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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Broadstreet Impact Services, LLC

Serial Nos. 97920876 & 98216202


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for Broadstreet Impact Services, LLC

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Before Dunn, Thurmon, and Casagrande, Administrative Trademark Judges.

Opinion by Casagrande, Administrative Trademark Judge:

Broadstreet Impact Services, LLC (Applicant) seeks registration on the Principal

Register of the marks BROADSTREET (in standard characters) and ,

both for services ultimately identified as follows:

Fund administrative services, namely, preparation of accounting and financial statements for others; Fund administrative services, namely, investor reporting services in the nature of the preparation of reports relating to investments; Fund administrative services, namely, providing audit support services in the nature of organization and presentation of the documents and data requested by an auditor; Fund administrative services, namely, providing tax support services for others in the nature of organization and presentation of the documents and data requested by a tax preparer, in International Class 35; and

Fund administration services, namely, setting up an investment fund for others; fund administration services, namely, providing cash and capital management services in connection with the investment funds of others; fund administration services, namely, loan servicing; Impact investment services in the nature of forming and managing tax credit equity funds on behalf of others; Impact investment services in the nature of forming and managing private debt funds on behalf of others, in International Class 36.¹

The applications were assigned to the same trademark examining attorney and thereafter proceeded in parallel. Both applications ultimately were refused under Section 2(d), 15 U.S.C. § 1052(d), due to likelihood of confusion with the standard-character mark BROAD STREET PLANNING, which is registered on the Principal Register (with the term “PLANNING” disclaimed) for “Financial planning; Financial planning consultation; Investment advisory services” in International Class 36.²

After the Examining Attorney made the refusals final,³ Applicant simultaneously requested reconsideration and appealed.⁴ We suspended the appeals and remanded

¹ Both applications were filed under Section 1(b) of the Lanham Trademark Act, 15 U.S.C. § 1051(b), based on Applicant’s bona fide intent to use the marks in commerce. Application Ser. No. 97920876 (the “’876 application” or the “standard character application”) was filed on May 4, 2023, in the name of New Markets Support Company, LLC. A few months later, the name of the applicant was amended to Broadstreet Impact Services, LLC. Application Ser. No. 98216202 (the “’202 application”) was filed on October 10, 2023, and contains the statements: “The mark consists of the word BROADSTREET in black capital letters with a green sideways lambda character offset above the letters ‘EET’”; and that “The color(s) Black, Green is/are claimed as a feature of the mark.”

² Reg. No. 7382816 issued on May 7, 2024.

³ See Oct. 15, 2024, Final Office Actions (both application files). Any citations to specific pages of prosecution filings will be to .pdf-format versions of the documents as downloaded from the USPTO’s TSDR electronic trademark docketing system.

⁴ See Jan. 15, 2025, Requests for Reconsideration (both application files); Notices of Appeal, 1 TTABVUE (both appeal files). References to the briefs and appeal record cite to the Board’s TTABVUE electronic docket system. The number preceding “TTABVUE” represents the

to the Examining Attorney so that she could consider the reconsideration requests.⁵ After both requests were denied,⁶ we resumed the appeals.⁷ Both Applicant and the Examining Attorney filed appeal briefs.⁸ The appeals are now ready for decision. For the reasons explained below, we affirm the refusals to register.

Before we address the merits, we note that the issues raised by the two appeals are almost identical. Both applications were refused on the same, single ground. The evidence in the prosecution records is almost identical as well. The briefs are largely the same, except that the brief involving the non-standard character mark mentions the green design element in the mark. Accordingly, although we have not formally consolidated the appeals, we will address them together in this single opinion. Each appeal will “retain[] its separate character,” however, and we will enter a separate judgment for each appealed application. *In re Consumer Protection Firm PLLC*, No. 87445801, 2021 WL 825503, at *1-2 (TTAB 2021). We also will place a copy of this decision in each appeal file. *See id.*; *see also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 1214 (2025). Citations in this opinion to the briefs and the record will be to the prosecution and appeal file involving the standard-character ’876 application, unless otherwise noted.

docket number assigned to the cited filing in TTABVUE and any number immediately following “TTABVUE” identifies the specifically-cited page(s), if any.

⁵ See 2 TTABVUE (both appeal files).

⁶ See Jan. 30, 2025, Denials of Reconsideration (both application files).

⁷ See 5 TTABVUE (both appeal files).

⁸ See 6 TTABVUE (Applicant’s briefs in both appeals); 8 TTABVUE (Examining Attorney’s briefs in both appeals).

ANALYSIS

Section 2(d) of the Trademark Act prohibits registration of a mark that “so resembles a mark registered in the Patent and Trademark Office ... as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.” 15 U.S.C. § 1052(d). We determine whether confusion is likely by analyzing all probative facts in evidence relevant to the likelihood-of-confusion factors set forth in *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973). *See, e.g., In re Charger Ventures LLC*, 64 F.4th 1375, 1379 (Fed. Cir. 2023). Though *DuPont* lists thirteen numbered factors (some with subparts), we generally address only those that are relevant and material to the case before us, *see, e.g., Shen Mfg. Co. v. Ritz Hotel, Ltd.*, 393 F.3d 1238, 1241 (Fed. Cir. 2004); *Octocom Sys., Inc. v. Houston Computer Servs., Inc.*, 918 F.2d 937, 943 (Fed. Cir. 1990)—typically the factors that the parties address and on which there is relevant evidence in the record. *See, e.g., Sunkist Growers, Inc. v. Intrastate Distribs., Inc.*, No. 24-1212, ___ F.4th ___, 2025 WL 2055711, at *2 (Fed. Cir. July 23, 2025); *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407 (Fed. Cir. 1997). We then weigh together our findings on these factors to determine if, on balance, they indicate that confusion is likely. *See, e.g., Charger Ventures*, 64 F.4th at 1381; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1319 (Fed. Cir. 2003).

A. Comparison of the marks

The first likelihood-of-confusion factor assesses “[t]he similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial

impression.” *du Pont*, 476 F.2d at 1361. This is always an important inquiry. *See, e.g., Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165 (Fed. Cir. 2002); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103 (CCPA 1976). “Similarity is not a binary factor but is a matter of degree.” *In re St. Helena Hosp.*, 774 F.3d 747, 752 (Fed. Cir. 2014) (citation omitted). “The proper test is ... 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, llc*, 866 F.3d 1315, 1323 (Fed. Cir. 2017) (citation omitted); *see also Phillips Petroleum Co. v. Knox Indus. Corp.*, 277 F.2d 945, 947 (CCPA 1960) (“This issue is whether the marks are confusingly similar, not whether they are identical.”) (citation omitted).

In assessing the marks, we compare their “appearance, sound, connotation and commercial impression.” *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1340 (Fed. Cir. 2015) (citation omitted); *accord i.am.symbolic*, 866 F.3d at 1324. This factor supports the refusal “if the similarity in either form, spelling or sound alone is likely to cause confusion.” *Krim-Ko Corp. v. Coca-Cola Bottling Co.*, 390 F.2d 728, 732 (CCPA 1968) (citation omitted); *see also Hancock v. Am. Steel & Wire Co.*, 203 F.2d 737, 740 (CCPA 1953) (“it is proper to consider [the marks’] appearance, sound and meaning ... but a combination of all three factors need not necessarily exist”) (cleaned up; citations omitted). We do not compare the marks side-by-side, however, as though in a laboratory. Rather, we keep in mind that consumers must depend on their recollection of marks to which they’ve previously been exposed and that their

memories are fallible. *See, e.g., In re St. Helena Hosp.*, 774 F.3d 747, 751 (Fed. Cir. 2014); *Franklin Mint Corp. v. Master Mfg. Co.*, 667 F.2d 1005, 1007 (CCPA 1981).

We compare marks in their entirety. *See, e.g., Oakville Hills Cellar, Inc. v. Georgallis Holdings, LLC*, 826 F.3d 1376, 1380 (Fed. Cir. 2016). Sometimes, however, “one feature of a mark may be more significant than another, and it is not improper to give more weight to this dominant feature in determining the commercial impression created by the mark.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368 (Fed. Cir. 2012) (citations omitted).

Here, Applicant’s standard character mark is BROADSTREET, and that term also is the sole literal element of the mark in the ’202 Application. The registered mark is BROAD STREET PLANNING, with “PLANNING” disclaimed due to its descriptive significance as to the identified services. Applicant argues that BROADSTREET as one word is different from BROAD STREET as two words because BROADSTREET is unitary.⁹ We find that the difference isn’t material. We’ve rejected similar arguments about the addition or deletion of a space between words in several past decisions.¹⁰ That consistent decisional law is an indication that adding or deleting a

⁹ *See* 6 TTABVUE 13-14.

¹⁰ *See, e.g., Mini Melts, Inc. v. Reckitt Benckiser LLC*, No. 9117396, 2016 WL 3915987, at *5 (TTAB 2016) (“The absence of a space in Applicant’s mark MINIMELTS does not meaningfully distinguish it from Opposer’s mark [MINI MELTS].”); *In re Iolo Techs., LLC*, No. 77399654, 2010 WL 2513865, at *2 (TTAB 2010) (“The only difference is that applicant’s mark [ACTIVECARE] is a single compound word, while registrant’s mark [ACTIVE CARE] is two words. We find this difference to have no trademark significance. The two words retain the same meanings when joined as a compound.”); *Giersch v. Scripps Networks, Inc.*, No. 92045576, 2009 WL 706673, at *7 (TTAB 2009) (DESIGNED2SELL and DESIGNED TO SELL confusingly similar); *Seaguard Corp. v. Seaward Int’l, Inc.*, No. 92013589, 1984 WL 62803, at *3 (TTAB 1984) (SEA GUARD and SEAGUARD are “essentially identical”); *In re Best W. Family Steak House, Inc.*, No. 90315241, 1984 WL 63066, at * 1 (TTAB 1984) (“there

space usually doesn't change a mark's commercial impression. Applicant's failure to point to any evidence in the record showing that consumers will perceive BROAD STREET and BROADSTREET differently convinces us that the general rule reflected in those prior decisions applies here. There is no difference in the commercial impressions created by BROADSTREET and BROAD STREET.


While the lack of the final term "PLANNING" creates a phonetic and visual difference between Applicant's marks and the registered mark, Applicant's standard-character mark and the literal portion of the mark in its '202 Application simply consist of the first two terms in the registered mark without a space between the terms. Generally, first terms in marks tend to contribute more than terms that follow in creating a mark's commercial impression,¹¹ especially when the following term is, as in the registered mark here, a disclaimed, descriptive term.¹² Thus, overall,

can be little doubt that the marks [BEEFMASTER for restaurant services and BEEF MASTER for frankfurters and bologna] are practically identical"); *Stockpot, Inc. v. Stock Pot Rest., Inc.*, No. 92013157, 1983 WL 51866 (TTAB 1983) (finding STOCKPOT and STOCK POT confusingly similar), *aff'd*, 737 F.2d 1576 (Fed. Cir. 1984).

¹¹ See, e.g., *In re Detroit Athl. Co.*, 903 F.3d 1297, 1303 (Fed. Cir. 2018) ("The identity of the marks' initial two words is particularly significant because consumers typically notice those words first.") (citations omitted); *Edom Lab's, Inc. v. Llichter*, No. 91193427, 2012 WL 1267961, at *7 (TTAB 2012) (precedential) ("The term CHIRO, as the first part of opposer's mark, is most likely to be impressed upon the mind of a purchaser and remembered.") (cleaned up, citation omitted); see also *Palm Bay Imports Inc. v. Veuve Clicquot Ponsardin*, 396 F.3d 1369, 1372-73 (Fed. Cir. 2005) ("Veuve" is the most prominent part of the mark VEUVE CLICQUOT and constitutes its "dominant feature" because "veuve" is the first word in the mark and the first word to appear on the label); see also *Sabhnani v. Mirage Brands, LLC*, No. 92068086, 2021 WL 6072822, at *18 (TTAB 2021) (observing the "penchant of consumers to shorten marks and drop the non-source-identifying word") (cleaned up; citations omitted).

¹² See, e.g., *Citigroup Inc. v. Cap. City Bank Grp., Inc.*, 637 F.3d 1344, 1351 (Fed. Cir. 2011) ("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.") (citation omitted); *Century 21 Real Estate Corp. v. Century Life of Am.*, 970

Applicant's standard-character mark and the literal aspect of the mark in its '202 Application are very similar to the registered mark.

As to its '202 Application, Applicant emphasizes the green symbol in the upper right corner of its mark: . It argues that “consumers would recollect a very specific impression given this graphical element,” and urges that this “would generate difference [sic] commercial impressions in the mind of the potential consumer.”¹³ We disagree. Words tend to make a more lasting impression than design elements. *See, e.g., Jack Wolfskin Ausrüstung Fur Draussen GmbH v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1371 (Fed. Cir. 2015) (“We have also explained that when a mark consists of both words and a design, the verbal portion of the mark is the one most likely to indicate the origin of the goods to which it is affixed.”) (cleaned up; citation omitted); *In re Viterra Inc.*, 671 F.3d 1358, 1366 (Fed. Cir. 2012) (“[T]he verbal portion of a word and design mark likely will be the dominant portion. This makes sense given that the literal component of brand names likely will appear alone when used in text and will be spoken when requested by consumers.”) (citation omitted). More important—especially given that the design is neither very large nor visually distinctive (it's essentially two nonparallel straight green lines, the shorter above the longer one)—Applicant provides no evidence to

F.2d 874, 876 (Fed. Cir. 1992) (Board correctly found that “Century” is the “dominant element of CENTURY LIFE OF AMERICA due to applicant's disclaimer of the rest of its mark” and because “upon encountering each mark, consumers must first notice this identical lead word”).

¹³ *See* 6 TTABVUE 16 ('202 appeal file).

support its hypothesis that the mark in the '202 Application, due to the two-green-line symbol, makes a commercial impression significantly different from that of the registered mark.

Overall, we find both of Applicant's marks very similar to the registered mark. In our final weighing, this factor will count in favor of a conclusion that confusion is likely.

B. Comparison of the goods

The second likelihood-of-confusion factor looks at “[t]he similarity or dissimilarity and nature of the goods or services as described in an application or registration.” *DuPont*, 476 F.2d at 1361. We compare the services as they are set forth in the applications and registration. *See, e.g., Detroit Athl. Co.*, 903 F.3d at 1307; *i.am.symbolic*, 866 F.3d at 1325. “Even if the goods and services in question are not identical, the consuming public may perceive them as related enough to cause confusion about the source or origin of the goods and services.” *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1267 (Fed. Cir. 2002) (citation omitted); *In re Rsch. & Trading Corp.*, 793 F.2d 1276, 1278 (Fed. Cir. 1986) (“It is ... not necessary that the goods [or services] of the parties be identical in order to sustain a finding of likelihood of confusion.”) (citations omitted). Relatedness is not “an all-or-nothing factor” but “should be analyzed along a sliding scale.” *Joseph Phelps Vineyards, LLC v. Fairmont Holdings, LLC*, 857 F.3d 1323, 1328 (Fed. Cir. 2017).

One straightforward way to show that consumers perceive products or services as related is to show that several companies offer the services in an application and

those in a cited registration under the same mark. *See, e.g., Naterra Int’l, Inc. v. Bensalem*, 92 F.4th 1113, 1117 (Fed. Cir. 2024); *Detroit Athl. Co.*, 903 F.3d at 1306; *Hewlett-Packard*, 281 F.3d at 1267. Here, the Examining Attorney placed in the record evidence that over twenty other companies do exactly that.¹⁴

Applicant argues that the services in its applications and the services listed in the cited registration “are meaningfully distinguishable.”¹⁵ But the issue here is not

¹⁴ *See, e.g.,* CLA, June 10, 2024, Nonfinal Office Action, at TSDR 12-21 (various fund administration services to funds/institutions and investment advisory services); US Bank, *id.* at 23-40 (various fund administration services to funds/institutions and investment advisory services); Nottingham, *id.* at 48-69 (investment advisory services and various services to funds/institutions); UMB, *id.* at 71-98 (various fund administration services to funds/institutions and investment advisory services); Avivar, *id.* at 100-07 (investment advisory services, impact investment services such as developing funds and related reporting); Social Finance, *id.* at 109-15 (develops and manages investment funds (impact investments) and serves as investment advisors); Stakeholders Capital, *id.* at 117-22 (financial planning, related tax strategies, and investment advisory services); Impact Community Capital, *id.* at 124-30 (investment advisory services and “leveraging state tax credits” regarding “impact funds”); Earth Equity, *id.* at 132-53 (investment advice, management of impact investment portfolios); Condon & Co., Oct. 15, 2024, Final Office Action, at TSDR 10-15 (financial planning; fund administration including tax support services, investor reporting); Armanino, *id.* at 17- 35 (fund administration including reporting, tax services, financial planning); Kranz Consulting, *id.* at 37-62 (financial planning, and fund administration, including financial statements, investor reporting, tax support); Kaufman Rossin, *id.* at 64-105 (investment management, fund administration, including accounting statements, investor reporting, tax support; financial planning and consulting, investment advisory services); TKR, Jan. 30, 2025, Denial of Reconsideration, at TSDR 10-16 (fund administration including tax support and reporting, financial planning); SS & C, *id.* at 18-31 (fund administration including reporting, financial planning, investment advisors); JTC, *id.* at 32-65 (fund administration including reporting and accounting/tax support, impact investing, financial planning, loan-related services); CISA Trust, *id.* at 68-78 (fund administration including accounting/tax support, wealth and financial advising); Whitley/Penn, *id.* at 79-87 (fund administration including audit related, reporting, financial planning); Dominion, *id.* at 93-98 (fund administration including reporting and accounting/audit related, setting up and launching funds, and financial planning); and BakerTilly, *id.* at 107-37 (financial planning, investment advisory services, private equity fund administration, including financial reporting, accounting, tax related, investor reporting, audit support).

¹⁵ *See* 6 TTABVUE 8.

whether consumers can tell the services apart. It's whether consumers would reasonably expect the services (or goods) to emanate from the same source. *See, e.g., Hydra Mac, Inc. v. Mack Trucks, Inc.*, 507 F.2d 1399, 1400 (CCPA 1975) (“[T]he confusion found to be likely is not as to the products but as to their source. Here the goods of the parties are such as might reasonably be expected to emanate from the same source.”) (citation omitted); *Mishawaka Rubber & W. Mfg. Co. v. Bata Narodni Podnik*, 222 F.2d 279, 287 (CCPA 1955) (“In determining whether there is likelihood of confusion, one is not concerned merely with confusion in goods; the question is whether goods are of a nature which purchasers might reasonably assume to come from same source.”). Seeing the same services offered under a single mark by third parties leads consumers to expect the same from other parties.

Citing *Elec. Design & Sales Inc. v. Elec. Data Sys. Corp.*, 954 F.2d 713 (Fed. Cir. 1992), Applicant argues that it's not enough that Applicant and the owner of the cited registration are both in the financial field.¹⁶ It's true that merely being in the same broad industry does not, by itself, prove that products or services are related. The problem for Applicant is that the refusal here does not rest on such a broad assumption. Rather, the evidentiary record shows that multiple companies offer, under one mark, several of the services Applicant offers as well as the investment advisory and/or financial planning services identified in the cited registration.

We have no difficulty in determining on this record that the respective services are closely related.

¹⁶ See 6 TTABVUE 8-10.

C. Comparison of the channels of trade and the classes of relevant customers

“It is relevant to consider the degree of overlap of consumers exposed to the respective services” *In re Shell Oil Co.*, 992 F.2d 1204, 1207 (Fed. Cir. 1993); *see also du Pont*, 476 F.2d at 1361 (listing “buyers to whom sales are made” as a factor to consider). We make our assessment based on the services as set forth in the applications and cited registration. *See, e.g., i.am.symbolic*, 866 F.3d at 1325.

The Examining Attorney argues that the services in the applications and the cited registrations are offered to the same groups of consumers.¹⁷ Applicant disagrees, arguing that its services are directed toward institutional clients (companies that operate investment funds), in contrast to the services in the cited registration, which Applicant says are directed toward individuals.¹⁸ While the services listed in the applications seem more geared to institutional clients than to individual, we see no express restrictions to that effect. But even if we were to agree with Applicant that its services are inherently restricted to institutional clients, we see no evidence supporting Applicant’s argument that the services in the cited registration exclude institutional clients. In fact, the evidence in the record indicates that many companies offer financial planning services—one of the services listed in the cited registration¹⁹—to institutions. In addition, the cited registration contains no

¹⁷ See 8 TTABVUE 11, 12.

¹⁸ See 6 TTABVUE 9.

¹⁹ Likelihood of confusion even as to one good or service in a prior registration is sufficient to support a refusal. *See, e.g., SquirtCo v. Tomy Corp.*, 697 F.2d 1038, 1041 (Fed. Cir. 1983).

customer restrictions and so must be considered to be offered to all types of customers, individuals and institutional clients alike. *See Detroit Athl. Co.*, 903 F.3d at 1308 (where a “registration does not set forth any restrictions on use,” it cannot be narrowed by evidence or argument that the listed goods or services are “restricted to a particular class of purchasers”) (citation omitted); *accord Can. Imperial Bank of Com. v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1492-93 (Fed. Cir. 1987); *Glamorene Prods. Corp. v. Procter & Gamble Co.*, 538 F.2d 894, 896 (CCPA 1976).

In sum, the overlap in the classes of customers favors a conclusion that confusion is likely.

D. Weighing the findings on the relevant factors together

Having made findings on each of the relevant likelihood-of-confusion factors, our final step is to assess together the findings we have made on the relevant factors to determine if, on balance, they indicate that confusion is likely as to the marks before us. *See, e.g., Charger Ventures*, 64 F.4th at 1384.

In this case, the marks are very similar and the services closely related. Both are core confusion factors in any case. *See, e.g., Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103 (CCPA 1976) (“The fundamental inquiry mandated by § 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.”); *In re Max Cap. Grp. Ltd.*, No. 77186166, 2010 WL 22358, at *1 (TTAB 2010) (“In any likelihood of confusion analysis, two key considerations are the similarities between the marks and the similarities between the goods and/or services.”) (citations omitted).

The overlap in customers adds further weight in favor of a conclusion that confusion is likely.

These are the only factors Applicant addresses on appeal, and they all point in the direction that confusion is likely. On this record, we have no difficulty concluding that confusion is likely as to the marks in both applications.

Decision: We affirm the refusals.