

This Opinion is not a
Precedent of the TTAB

Mailed: April 11, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

—
Trademark Trial and Appeal Board
—

In Tempting Brands Netherlands B.V.
—

Serial No. 79161682
—

Lawrence Abelman and Arrielle S. Millstein of Abelman Frayne & Schwab,
for Tempting Brands Netherlands B.V.

Christopher M. Law, Trademark Examining Attorney, Law Office 103,
Michael Hamilton, Managing Attorney.

—
Before Taylor, Bergsman and Shaw,
Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Tempting Brands Netherlands B.V. (“Applicant”) seeks registration on the
Principal Register of the mark MARIE-ANTOINETTE (in standard characters) for
the goods listed below:

Eyeglasses, sunglasses, protective eyewear, sports
eyewear, anti-glare glasses, 3D spectacles, binoculars,
contact lenses, containers for contact lenses, eyeglass
cases, spectacle cases, eyewear cases, cases for spectacles
and sunglasses, eyeglass chains, eyeglass cords, eyeglass
frames, spectacle frames, frames for spectacles and
sunglasses, spectacle lenses, lenses for sunglasses, optical
lenses, pince-nez, pince-nez cases, goggles for sports,

monocles, magnifying glasses optics; protective helmets; bags adapted for laptops; sleeves for laptops, in Class 9;

Animal skins; trunks luggage and travelling bags; umbrellas; parasols and walking sticks; whips and saddlery; bags, namely, handbags, travelling bags, bags for sports, school bags, book bags, reusable shopping bags, leather shopping bags, briefcases and rucksacks; collars for animals; purses, credit card cases, wallets, and pocket wallets; bags in the nature of envelopes of leather, for packaging, and pouches, of leather, for packaging; vanity cases, not fitted; clothing for pets, in Class 18; and

Clothing for men, women and children, namely, socks, stockings, jeans, trousers, breeches for wear, leggings trousers, boxer shorts, combinations, suits, skirts, petticoats, dresses, dressing gowns, blouses, shirts, tee-shirts, sweaters, pullovers, vests, clothing jerseys, cardigans, shawls, scarves, neckties, clothing gloves, clothing belts, suspenders, panties, coats, waistcoats, overcoats, raincoats, parkas, ponchos, pelerines, cloaks, saris, clothing jackets, overalls, pockets for clothing, clothing collars, nightwear, lingerie, underwear, bathing suits, bath robes, masquerade costumes, fur stoles, footwear, headwear, in Class 25.¹

The Trademark Examining Attorney refused registration of Applicant's mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that Applicant's mark so resembles the registered mark BREGUET MARIE-ANTOINETTE (standard characters) for the goods listed below as to be likely to cause confusion:

Precious metal and their alloys; goods and precious metals or coated therewith, namely, rings, bracelets, brooches, ear rings, necklaces; jewellery, bijouterie, precious stones;

¹ Application Serial No. 79161682 was filed on December 5, 2014, under Section 66(a) of the Trademark Act, 15 U.S.C. § 1141f, based upon Applicant's International Registration No. 1238820, registered December 5, 2014.

diamonds; horological and chronometric instruments, in Class 14.²

When the refusal was made final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal was resumed. We affirm the refusal to register.

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the issue of likelihood of confusion. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973) (“*du Pont*”) (cited in *B&B Hardware, Inc. v. Hargis Ind., Inc.*, 135 S.Ct. 1293, 113 USPQ2d 2045, 2049 (2015)); *see also In re Majestic Distilling Co.*, 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003). We have considered each *du Pont* factor that is relevant and for which there is evidence of record. *See M2 Software, Inc. v. M2 Commc’ns, Inc.*, 450 F.3d 1378, 78 USPQ2d 1944, 1947 (Fed. Cir. 2006); *ProMark Brands Inc. v. GFA Brands, Inc.*, 114 USPQ2d 1232, 1242 (TTAB 2015) (“While we have considered each factor for which we have evidence, we focus our analysis on those factors we find to be relevant.”). In any

² Registration No. 3127067, registered August 8, 2006; Section 71 declaration accepted. 15 U.S.C. § 1141k.

“Horological” is defined as “of or relating to horology.” “Horology” is defined as “the art or science of making timepieces or of measuring time.” A “chronometer” is defined, *inter alia*, as “any timepiece, especially a wristwatch, designed for the highest accuracy.” Dictionary.com based on the ***Random House Dictionary*** (2017). The Board may take judicial notice of dictionary definitions, including online dictionaries that exist in printed format. *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); *Threshold.TV Inc. v. Metronome Enters. Inc.*, 96 USPQ2d 1031, 1038 n.14 (TTAB 2010). Accordingly, horological and chronometric instruments include watches.

“Bijouterie” is defined as “jewelry.” Dictionary.com based on the ***Random House Dictionary*** (2017).

likelihood of confusion analysis, two key considerations are the similarities between the marks and the similarities between the goods or services. *See In re Chatam Int'l Inc.*, 380 F.2d 1340, 71 USPQ2d 1944, 1945-46 (Fed. Cir. 2004); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (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.”); *see also In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1409 (TTAB 2015).

A. The similarity or dissimilarity of the marks.

We turn first to the *du Pont* likelihood of confusion factor focusing on the similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression. *du Pont*, 177 USPQ at 567. “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.” *Coach Servs. Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012); *see also San Fernando Electric Mfg. Co. v. JFD Electronics Components Corp.*, 565 F.2d 683, 196 USPQ 1, 3 (CCPA 1977); *Spoons Restaurants Inc. v. Morrison Inc.*, 23 USPQ2d 1735, 1741 (TTAB 1991), *aff'd mem.*, 972 F.2d 1353 (Fed. Cir. 1992). The proper focus is on the recollection of the average customer, who retains a general rather than specific impression of the marks. *Geigy Chem. Corp. v. Atlas Chem. Indus., Inc.*, 438 F.2d 1005, 169 USPQ 39, 40 (CCPA 1971); *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); *Winnebago Indus., Inc. v. Oliver &*

Winston, Inc., 207 USPQ 335, 344 (TTAB 1980); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975). As discussed more fully below, because the descriptions of goods at issue include, *inter alia*, eyeglasses, handbags, clothing, jewelry and watches without any restrictions or limitations as to channels of trade or classes of consumers, the average customer is an ordinary consumer.

Marie-Antoinette was the queen consort of King Louis XVI of France (1774-93). Because she was “[i]mprudent and an enemy of reform, she helped provoke the popular unrest that led to the French Revolution and to the overthrow of the monarchy in August 1793.”³ “Her extravagant court expenditures contributed – though to a minor degree – to the huge debt incurred by the French state in the 1770s and ‘80s.”⁴

According to Wikipedia, “Breguet is a Swiss manufacturer of luxury watches,” “writing instruments, women’s jewelry, and cufflinks.”⁵

Breguet was founded in 1775 by Abraham-Louis Breguet, a Swiss watchmaker ... Breguet’s connections made during his apprenticeship as a watchmaker and as a student of mathematics allowed him to establish his business. Following his introduction to the court, Queen Marie Antoinette grew fascinated by Breguet’s unique self-winding watch; Louis XVI bought several of this watches. In 1783, the Swedish count, Axel Von Fersen, who was the

³ “Marie-Antoinette,” *Encyclopaedia Britannica* (2016). The Board may take judicial notice of information from encyclopedias. *B.V.D. Licensing Corp. v. Body Action Design Inc.*, 846 F.2d 727, 6 USPQ2d 1719, 1721 (Fed. Cir. 1988) (“dictionaries and encyclopedias may be consulted”); *Productos Lacteos Tocumbo S.A. de C.V. v. Paleteria La Michoacana Inc.*, 98 USPQ2d 1921, 1934 n.61 (TTAB 2011); *In re Brodyhill Furniture Indus. Inc.*, 60 USPQ2d 1511, 1514 n.4 (TTAB 2001) (dictionary entries and other standard reference works).

⁴ *Id.*

⁵ Wikipedia.com attached to Applicant’s July 6, 2016 Request for Reconsideration, TSDR p. 34. Citations to TSDR pages refer to the .pdf format.

queen's friend and reputed lover commissioned a watch from Breguet that was to contain every watch complication known at that time as a gift to Marie Antoinette, - Breguet's masterpiece, the *Marie Antoinette* (No. 160).⁶

Applicant describes its MARIE-ANTOINETTE product line as a brand for women, positioned in the "mid-high to high end" range.⁷

The marks are similar because they both include the name "Marie-Antoinette" and they differ because Registrant's mark includes the house mark/designer name "Breguet."⁸ Applicant contends that "Breguet" is the dominant portion of Registrant's mark and, thus, serves to distinguish Applicant's mark from Registrant's mark.

As shown by the evidence in the record ... BREGUET is a high-end watch company well-known for its extremely expensive watches and jewelry, which addresses a very small market. It is the BREGUET name which dominates the mark. In this context, Registrant's use of MARIE-ANTOINETTE is an extension to the BREGUET name as it is merely present to reference the name of a specific style of a line of the Registrant's watches, not a brand. As a result, the use of MARIE-ANTOINETTE has far less impact on consumers for Registrant's watches than the impact of the BREGUET brand name.⁹

There is no *per se* rule as to how the addition of a house mark or designer name to similar product marks affects the analysis of whether marks are similar or dissimilar.

In analyzing the similarity or dissimilarity involving house marks or designer names,

⁶ *Id.* See also "Marie-Antoinette Pocket Watch," breguet.com attached to Applicant's July 6, 2016 Request for Reconsideration, TSDR p. 17.

⁷ TemptingBrands.com attached to Applicant's July 6, 2016 Request for Reconsideration, TSDR p. 40.

⁸ See excerpts from Registrant's website (breguet.com) attached to Applicant's July 6, 2016 Request for Reconsideration, TSDR pp. 17-26 showing BREGUET used as a house mark or designer name for watches, jewelry, and pens.

⁹ Applicant's Brief, p. 6 (17 TTABVUE 7).

we must consider the marks in their entireties, including the presence of the house mark or designer name. *See In re Fiesta Palms LLC*, 85 USPQ2d 1360, 1364 (TTAB 2007).

The Board has described the different effects the addition of a house mark or designer name to a registered mark can have in a likelihood of confusion case:

[S]uch addition may actually be an aggravation of the likelihood of confusion as opposed to an aid in distinguishing the marks so as to avoid source confusion. On the other hand, where there are some recognizable differences in the asserted conflicting product marks or the product marks in question are highly suggestive or merely descriptive or play upon commonly used or registered terms, the addition of a housemark and/or other material to the assertedly conflicting product mark has been determined sufficient to render the marks as a whole sufficiently distinguishable.

In re Christian Dior, S.A., 225 USPQ 533, 534 (TTAB 1985) (citations omitted) (Applicant's LE CACHET DE DIOR is similar to the registered mark CACHET).

As noted above, Applicant's mark and Registrant's mark share the name MARIE-ANTOINETTE. Therefore, such cases as *Rockwood Chocolate Co. v. Hoffman Candy Co.*, 372 F.2d 552, 152 USPQ 599 (CCPA 1967) (ROCKWOOD-BAG-O-GOLD not similar to CUP-O-GOLD) and *New England Fish Co. v. The Herwin Co.*, 511 F.2d 562 (CCPA 1975) (BLUE MOUNTAIN KITTY O'S not similar to KITTY) involving non-identical terms, are not as relevant.

When, as in this case, the common part of the marks is identical, purchasers familiar with Registrant's mark are likely to assume that the house mark or designer name simply identifies what had previously been an anonymous source. In *In re Hill-Behan Lumber Company*, 201 USPQ 246 (TTAB 1978), the Board explained that:

Thus, for purposes herein, the “LUMBERJACK” marks of the parties are identical. In such a situation, the addition of applicant’s house mark “HILL-BEHAN’S” thereto is not deemed sufficient to distinguish the marks as a whole and to avoid confusion in trade. This is especially so when one considers that a trademark or a service mark identifies an anonymous source so that the average consumer in the marketplace is, more often than not, unaware of the producer of the goods sold under a mark and often doesn’t care, so long as the quality of the goods identified by the mark remains the same. Thus, if those individuals familiar with registrant’s “LUMBERJACK” products were to encounter “HILL-BEHAN’S LUMBER JACK” stores at which lumber products are sold, there is nothing to preclude them from assuming that “HILL-BEHAN” is the source of the “LUMBERJACK” products and has established retail outlets to market them. Whether it be confusion of source or sponsorship, the likelihood of such confusion is there and, as a consequence, registrant’s registered mark is a bar to the registration sought by applicant.

Id. at 249-50; *see also In re C.F. Hathaway Co.*, 190 USPQ 343 (TTAB 1976) (HATHAWAY GOLF CLASSIC is similar to GOLF CLASSIC).

Applicant, in *Knight Textile Corp. v. Jones Investment Co.*, 75 USPQ2d 1313 (TTAB 2005), sought to register NORTON McNAUGHTON ESSENTIALS for clothing and the opposer owned a registration for ESSENTIALS for clothing. The Board held:

In terms of overall commercial impression, we find that although the word ESSENTIALS is the entirety of the commercial impression created by opposer’s mark, in applicant’s mark it contributes relatively less to the mark’s commercial impression than does the house mark NORTON McNAUGHTON. This is because ... we find that the word ESSENTIALS is highly suggestive as applied to the parties’ clothing items and as it appears in both parties’ marks, especially in applicant’s mark.

Id. at 1315.

In the case before us, the name MARIE-ANTOINETTE when applied to clothing is arbitrary inasmuch as it does not describe or suggest any qualities, characteristics or features of eyeglasses, handbags, clothing, jewelry or watches. Applicant responds by asserting that “Registrant’s house mark BREGUET has been well-known in the watchmaking industry since 1747. [Citing the Wikipedia entry for Breguet discussed above]. The mere mention of the BREGUET brand by itself attracts loyal, exclusive clientele, including Marie-Antoinette herself, to purchase its timepieces making BREGUET the most significant portion of the Cited Mark.”¹⁰ There are several problems with Applicant’s argument. First, there is no evidence in the Wikipedia entry cited by Applicant to prove that consumers in the United States recognize BREGUET as a well-known watchmaker. Second, even if there were evidence in the entry stating that BREGUET is a well-known watchmaker, the Wikipedia entry is hearsay. Finally, assuming *arguendo* that consumers recognize BREGUET as a well-known watchmaker, we still have to consider Registrant’s mark in its entirety which includes the arbitrary name MARIE-ANTOINETTE. The contemporaneous use of the name MARIE-ANTOINETTE by Applicant and Registrant may mistakenly lead consumers to believe that BREGUET MARIE-ANTOINETTE watches and jewelry emanate from the same source as MARIE-ANTOINETTE eyeglasses, handbags, and clothing because of the similarity of the marks.

Because Applicant has not submitted any evidence to show that MARIE-ANTOINETTE is descriptive or suggestive when used in connection jewelry or

¹⁰ Applicant’s Brief, p. 7 (17 TTABVUE 8).

watches, the addition of the house mark or designer name BREGUET does not distinguish the otherwise identical marks, and the marks BREGUET MARIE-ANTOINETTE and MARIE-ANTOINETTE are similar in appearance, sound, connotation and commercial impression.

B. The similarity or dissimilarity and nature of the goods.

Applicant is seeking to register its mark MARIE-ANTOINETTE for, *inter alia*, eyeglasses, including sunglasses, handbags, and clothing. Registrant’s mark BREGUET MARIE-ANTOINETTE is registered for, *inter alia*, jewelry and watches. The Trademark Examining Attorney submitted numerous excerpts from third-party websites showing the same mark used to identify sunglasses, handbags, clothing, and jewelry or watches. *See e.g.:*

Mark	Product	Office Action	TSDR
AMERICAN EAGLE OUTFITTERS	Clothing	Jan. 8, 2016	8
AMERICAN EAGLE OUTFITTERS	Handbags	Jan. 8, 2016	11
AMERICAN EAGLE OUTFITTERS	Jewelry	Jan. 8, 2016	14
AMERICAN EAGLE OUTFITTERS	Sunglasses	Jan. 8, 2016	16

Mark	Item	Office Action	TSDR
BANANA REPUBLIC	Clothing	Jan. 8, 2016	18
BANANA REPUBLIC	Sunglasses	Jan. 8, 2016	21
BANANA REPUBLIC	Jewelry	Jan. 8,2016	24
BETSEY JOHNSON	Clothing	Jan. 8, 2016	26
BETSEY JOHNSON	Sunglasses	Jan. 8, 2016	29
BETSEY JOHNSON	Handbags	Jan. 8, 2016	32
BETSEY JOHNSON	Jewelry	Jan. 8, 2016	35
FRENCH CONNECTION	Clothing	Jan. 8, 2016	38
FRENCH CONNECTION	Sunglasses	Jan. 8, 2016	40
FRENCH CONNECTION	Handbags	Jan. 8, 2016	42
FRENCH CONNECTION	Jewelry	Jan. 8, 2016	44
TOMMY HILFIGER	Clothing	Jan. 8, 2016	81
TOMMY HILFIGER	Watches	Jan. 8, 2016	82
TOMMY HILFIGER	Jewelry	Jan. 8, 2016	82, 87
TOMMY HILFIGER	Sunglasses	Jan. 8, 2016	82, 83
TOMMY HILFIGER	Handbags	Jan. 8, 2016	85

We note that the third-party uses include designer names or house marks. We recognize that because such marks may be licensed for a broader range of unrelated goods and services they may be of less probative value to show that goods are related. *See In re Donnay Int'l, S.A.*, 31 USPQ2d 1953, 1954 n. 3 (TTAB 1994) (“[S]ince house marks can be used to identify a broad range of products, the inclusion of soccer balls

and rackets in the identification is not particularly significant.”); *Helene Curtis Indus. Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618, 1624 (TTAB 1989) (“In considering this evidence [third-party registrations and exhibits], we have kept in mind defendant’s observation that the link between personal care products and wearing apparel is generally apparent in the category of so-called designer or high-fashion marks, and usually involves the names of well-known designers.”); *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467, 1470 n. 6 (TTAB 1988) (“two of the four registrations which were based on use were issued to Saks & Company and to Knott’s Berry Farm, owners of a large department store and an amusement or theme center, respectively, where a wide variety of goods and services are sold” and, therefore, the Board gave them little weight). In this case, however, the third-party uses are persuasive evidence because, as vigorously argued by Applicant, Registrant’s mark includes a house mark, and consumers understand that Registrant would sell or license its BREGUET name/mark on a wide variety of products. Thus, consumers familiar with BREGUET MARIE-ANTOINETTE products in connection with jewelry and watches, encountering MARIE-ANTOINETTE eyeglasses, handbags, and clothing may mistakenly believe that those fashion products emanate from the same source.

Moreover, eyeglasses, handbags and clothing on one hand and jewelry and watches on the other, are all used in the scheme of presenting oneself in a desired, stylish manner; they are related to the extent that the goods are part of the overall fashion picture which encompasses apparel and accessories. *See e.g., Kabushiki Kaisha Hattori Seiko v. Satellite Int’l Ltd.*, 29 USPQ2d 1317, 1319 (TTAB 1991), *aff’d*

without op., 979 F.2d 216 (Fed. Cir. 1992) (watches and shoes are related); *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991) (products sold as part of an ensemble are sufficiently related when sold under the same mark).

Finally, we must not lose sight that Registrant's mark BREGUET MARIE-ANTOINETTE incorporates Applicant's entire mark. As has been stated in the past, the greater the degree of similarity in the marks, the lesser the degree of similarity that is required of the products on which they are used in order to support a holding of likelihood of confusion. *In re Concordia Int'l Forwarding Corp.*, 222 USPQ 355, 356 (TTAB 1983).

While we acknowledge that the goods of the parties are different, those differences do not necessarily preclude finding that they are related. The issue to be determined in cases such as this is not whether Applicant's goods and Registrant's goods are likely to be confused but rather whether there is a likelihood that purchasers will be misled into the belief that they emanate from a common source. Thus, the goods need not be identical or even competitive in nature (nor need they necessarily be sold through the same trade channels), in order to support a finding of likelihood of confusion. It is sufficient for the purpose that the goods are related in some manner or that conditions and activities surrounding marketing of these goods are such that they would or could be encountered by the same persons under circumstances that could, because of similarities of marks used with them, give rise to the mistaken belief that they originate from or are in some way associated with the same producer. *Coach Servs., Inc. v. Triumph Learning LLC*, 101 USPQ2d at 1722; *Edwards*

Lifesciences Corp. v. VigiLanz Corp., 94 USPQ2d 1399, 1410 (TTAB 2010); *Helene Curtis Indus. Inc. v. Suave Shoe Corp.*, 13 USPQ2d at 1624.

Applicant argues that “it is highly unlikely that consumers would believe that budgetary clothing, eyewear and leather goods and sophisticated, high-end couture timepieces and jewelry emanate from the same source.”¹¹ However, we cannot resort to extrinsic evidence to restrict the prices of the parties’ goods. *See In re Bercut-Vandervoort & Co.*, 229 USPQ 763, 764 (TTAB 1986) (evidence that relevant goods are expensive wines sold to discriminating purchasers must be disregarded given the absence of any such restrictions in the application or registration); *see also Octocom Sys, Inc. v. Houston Computers 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 goods set forth in the application regardless of what the record may reveal as to the particular nature of an applicant’s goods, the particular channels of trade or the class of purchasers to which the sales of goods are directed.”).

In view thereof, we find the goods to be related.

¹¹ Applicant’s Brief, p. 10 (17 TTABVUE 11). *See also* Applicant’s Brief, p. 11 (17 TTABVUE 12) (“In this case, the comparison is between Registrant’s luxury brand watches and jewelry and Applicant’s budgetary brand clothing, letter goods and eyewear. Both the goods themselves and the price point are very different.”). However, based on the excerpt from Applicant’s website submitted by Applicant, Applicant is positioning MARIE-ANTOINETTE brand in the “mid-high to high end” range, not the budgetary range. TemptingBrands.com attached to Applicant’s July 6, 2016 Request for Reconsideration, TSDR p. 40.

C. Established, likely-to-continue channels of trade.

Macy's department store (macys.com) advertises the sale of designer handbags, sunglasses, watches, jewelry and clothing.¹² In addition, the third-party designer brand websites submitted by the Trademark Examining Attorney in his January 8, 2016 Office Action and July 10, 2016 Office Action show that designers advertise the sale of their sunglasses, watches, jewelry, handbags, and clothing through their websites. Accordingly, those products move through some of the same channels of trade.

D. The conditions under which and buyers to whom sales are made, i.e., 'impulse vs. careful, sophisticated purchasing.

Applicant argues that because Registrant's jewelry and watches are very expensive, Registrant's customer and potential customers exercise a high degree of consumer care.¹³ However, as we indicated above, because Registrant's description of goods is not restricted to expensive, high-end watches, we may not so limit the description of goods. *See Squirtco v. Tomy Corp.*, 697 F.2d 1038, 216 USPQ 937, 940 (Fed. Cir. 1983) ("There is no specific limitation and nothing in the inherent nature of Squirtco's mark or goods that restricts the usage of SQUIRT for balloons to promotion of soft drinks. The Board, thus, improperly read limitations into the registration."); *In re Bercut-Vandervoort & Co.*, 229 USPQ at 764 (evidence that relevant goods are expensive wines sold to discriminating purchasers must be disregarded given the absence of any such restrictions in the application or

¹² March 23, 2015 Office Action, TSDR pp. 19-57.

¹³ Applicant's Brief, p. 13 (17 TTABVUE 14).

registration). Registrant's broadly written identification of "horological and chronometric instruments" necessarily encompasses inexpensive watches. *In re Hughes Furniture Indus., Inc.*, 114 USPQ2d 1134, 1137 (TTAB 2015).

We find that the *du Pont* factor relating to the degree of consumer care is neutral.

E. Conclusion.

Because the marks are similar, the goods are related, and the goods move in some of the same channels of trade, we find that Applicant's mark MARIE-ANTOINETTE for, *inter alia*, eyeglasses, handbags, and clothing is likely to cause confusion with the registered mark BREGUET MARIE-ANTOINETTE for, *inter alia*, jewelry and "horological and chronometric instruments."

Decision: The refusal to register Applicant's mark MARIE-ANTOINETTE is affirmed.