for participating governmental entities." (Class 36)
1ST COLONIAL COMMUNITY BANK ("COMMUNITY BANK" disclaimed) Reg. No. 4306774 "Banking services" (Class 36)	**AMERICAN COLONIAL CAPITAL** ("AMERICAN" and "CAPITAL" disclaimed) Reg. No. 6482619 "Financial investment in the field of real estate." (Class 36)
HOMELAND COMMUNITY BANK ("COMMUNITY BANK" disclaimed) Reg. No. 3500038 "Banking services" (Class 36)	**HOMELAND.COM** Reg. No. 6633115 "Real estate investment services" (Class 36)
PRAIRIE COMMUNITY BANK ("COMMUNITY BANK" disclaimed) Reg. No. 2851908 "Banking and banking services" (Class 36)	**PRAIRIE** Reg. No. 5490051 "Corporate financial planning and investment banking advisory services" (Class 36)

 ("BEACH COMMUNITY BANK" disclaimed) Reg. No. 3536167 "Banking" (Class 36)	**BEACH POINT CAPITAL** ("CAPITAL" disclaimed) Reg. No. 3890600 "Financial services, namely, asset management services, investment management services, and investment advisory services." (Class 36)
NEW YORK COMMUNITY BANK ("COMMUNITY BANK" disclaimed) Reg. No. 3273643 "Banking services" (Class 36)	**FIRST NEW YORK** ("NEW YORK" disclaimed) Reg. No. 6562218 "Financial management; financial advice; financial consultancy; financial planning; financial portfolio management; Financial services, namely, wealth management services; Investment advisory services; Investment management; Investment of funds; Trading in securities; Capital investment." (Class 36)
 ("COMMUNITY BANK" disclaimed) Reg. No. 3101564 "Banking" (Class 36)	 Reg. No. 6878492 "Real estate financing services; Real estate funds investment services; Real estate investment consultancy; Real estate investment services" (Class 36) "Real estate development services" (Class 37)

Although some of these third-party registrations are for banking, banking-related services, financial management services, or investment-related services, Applicant offered absolutely no evidence showing the extent to which the marks in these

registrations are actually used in commerce, or consumers' familiarity with them. "[W]here the 'record includes no evidence about the *extent of [third-party] uses* … [t]he probative value of this evidence is thus minimal." *Palm Bay Imps.,* 73 USPQ2d at 1693 (citing *Han Beauty, Inc. v. Alberto-Culver Co.,* 236 F.3d 1333, 57 USPQ2d 1557, 1561 (Fed. Cir. 2001)); *see also Smith Bros. Mfg. Co. v. Stone Mfg. Co.,* 476 F.2d 1004, 177 USPQ 462, 462-63 (CCPA 1973) ("But in the absence of any evidence showing the *extent of use* of any of [the third-party registrations] or whether any of them are now in *use,* they provide no basis for saying that the marks so registered have had, or may have, any effect at all on the public mind so as to have a bearing on likelihood of confusion. 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.").

3. Relatedness Overall

Again, to find relatedness of the services at issue, it is sufficient, for example, that third-party websites show the relevant services being used by purchasers for the same purpose, advertisements show the relevant services being advertised together, or that the record includes copies of use-based registrations of the same mark for both Applicant's identified services and the services identified in the Cited Registration. *See, e.g., In re Davia,* 110 USPQ2d at 1817.

The webpage evidence that we have considered shows that banking, banking-related services, financial management services, or investment-related services are frequently offered under the same mark. The citi.com, wellsfargo.com, pnc.com,

td.com, citizensbank.com, cbna.com, communityinvestmentservices.com, ucbbank.com, and fmcommunity.com webpages — as well as Applicant's webpages featuring its COMMUNITY BANK OF WILLOWBROOK mark — all advertise, or display, the services identified by Applicant's Mark and the mark of the Cited Registration. Based on this evidence, we find that the webpage evidence that we have considered is more probative than Applicant's third-party registration evidence. The webpage evidence, which was submitted by the Examining Attorney, persuades us that "banking services" and "financial management services, investment administration and consulting services, and investment of funds for others" are closely related, whereas Applicant's third-party registration evidence tells us nothing about the use of those marks in commerce. Applicant could have proffered evidence demonstrating use of those registrations, but Applicant did not. Therefore, this *DuPont* factor weighs in favor of a finding of likelihood of confusion.

D. The Similarity of Established, Likely-to-Continue Trade Channels

The third *DuPont* factor concerns "the similarity or dissimilarity of established, likely-to-continue trade channels." 177 USPQ at 567. When analyzing the third *DuPont* factor, we consider whether the identifications of services contain any restrictions as to channels of trade or classes of purchasers, and if there are none, we must presume that the identified services travel in the ordinary channels of trade for such services, and are offered or sold to all potential purchasers of such services. *Cunningham v. Laser Golf*, 55 USPQ2d at 1846; *see also In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981) ("[W]here the [services] in a cited registration are

broadly described and there are no limitations in the identification of [services] as to their nature, type, channels of trade or classes of purchasers, it is presumed that the scope of the registration encompasses all [services] of the nature and type described, that the identified [services] move in all channels of trade that would be normal for such [services], and that the [services] would be purchased by all potential customers.").

Applicant contends that its "banking services" and the services identified in the Cited Registration, "financial management services, investment administration and consulting services, and investment of funds for others," travel in different channels of trade. (6 TTABVUE 20). Applicant's arguments are unavailing, however. The respective identifications in Applicant's application and the Cited Registration do not contain limitations, so we must assume that the services move through all normal and usual channels of trade for those types of services, and that they are available to all normal potential purchasers of the services.

The trade channels for Applicant's Services and the services for the Cited Registration include community banks and banks in general, as well as financial and investment services institutions. For example, at its website, Citibank offers banking, lending, investing, wealth management, and credit card services; information about these services appears to be accessible from tabs at the top of the Citibank webpages in the evidence of record.[21] Wells Fargo offers checking and savings accounts,

[21] Office Action dated Aug. 26, 2022 at 11-21 (pages located at online.citi.com/US/ag/investing/investingwithciti and online.citi.com/US/ag/banking/banking-overview).

investing and wealth management services, commercial banking services, and corporate and investment banking services at its website; information about these services also appears to be accessible from tabs at the top of the Wells Fargo webpages in the evidence of record.[22] Community Bank, which claims "we're a whole lot more than just a basic bank" on its website, offers personal, business, wealth management, investments, insurance, and trust services.[23] Applicant offers banking, mortgage, surcharge-free ATMs, and wealth management services at its Willowbrook, Illinois location,[24] and at its website Applicant offers personal, small business, commercial banking, and wealth management services.[25] Collectively, this evidence shows that "banking services," "financial management services," "investment administration and consulting services," and the "investment of funds for others" are offered under the same marks and are encountered by the same classes of consumers through banks and financial institutions. The relevant class of consumers for the identified services also would be the same, i.e., members of the general public who use banking, financial, and investment services.

[22] *Id.* at 22-30 (pages located at wellsfargo.com and wellsfargo.com/investing-wealth).

[23] Final Office Action dated Nov. 7, 2022 at 9, 13 (pages located at cbna.com/checking/checking-products and cbna.com/community-bank-wealth-management). The "Community Bank Wealth Management" page is accessible from the "Investor Relations" tab at the "Checking Products" page.

[24] Office Action dated Aug. 26, 2022 at 63 (willowbrookbank.com/about-your-bank/connect-with-us/findus.html).

[25] *Id.* at 31-32, 61-64 (pages located at willowbrookbank.com and willowbrookbank.com/about-your-bank/who-we-are/our-story.html).

The evidence of record supports a finding that these services are offered in the same channels of trade. The third *DuPont* factor also weighs in favor of a finding of likelihood of confusion.

E. Purchaser Sophistication; Elevated Degrees of Care

Turning to the fourth *DuPont* factor, the conditions under which the services are likely to be purchased, e.g., whether on impulse or after careful consideration (i.e., consumer purchasing care), we note that purchaser sophistication or degree of care when encountering marks may tend to minimize likelihood of confusion. Conversely, impulse purchases of inexpensive items where purchasers pay little attention to the source of the products may tend to have the opposite effect. *Palm Bay Imps.,* 73 USPQ2d at 1695.

Applicant argues generally that in the banking and financial fields, purchasers of the services offered under the respective marks are sophisticated and exercise a high degree of care. (6 TTABVUE 20-22). Applicant has not proffered any evidence to support its assertion that the relevant purchasers here are sophisticated or would use elevated care in making purchasing decisions, *see Cai v. Diamond Hong, Inc.,* 901 F.3d 1376, 127 USPQ2d 1797, 1799 (Fed. Cir. 2018) ("Attorney argument is no substitute for evidence."), but on the other hand, there is no evidence of record that purchasers of banking, financial, or investment services are impulse, or careless, purchasers. We acknowledge, however, that some federal courts have found that purchasers exercise a slightly higher degree of care when encountering banking or

financial services.[26] The Federal Circuit and the Board have found that some purchasers of banking services exercise a higher degree of care, while others may not. *See, e.g., Amalgamated Bank of N.Y. v. Amalgamated Trust & Sav. Bank,* 842 F.2d 1270, 6 USPQ2d 1305, 1308 (Fed. Cir. 1988) ("Banking is, we may take notice, unlike other business. Instead of buyers, banking has customers who may be creditors of the bank — depositors — or debtors to the bank — borrowers and others to whom bank credit is extended. Some of both categories one would expect to select their bank after long and careful consideration. Others do not even know they will be customers of a bank until they discover that they are, i.e., when paper they have signed, payable to someone else, is assigned to a bank. We would suppose that bankers have to know the habits of their customers, and the application of such knowledge is implicit in the agreement here involved. It would be strange for the customers of the banks to be confused about whom they were dealing with, and their bankers not know it."); *Lincoln Nat'l Corp. v. Anderson,* 110 USPQ2d 1271, 1283 & n.18 (TTAB 2014) (where relevant purchasers of banking, financial planning, and investment services consisted of both ordinary and knowledgeable and sophisticated consumers, "this factor certainly would not weigh significantly in applicant's favor. At most it is neutral in our overall likelihood of confusion determination based on all of the relevant *duPont* factors").

[26] Applicant cited cases from the U.S. Courts of Appeals for the Fifth and Eighth Circuits, as well as one case from the U.S. District Court for the S.D. Iowa for the proposition that "consumers tend to exercise a relatively high degree of care in selecting banking services." (6 TTABVUE 21).

Therefore, in regard to purchaser sophistication, we find that not all purchasers here are sophisticated. The identifications of services in the application and Cited Registration are not limited to particular purchasers, and the record is devoid of evidence pertaining to purchaser sophistication. Here, the relevant purchasers consist of both professionals, such as money managers, and members of the general public, who typically use savings and checking accounts and would require complex financial services on a less frequent basis. Thus, the standard of care for purchasing the services is that of the least sophisticated potential purchaser. *In re FCA US LLC,* 126 USPQ2d 1214, 1222 (TTAB 2018) (citing *Stone Lion,* 110 USPQ2d at 1163).

Accordingly, we find that purchasers of banking services, financial management services, and investment administration and consulting services include both ordinary purchasers of services such as checking and savings accounts, and purchasers who use those services as well as financial management or investment administration or investment consulting services. The latter purchasers would likely be more sophisticated and more careful in selecting service providers. But even if some of the purchasers here were sophisticated, exercised a high degree of care, or were knowledgeable in the banking, finance, or investment fields, that would not necessarily mean that those same purchasers would be sophisticated or knowledgeable in the field of trademarks, or immune from source confusion. *See, e.g., Stone Lion,* 110 USPQ2d at 1163-64.

Focusing on the least sophisticated potential purchasers of the respective services, we find that the purchasers of Applicant's Services exercise varying levels of some care in their purchasing decisions. As a result, this *DuPont* factor is neutral.

III. Conclusion

Having considered all of the arguments and evidence relating to the relevant likelihood of confusion factors, we conclude that on this record, confusion is likely between Applicant's Mark, COMMUNITY BANK OF WILLOWBROOK, for "banking services" in Class 36, and the mark of the Cited Registration, WILLOWBROOK, for "financial management services, investment administration and consulting services, and investment of funds for others" in Class 36. Both marks have the same dominant source-indicating term, WILLOWBROOK, and convey the same commercial impression; their trade channels are identical; and the services rendered under the marks are related. Even though purchasers of Applicant's Services may exercise some care in their purchasing decisions, those purchasers may not be knowledgeable in the field of trademarks or immune from source confusion. *See In re Shell Oil Co.,* 992 F.2d 1204, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993) ("even sophisticated purchasers can be confused by very similar marks"); *Top Tobacco, LP v. N. Atl. Operating Co.,* 101 USPQ2d 1163, 1170 (TTAB 2011) ("[W]e have often noted that even consumers who exercise a higher degree of care are not necessarily knowledgeable regarding the trademarks at issue, and therefore immune from source confusion.") (citations omitted). Finally, Applicant has not established any weakness in the Registered Mark.

Decision: We affirm the refusal to register Applicant's Mark, COMMUNITY BANK OF WILLOWBROOK, under Section 2(d) of the Trademark Act.