

This Opinion Is Not a
Precedent of the TTAB

Mailed: April 6, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re SC Bucin Mob SRL

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Serial No. 79403753

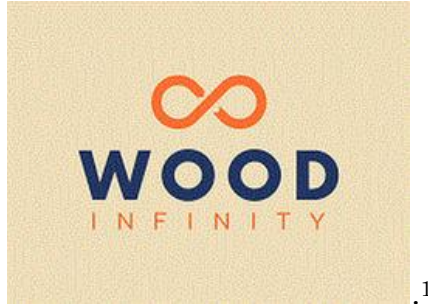
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John Alunit, of Alunit IP, for SC Bucin Mob SRL.

Dannean Hetzel, Trademark Examining Attorney, Law Office 106,
Mary Sparrow, Managing Attorney.

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Before Larkin, Thurmon and Cohen, Administrative Trademark Judges.

Opinion by Thurmon, Administrative Trademark Judge:

SC Busin Mob SRL (“Applicant”) seeks registration on the Principal Register of the mark shown below for “Skadi-style non-metallic prefabricated houses; laminated wood carpentry, namely, laminated wooden exterior doors, wooden shutters,” in International Class 19



The Trademark Examining Attorney issued a final refusal of registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), for the goods in International Class 19, finding a likelihood of confusion, based on the registered mark INFINITY for “windows and plastic window frames,” in International Class 19.²

The appeal is briefed and ready for final decision. We affirm the refusal to register.

I. Section 2(d) – Applicable Law

Our determination under Section 2(d) is based on an analysis of all of the probative evidence of record bearing on a likelihood of confusion. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (“*DuPont*”), cited in *B&B*

¹ Application Serial No. 79403753 was filed on October 31, 2023, as a Request for Extension of Protection under Section 66(a) of the Trademark Act, 15 U.S.C. § 1141(f), based on International Registration No. 1808061. The Application also identifies goods and services in International Classes 20, 35, 37 and 42 that are not part of this appeal.

The word “WOOD” is disclaimed. The mark is described as follows: “The mark consists of an orange infinity design above the word WOOD in blue above the word INFINITY in orange. The entire mark appears on a beige background.” The colors blue, beige, and orange are claimed as a feature of the mark.

Citations to briefs refer to TTABVUE, the Board’s online docketing system. The number preceding TTABVUE corresponds to the docket entry number; the number(s) following TTABVUE refer to the page number(s) of that particular docket entry. Citations to the prosecution file refer to the USPTO’s Trademark Status & Document Retrieval (“TSDR”) system.

² Registration No. 1552897 issued August 22, 1989, and has been renewed. The mark was registered as Typeset Words/Letters/Numbers, which is equivalent to a standard character registration today. *In re Viterra Inc.*, 671 F.3d 1358, 1363 n.2 (Fed. Cir. 2012).

Hardware, Inc. v. Hargis Indus., Inc., 575 U.S. 138 (2015); see also *In re Majestic Distilling Co.*, 315 F.3d 1311, 1314 (Fed. Cir. 2003). We must consider each *DuPont* factor for which there is evidence and argument. See, e.g., *In re Guild Mortg. Co.*, 912 F.3d 1376, 1378-79 (Fed. Cir. 2019). “Whether a likelihood of confusion exists between an applicant’s mark and a previously registered mark is determined on a case-by-case basis, aided by application of the thirteen *DuPont* factors.” *Omaha Steaks Int’l, Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 1318 (Fed. Cir. 2018).

“Each case must be decided on its own facts and the differences are often subtle ones.” *Indus. Nucleonics Corp. v. Hinde*, 475 F.2d 1197, 1199 (CCPA 1973). Varying weights may be assigned to each *DuPont* factor depending on the evidence presented. See *Citigroup Inc. v. Cap. City Bank Grp. Inc.*, 637 F.3d 1344, 1356 (Fed. Cir. 2011); *Shell Oil*, 992 F.2d at 1206 (“the various evidentiary factors may play more or less weighty roles in any particular determination”). In any likelihood of confusion analysis, two key considerations are the similarities between the marks and the similarities between the goods or services. See *In re i.am.symbolic, LLC*, 866 F.3d 1315, 1322 (Fed. Cir. 2017) (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65 (Fed. Cir. 2002)); *In re Chatam Int’l Inc.*, 380 F.3d 1340, 1342 (Fed. Cir. 2004); *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.”).

II. Likelihood of Confusion – Analysis

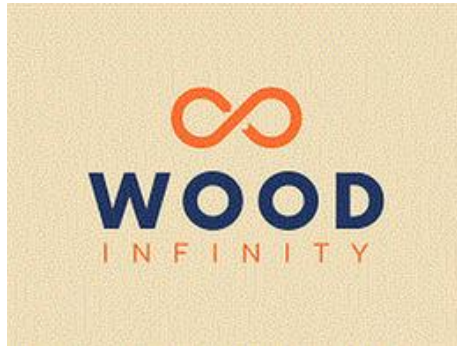
Applicant’s arguments are limited to the first *DuPont* factor, which considers the similarity of the marks. The Trademark Examining Attorney also addressed the second and third *DuPont* factors. We will address the first, second and third factors.

A. Similarity of the Marks

To evaluate the similarity of the marks under the first *DuPont* factor, we consider the marks in their entirety as to appearance, sound, connotation and commercial impression. *See, e.g., Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371 (citing *DuPont*, 476 F.2d at 1361). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s LLC*, No. 87075988, 2018 TTAB LEXIS 170, *13 (quoting *In re Davia*, No. 85497617, 2014 TTAB LEXIS 214, *4, *aff’d mem.*, 777 F. App’x 516 (Fed. Cir. 2019); *accord Krim-Ko Corp. v. Coca-Cola Bottling Co.*, 390 F.2d 728, 732 (CCPA 1968) (“It is sufficient if the similarity in either form, spelling or sound alone is likely to cause confusion.”) (citation omitted).

“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, 1368 (Fed. Cir. 2012). The focus is on the recollection of the average purchaser, who normally “retains a general rather than a specific impression of marks.” *In re i.am.symbolic, llc*, No. 85916778, 2018 TTAB LEXIS 281, *11.

The first word “WOOD” in the applied-for mark, shown again below, is not dominant, partly because it is descriptive of the wood-based goods identified in the Application.



Applicant disclaimed the exclusive right to use “WOOD” apart from the mark. For these reasons, consumers are not likely to rely on the term “wood” alone to distinguish the source of Applicant’s wooden building materials from those of others. While WOOD appears in the center and in a dark, bold color, it is clear that the word “INFINITY” and the infinity symbol, which helps to further emphasize the word “INFINITY,” are the sole distinctive elements of the applied-for mark and thus, the dominant elements. *Tao Licensing, LLC v. Bender Consulting Ltd.*, No. 92057132, 2017 WL 6336243, at *17 (TTAB 2017) (although no mechanical test to select dominant element of a mark, “consumers would be more likely to perceive a distinctive term ... as the source-indicating feature of the mark.”). The cited mark, INFINITY, is identical to the dominant element of the applied-for mark, and this similarity increases the likelihood of confusion. The cited mark INFINITY is subsumed in its entirety by the applied-for mark. *See, e.g., China Healthways Inst. Inc. v. Wang*, 491 F.3d 1337, 1340 (Fed. Cir. 2007) (applicant’s mark CHI PLUS is

similar to opposer's mark CHI both for electric massagers). And while the infinity symbol in the applied-for mark is a visual difference from the cited mark, the symbol is a visual reference to the word or concept of infinity. This shared meaning increases the overall similarity of the marks. The word "WOOD" in the applied-for mark creates a visual distinction, but not one that consumers are likely to place much weight on given that the word "wood" is not distinctive for some of the goods identified in the Application.³

The marks also sound similar. The cited mark sounds identical to the dominant INFINITY element of the applied-for mark when the marks are verbalized. "[W]e also keep in mind the penchant of consumers to shorten marks." *In re Bay State Brewing Co.*, No. 85826258, 2016 TTAB LEXIS 46, at *9. It is likely that consumers familiar with the applied-for mark will sometimes verbalize the mark as simply INFINITY when asking for the goods. We find the marks are similar in sound.

Applicant argues that "where a mark or a portion of a mark is so commonly used, the importance of additional elements (such as or words or designs) included in the mark are significantly increased because the public will look to such other elements to distinguish the source of the goods or services." 4 TTABVUE 7. Applicant

³ For example, the cited Registration identifies the following goods that are suited for outdoor use: "thermal blanket being survival blankets to prevent injury due to hypothermia," and "solar-powered battery chargers for charging mobile and handheld electronic devices." Hypothermia is uncommon indoors, as is sufficient solar energy to power "solar-powered battery chargers."

submitted evidence of third-party registrations and websites to show that the word “infinity” is commonly used for similar goods.⁴

There are at least three problems with Applicant’s argument. First, if the word “infinity” is so widely used that it is a weak source identifier, what else is there in either the applied-for mark or the cited mark for consumers to use to distinguish the source of one marked product from the source of another? Applicant disclaimed the word “wood” because it describes some of Applicant’s goods. The infinity symbol is just another way of communicating the concept of infinity to consumers. As we explained above, we find “INFINITY” is the dominant element of the applied-for mark. It may be a somewhat commonly-used term in trademarks, but it remains the only distinctive literal element of the applied-for mark and the sole element of the cited mark.

Second, most of the third-party evidence submitted by Applicant is not probative because it involves goods that are not similar enough to those identified in the cited Registration, which identifies “windows and plastic window frames.” *See Omaha Steaks*, 908 F.3d at 1325 (error to rely on third-party evidence of similar marks for goods that have not been shown to be similar to the goods sold under the assessed mark, as Board must focus “on goods shown to be similar”); *In re i.am.symbolic, llc*,

⁴ Third-party evidence of the type submitted by Applicant is often considered under the sixth *DuPont* factor, not the first factor. *Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1363 (Fed. Cir. 2023). Applicant did not make any arguments under the sixth factor, but argued that the cited mark is weak and therefore, any similarity in the marks will be less likely to contribute to a likelihood of confusion. We will consider these arguments under the first *DuPont* factor, as they were presented by Applicant, but we also will outline the potential probativity of Applicant’s third-party evidence under the sixth factor, below.

866 F.3d 1315, 1328-29 (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). Applicant included third-party evidence relating to many goods that on their face appear to have little, if anything, in common with windows or plastic window frames and there is no evidence to demonstrate that the goods are related to windows or plastic window frames.

In *Omaha Steaks*, the Federal Circuit explained the importance of limiting the scope of the inquiry into third-party uses. *Omaha Steaks*, 908 F.3d at 1324-25. The parties in *Omaha Steaks* identified “meat” as their goods, but the third-party evidence included other foods, like popcorn and wine. *Id.* at 1325. Because the identified goods were limited to meat, the court held it was error to consider third-party registrations for other types of food in the absence of proof of relatedness. *Id.* Similarly, because the cited Registration identifies only windows and plastic window frames, it would be error to consider registrations and use of marks with building materials that do not include windows or plastic window frames in the absence of proof of relatedness.

Only one of the third-party registrations submitted by Applicant mentions windows, and that registration identifies “glass shapes used in windows and ornamental designs.”⁵ This identification is not for windows per se, but for a different item “used in windows.” We don’t find this registration similar enough to be probative, but even if it was, a single third-party registration does not tell us anything

⁵ Registration No. 1634084.

about the meaning of the word “infinity” within the market for windows and plastic window frames.

Of the third-party website uses submitted by Applicant, we find three that mention windows. Request for Reconsideration dated April 23, 2025, at 40-48 (Infinity Window Coverings), 66-69 (Infinity Exteriors of Wisconsin); Response to Office Action dated March 8, 2025, at 52-54 (Infinity Windows of Florida). In all three of these examples, the term “Infinity” is used, but these appear to be parties providing installation or design services. This evidence shows some use of the term “Infinity” in connection with window-related businesses, but these uses do not show some special meaning of the term within the window market itself. These materials also fail to show that the marks are used on goods, rather than with services. We find the third-party evidence fails to show that the cited mark INFINITY is weak as used with “windows and plastic window frames.”

Applicant argues that its evidence included marks used with “building materials used for homes and buildings.” 4 TTABVue 5. This sweep is too broad. A typical home building supply store today sells many disparate goods. If all building materials are similar enough to be probative here, the *Omaha Steaks* court would have found wine and meat similar enough. The goods must be similar enough that common use of a particular term with such goods is probative of what the term means to the relevant consumers. If the number of uses is too small, or the goods are too varied, it is unlikely that we will find a relevant pattern of use. That is true in this case, where Applicant’s evidence is both too little and too far off target. We do not find the third-

party use and registration evidence has any impact on the conceptual or commercial strength of the cited INFINITY mark.

Third, because the cited Registration of the INFINITY mark is “prima facie evidence of the validity of the registered mark,” *see* Section 7(b) of the Trademark Act, 15 U.S.C. § 1057(b), we must assume the mark is inherently distinctive as evidenced by its registration on the Principal Register without a claim of acquired distinctiveness under Section 2(f) of the Trademark Act. *See Brooklyn Brewery Corp. v. Brooklyn Brew Shop, LLC*, 17 F.4th 129, 146 (Fed. Cir. 2021); *Tea Bd. of India v. Republic of Tea Inc.*, No. 91118587, 2006 TTAB LEXIS 330, at *62-63; *New Era Cap Co. v. Pro Era, LLC*, No. 91216455, 2020 TTAB LEXIS 199, USPQ2d 10596, at *29-30. Thus, at the very least, we must afford the cited INFINITY mark “the normal scope of protection to which inherently distinctive marks are entitled.” *Bell’s Brewery, Inc. v. Innovation Brewing*, No. 91215896, 2017 TTAB LEXIS 452, at *20. Applicant’s third-party use and registration evidence is insufficient to show any conceptual weakness of the INFINITY mark for windows and plastic window frames.

We find the marks are similar in appearance, sound, meaning and commercial impression. Applicant devoted its entire Appeal Brief to arguments under this first *DuPont* factor. Those arguments are not persuasive. The first factor supports the refusal.

B. *DuPont* Factors Two and Three Similarity or Relatedness of the Goods and Trade Channels

We evaluate the second and third *DuPont* factors based on the goods identified in the Application and the cited Registration. *See Stone Lion Cap. Partners, LP v. Lion*

Cap. LLP, 746 F.3d 1317, 1323 (Fed. Cir. 2014); *Octocom Sys., Inc. v. Hous. Comput. Servs. Inc.*, 918 F.2d 937, 942 (Fed. Cir. 1990). It is sufficient for a finding of likelihood of confusion as to a class of goods in the Application if relatedness is established between any of the goods identified in that class and the goods identified in the cited Registration. *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp.*, 648 F.2d 1335, 1336 (CCPA 1981); *see also Double Coin Holdings Ltd. v. Tru Dev.*, No. 92063808, 2019 TTAB LEXIS 347, *18; *In re Aquamar, Inc.*, No. 85861533, 2015 TTAB LEXIS 178, *9 n.5. In addition, the goods need only be sufficiently related that a relevant consumer would be likely to assume, upon encountering goods marketed under the marks at issue, that the goods originate from, are sponsored or authorized by, or are otherwise connected to the same source. *See Black & Decker Corp. v. Emerson Elec. Co.*, Nos. 91158891 and 91158941, 2007 TTAB LEXIS 50, *25-26.

The cited Registration identifies “windows and plastic window frames.” Applicant included “laminated wooden windows” in the goods identified in the original Applicant, and such goods are a subset of the “windows” broadly identified in the cited Registration. When Applicant requested reconsideration after the Final Office Action issued, it deleted the “laminated wooden windows” from the identification. The amended identification includes “laminated wooden exterior doors,” and “wooden shutters,” both of which are related to the “windows and plastic window frames” identified in the cited Registration.

The Trademark Examining Attorney submitted evidence showing that doors and windows are often sold by a single entity under a single mark. With the Final Office

Action, the Trademark Examining Attorney submitted third-party registrations of marks for both goods that include the following sample:

- STEELCRAFT – identifies “building doors” and “windows” – Final Office Action dated April 16, 2025, at 9;
- POKLAY – identifies “window frames” and “wooden doors” – *Id.* at 11;
- CLASSICMACHER – identifies “non-metal windows and doors” – *Id.* at 13;
- FENETEX – identifies “non-metal storm windows” and “non-metal window shutters” – *Id.* at 17;
- IMAGINE SOMETHING BETTER – identifies “vinyl windows and doors” – *Id.* at 19; and,
- FERCHE FRAMES + design – identifies “non-metal doors and windows” – *Id.* at 22.

The Trademark Examining Attorney also submitted internet evidence showing businesses that sell doors and windows under a single mark. Final Office Action at 53-95. We find this evidence sufficient to show that consumers are accustomed to seeing doors and windows sold under a single mark. Such evidence shows the goods are related.

Finally, the fact that Applicant included windows in its original Application, which was based on a registration of its mark in Romania, shows that Applicant intended to use its mark on both doors and windows, which is further evidence that these goods are related. *Octocom Sys.*, 918 F.2d at 941 (Fed. Cir. 1990) (on the issue of the relatedness of the applicant’s “modems” and the opposer’s “computer programs,” the fact “that such goods might come from a single source is shown by [applicant’s] original application, which indicates [applicant] itself used the mark OCTOCOM for both modems and computer programs.”); *In re HerbalScience Grp.*,

LLC, No. 77519313, 2010 TTAB LEXIS 382, *10 (the applicant’s concession that its identified goods and those of the registrant can emanate from a single source under a single mark was supported by the fact that “applicant originally included nutritional supplements and dietary supplements in its identification of goods.”).

The evidence of record shows the goods in the Application and the cited Registration are related. The second *DuPont* factor also supports the refusal. Applicant presented no arguments under *DuPont* factor two.

The third-party evidence submitted by the Trademark Examining Attorney also shows that doors and windows are sold through the same channels of trade. Indeed, the evidence shows that some businesses sell both types of goods through a single business and under a single mark. The trade channels for doors and windows overlap. The third *DuPont* factor also supports the refusal.

C. Factor Six – Conceptual Strength

Conceptual strength is a measure of a mark’s distinctiveness and may be placed “in categories of generally increasing distinctiveness: . . . (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; or (5) fanciful.” *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992). As noted, Applicant presented evidence of third-party registrations and internet uses of marks that contain the word “INFINITY” in International Class 19. Such evidence can help us understand the meaning of a mark, or a part of a mark, in a manner similar to dictionary evidence. *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1338-39 (Fed. Cir. 2015); *Jack Wolfskin*

Ausrüstung Fur Draussen GmbH v. New Millennium Sports, S.L.U., 797 F.2d 1363, 1373 (Fed. Cir. 2015).

As we explained above, the evidence submitted by Applicant (including third-party registrations and internet uses) does not show any clear pattern of use of the word “INFINITY” in connection with “windows and plastic window frames,” the goods identified in the cited Registration. As discussed above, the cited INFINITY mark is inherently distinctive and entitled to the normal scope of protection given such marks. The sixth *DuPont* factor is neutral.

D. Conclusion

The marks are similar and the goods are related. The key first two *DuPont* factors are dispositive in this appeal, as both factors point toward a likelihood of confusion. The trade channels also overlap, which further supports the likelihood of confusion refusal.

Decision: The Section 2(d) refusal is affirmed.