

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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Cookies and Dreams A Series LLC

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Application Serial No. 90500102

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Kassandra Ricklefs and Matthew Warner-Blankenship of Dentons Davis Brown PC
for Cookies and Dreams A Series LLC.

Candace W. Hays, Trademark Examining Attorney, Law Office 110,
Chris Pedersen, Managing Attorney.

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Before Taylor, Bergsman, and Dunn,
Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Cookies and Dreams A Series LLC (“Applicant”) seeks registration on the Principal Register of the mark COOKIES & DREAMS (standard character form) for “cookies,” in International Class 30.¹ Applicant disclaims the exclusive right to use the word “Cookies.”

¹ Application Serial No. 90500102 was filed January 31, 2021, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based upon Applicant’s claim of first use of its mark anywhere and in commerce as of January 2020.

The Examining Attorney refused to register Applicant's mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that it so resembles the two registered marks listed below, owned by different entities, as to be likely to cause confusion:

- Registration No. 5288970 for the mark COOKIES & DREAM (standard character form) for “popped popcorn; flavored-coated popcorn,” in International Class 30.² Registrant disclaims the exclusive right to use the word “Cookies.”
- Registration No. 6272151 for the mark COOKIES N' DREAMS (standard character form) for “coffee; coffee beans; coffee pods; coffee pods, filled; ground coffee beans; roasted coffee beans,” in International Class 30.³

When we cite to the record, we refer to the USPTO Trademark Status and Document Retrieval (TSDR) system in the downloadable .pdf format by page number (e.g., August 31, 2021 Office Action (TSDR 24)). When we cite to the briefs, we refer to TTABVUE, the Board's docketing system, by docket number and page number (e.g., 12 TTABVUE 3).

Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), prohibits the registration of a mark that:

[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

² Registered September 19, 2017. The Section 8 declaration of continued use was due September 19, 2023. Registrant has not filed the Section 8 declaration. This cited registration will be cancelled if Registrant does not file the Section 8 declaration by March 19, 2024, the end of the six month grace period for filing a Section 8 declaration.

³ Registered February 16, 2021.

on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.

We base our determination under Section 2(d) on an analysis of all 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) (setting forth factors to be considered, referred to as “*DuPont* factors”); *see also In re Majestic Distilling Co.*, 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003). “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, 128 USPQ2d 1686, 1689 (Fed. Cir. 2018). “In discharging this duty, the thirteen *DuPont* factors ‘must be considered’ ‘when [they] are of record.’” *In re Guild Mortg. Co.*, 912 F.3d 1376, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests. Inc.*, 105 F.3d 1405, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997) and *DuPont*, 177 USPQ at 567).

Varying weights may be assigned to each *DuPont* factor depending on the evidence presented. *See In re Charger Ventures LLC*, 64 F.4th 1375, 2023 USPQ2d 451, at *4 (Fed. Cir. 2023) (“In any given case, different *DuPont* factors may play a dominant role and some factors may not be relevant to the analysis.”); *Citigroup Inc. v. Cap. City Bank Grp. Inc.*, 637 F.3d 1344, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011). “Not all *DuPont* factors are relevant in each case, and the weight afforded to each factor depends on the circumstances. Any single factor may control a particular case.”

Stratus Networks, Inc. v. UBTA-UBET Commc'ns Inc., 955 F.3d 994, 2020 USPQ2d 10341, at *3 (Fed. Cir. 2020) (citing *Dixie Rests.*, 41 USPQ2d at 1533).

“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, 177 USPQ 386, 387 (CCPA 1973). “Two key factors in every Section 2(d) case are the first two factors regarding the similarity or dissimilarity of the marks and the goods or services, because 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 Embiid*, 2021 USPQ2d 577, at *10 (TTAB 2021) (quoting *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976)); *see also In re i.am.symbolic, llc*, 866 F.3d 1315, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017) (“The likelihood of confusion analysis considers all *DuPont* factors for which there is record evidence but ‘may focus ... on dispositive factors, such as similarity of the marks and relatedness of the goods.’”) (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *In re Chatam Int’l Inc.*, 380 F.3d 1340, 71 USPQ2d 1944, 1945-46 (Fed. Cir. 2004).

We focus our analysis first on Registration No. 6272151 for the mark COOKIES N’ DREAMS (standard character form) for “coffee beans; coffee beans; coffee pods; coffee pods, filled; ground coffee beans; roasted coffee beans.”

I. The similarity or dissimilarity of the marks

We turn first to the *DuPont* factor focusing on the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial

impression. *DuPont*, 177 USPQ at 567. “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (quoting *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d mem.*, 777 F. App’x 516 (Fed. Cir. 2019); *accord Krim-Ko Corp. v. Coca-Cola Bottling 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.”) (citation omitted).

In comparing the marks, we are mindful that “[t]he 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.” *Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *Coach Servs.*, 101 USPQ2d at 1721); *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012). We keep in mind that “[s]imilarity is not a binary factor but is a matter of degree.” *In re St. Helena Hosp.*, 774 F.3d 747, 113 USPQ2d 1082, 1085 (Fed. Cir. 2014) (quoting *In re Coors Brewing Co.*, 343 F.3d 1340, 68 USPQ2d 1059, 1062 (Fed. Cir. 2003)).

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); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1740 (TTAB 2014); *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012). Because Applicant is seeking to register its

mark for “cookies” and the mark in the cited registration is for “coffee beans; coffee beans; coffee pods; coffee pods, filled; ground coffee beans; roasted coffee beans,” the average customer is an ordinary consumer.

As noted above, Applicant is seeking to register the mark COOKIES & DREAMS and the mark in the cited registration is COOKIES N’ DREAMS. The marks are essentially identical; the only difference is that Applicant substitutes an ampersand (&) for the letter “N.” THE RANDOM HOUSE UNABRIDGED DICTIONARY (2023) (accessed October 20, 2023) defines an “ampersand” as “a character of symbol (& or) for *and*: *Smith & Jones, Inc.*” It also defines the letter “N,” *inter alia*, as “a shortened of and: *Stop ‘n Save. Look ‘n listen.*”⁴ See *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988) (“The fact that the registrant’s mark contains the letter ‘N’ surrounded by hyphens and applicant’s mark contains an ampersand constitutes but a very minor difference. The letter ‘N’ and the ampersand are pronounced either in identical fashion or in near identical fashion.”). Thus, the marks are similar in appearance, sound, connotation and commercial impression.

Applicant, in its brief, does not contest the similarity of the marks.

The similarity of the marks is a *DuPont* factor that weighs in favor of finding likelihood of confusion.

⁴ Posted at Dictionary.com. The Board may take judicial notice of dictionary definitions, including online dictionaries that exist in printed format or have regular fixed editions. *In re Cordua Rests. LP*, 110 USPQ2d 1227, 1229 n.4 (TTAB 2014), *aff’d*, 823 F.3d 594, 118 USPQ2d 1632 (Fed. Cir. 2016); *In re Omniome, Inc.*, 2020 USPQ2d 3222, at *2 n.17 (TTAB 2019).

II. The similarity or dissimilarity and nature of the goods

As noted above, Applicant is seeking to register its mark for “cookies” and the mark in the cited registration is registered for “coffee beans; coffee beans; coffee pods; coffee pods, filled; ground coffee beans; roasted coffee beans.”

The Examining Attorney submitted copies of eight third-party registrations for both cookies and coffee related products.⁵ Third-party registrations based on use in commerce that individually cover a number of different goods may have probative value to the extent that they serve to suggest that the listed goods are of a type that may emanate from the same source. *In re Country Oven, Inc.*, 2019 USPQ2d 443903, *8 (TTAB 2019); *Joel Gott Wines LLC v. Rehoboth Von Gott Inc.*, 107 USPQ2d 1424, 1432 (TTAB 2013); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-1786 (TTAB 1993). We list below three representative third-party registrations:

- Registration No. 4850476 for the mark FLYBOY DONUTS (standard character form) for, inter alia, cookies and beverages made of coffee and beverages with a coffee base;

⁵ April 2, 2022 Office Action (TSDR 43-45, 54-56, 62-70, 74-88).

We do not consider Registration No. 5228378 for the mark SIDECAR DOUGHNUTS & COFFEE (standard character form) because when the registrant filed its Section 8 declaration of continued use it deleted “cookies” from the registered goods.

We also do not consider Registration No. 5210055 for the mark SIMPLY HICKORY FARMS (standard character form) registered May 23, 2017 and, therefore, the Section 8 declaration of continued use was due May 23, 2023. The registrant has not filed a declaration of continued use and, therefore, this registration will be cancelled if the registrant does not file the required declaration within the six month grace period expiring November 23, 2023.

- Registration No. 5182974 for the mark DON VASCO (standard character form) for, inter alia, coffee and cookies;
- Registration No. 5053701 for the mark MOON JUICE and design for coffee and cookies.

In addition, the Examining Attorney submitted the third-party evidence of use listed below to prove that Applicant's cookies are related to Registrant's coffee-based products. Third-party websites showing the same mark used for the products at issue is probative to demonstrate that Applicant's goods and Registrant's goods are related for likelihood of confusion purposes. *See, e.g., In re Detroit Athletic Co.*, 903 F.3d 1297, 128 USPQ2d 1047, 1051 (Fed. Cir. 2018) (relatedness supported by evidence that third parties sell both types of goods under same mark, showing that "consumers are accustomed to seeing a single mark associated with a source that sells both."); *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002) (evidence that consumers encounter one mark designating a single source for the services of both parties supports a finding that the services are related); *In re Integrated Embedded*, 120 USPQ2d 1504, 1514-15 (TTAB 2016) (websites made of record by examining attorney "demonstrate[d] that services of the type offered by both Applicant . . . and Registrant are marketed and sold together online under the same marks" and "[s]uch evidence is sufficient to find that the services at issue are related.").

- Field Day (fielddayproducts.com) advertising cookies and coffee;⁶

⁶ August 31, 2021 Office Action (TSDR 9-10).

- Panera Bread (panerabread.com) advertising cookies and coffee;⁷
- Caribou Coffee (cariboucoffee.com) advertising cookies and coffee;⁸
- Newman's Own (newmansown.com) advertising cookies and coffee;⁹
- Weight Watchers (weightwatchers.com) advertising cookies and coffee;¹⁰
- La Monarca Bakery & Cafe (lamonarcabakery.com) advertising coffee and cookies;¹¹
- Firehook Bakery (firehook.com) advertising cookies and coffee;¹²
- Brewed Coffee, Cookies, and Dough (brewednapa.com) advertising cookies and coffee;¹³
- Cookie Baby Coffee (cookiebabycoffee.com) advertising cookies and coffee;¹⁴
- Kent Coffee & Chocolate (kentcoffee.com) advertising cookies and coffee;¹⁵
- Zabars' (zabars.com) advertising cookies and coffee;¹⁶
- Williams Sonoma (williams-sonoma.com) advertising cookies and coffee;¹⁷

⁷ *Id.* at TSDR 12-13.

⁸ *Id.* at TSDR 14-17.

⁹ *Id.* at TSDR 21-24.

¹⁰ *Id.* at TSDR 27-30.

¹¹ April 2, 2022 Office Action (TSDR 18-19).

¹² *Id.* at TSDR 20-25.

¹³ *Id.* at TSDR 26-30.

¹⁴ *Id.* at TSDR 31-33.

¹⁵ November 1, 2022 Denial of Request for Reconsideration (TSDR 5-8).

¹⁶ *Id.* at TSDR 9-14.

¹⁷ *Id.* at TSDR 15-17.

- Nuts.com advertising cookies and coffee;¹⁸ and
- Cherry Republic (cherryrepublic.com) advertising cookies and coffee.¹⁹

Applicant contends that its COOKIE & DREAMS cookies are not likely to cause confusion with COOKIE N' DREAMS coffee-related products because the goods are unrelated.²⁰ Specifically, Registrant's mark is "used to identify a *specific flavor* of an overall brand (either popcorn or coffee respectively), *not* an entire product line."²¹ Registrant offers multiple other flavors of coffee, including those using the cited mark (i.e., COOKIES N' DREAMS), that are marketed under the Registrant's umbrella brand.²² In other words, Registrant's COOKIE N' DREAMS mark identifies a particular flavor of coffee and not a brand of coffee.²³

According to Applicant, "the actual commercial uses of the Marks are critical in determining the likelihood of confusion because 'there is no mechanical test for

¹⁸ *Id.* at TSDR 21-23.

¹⁹ *Id.* at TSDR 28-29.

²⁰ Applicant's Brief, p. 5 (12 TTABVUE 6).

²¹ *Id.*

²² *Id.* at p. 6 (12 TTABVUE 7).

²³ We do not interpret Applicant's argument as an attack on the validity of the cited registration. Section 7(b) of the Trademark Act, 15 U.S.C. § 1057(b), provides that a certificate of registration on the Principal Register shall be prima facie evidence of the validity of the registration, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the mark in commerce in connection with the goods or services specified in the certificate. During ex parte prosecution, an applicant will not be heard on matters that constitute a collateral attack on the cited registration (e.g., a registrant's nonuse of the mark). *See Detroit Athletic Co.*, 1309, 128 USPQ2d at 1047 (Fed. Cir. 2018) (noting that applicant's objection to the breadth of the goods or trade channels described in the cited registration "amounts to an attack on the registration's validity" and that "the present ex parte proceeding is not the proper forum from which to launch such an attack," which is "better suited for resolution in a cancellation proceeding."). We deem Applicant's argument as an attempt to distinguish its goods from Registrant's goods.

determining likelihood of confusion and **each case must be decided on its own facts.**²⁴

Instead the likelihood of confusion in the present application must be assessed in light of the foundational facts and circumstances in this specific manner.²⁵

Applicant explained that the Evidence shows that the Cited Marks are used specifically on a single product that is part of a larger product line. *Id.* (analogizing the Cited Marks to “Fig Newman’s” within the “Newman’s Own” line).²⁶

“Similarly, Reg. No. 6,272,151 is owned by Rule Marketing LLC DBA Bones Coffee Company, who likewise uses the mark to brand a specific flavor of their coffee, which is all marketed under the name ‘Bones Coffee.’” *Id.* at 6 (including a demonstrative screenshot of the use of the Bones Coffee Mark among their other coffee flavor offerings on Bones Coffee website).²⁷

An entire line of cookies is starkly attenuated and differentiated from individual flavors of coffee and popcorn offered by specialized providers.²⁸ ...

Here, the Cited Marks, are in fact, marketed under the umbrella brands of the owners, as was readily apparent from the Evidence. ... [I]t is abundantly clear the Cited Marks do not refer to the sources of the respective goods,

²⁴ Applicant’s Brief, p. 8 (12 TTABVUE 9).

²⁵ *Id.*

²⁶ *Id.* at p. 9 (12 TTABVUE 10). *Id.* refers to Applicant’s February 28, 2022 Response to an Office Action or its October 3, 2022 Request for Reconsideration.

²⁷ *Id.* at p. 10 (12 TTABVUE 11).

²⁸ *Id.* at p. 11 (12 TTABVUE 12).

but rather to specific varieties of those goods amongst many others.²⁹

Applicant submitted a screenshot of Registrant's packaging for COOKIES N' DREAMS purportedly sold under the umbrella brand BONES COFFEE.³⁰ We reproduce below that screenshot:



The fundamental flaw in Applicant's argument is that we must consider the goods as they are described in the application and registration. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 110 USPQ2d 1157, 1161 (Fed. Cir. 2014); *Octocom Sys, Inc. v. Houston 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

²⁹ *Id.* at pp. 11-12 (12 TTABVUE 12-13).

³⁰ October 3, 2022 Request for Reconsideration (TSDR 10) posted at <bonescoffee.com>.

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."); *Paula Payne Prods. v. Johnson Publ'g Co.*, 473 F.2d 901, 177 USPQ 76, 77 (CCPA 1973) ("Trademark cases involving the issue of likelihood of confusion must be decided on the basis of the respective descriptions of goods").

In this regard, we do not read limitations into the identification of goods (e.g., Registrant's coffee is actually a coffee flavor and not coffee per se). *i.am.symbolic*, 123 USPQ2d at 1748; *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"); *New Era Cap Co., Inc. v. Pro Era, LLC*, 2020 USPQ2d 10596, at *47 (TTAB 2020); *In re Thor Tech Inc.*, 90 USPQ2d 1634, 1638 (TTAB 2009) ("We have no authority to read any restrictions or limitations into the registrant's description of goods."). Therefore, we must presume that Registrant's coffee products include all types of coffee and are not limited to a specific flavor. *See, e.g., Levi Strauss & Co. v. Abercrombie & Fitch Trading Co.*, 719 F.3d 1367, 107 USPQ2d 1167, 1173 (Fed. Cir. 2013) (applying the principle that "registration encompasses all goods or services of the type described).

As noted above, a registration certificate operates as “prima facie evidence of the validity of the registered mark and ... of the [registrant’s] exclusive right to use the registered mark in commerce on or in connection with the goods ... specified in the [registration] certificate, subject to any conditions or limitations stated in the certificate.” Trademark Act §§ 7(b) and 33(a), 15 U.S.C. §§ 1057(b) and 1115(a). Therefore, we evaluate the usages encompassed by a registration’s statement of goods and cannot countenance Applicant’s attempt to show that Registrant’s actual usage is narrower than the statement of goods in the registration. *See generally Stone Lion Capital Partners*, 110 USPQ2d at 1162; *Dixie Rests.*, 41 USPQ2d at 1534-1535; *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1846 (Fed. Cir. 2000).

Applicant also argues that the two cited two registrations COOKIES & DREAM for popcorn and COOKIES N’ DREAMS for coffee co-exist on the register and in the market “is indicative of the ability for Applicant’s Mark to also co-exist in the widely varied food and beverage industry without any likelihood of confusion.”³¹ However, it is well established may not be relied upon as a defense in opposition and cancellation proceedings. *Stock Pot Rests., Inc. v. Stockpot, Inc.*, 737 F.2d 1576, 222 USPQ 665, 669 (Fed Cir 1984); *Wilson v. Delaunay*, 245 F.2d 877, 114 USPQ 339, 341 (CCPA 1957) (“it is well settled that an opposer need not have exclusive rights in a mark in order to oppose its registration to another. (Internal citations omitted). It is only necessary that the opposer establish that he would probably be damaged by the

³¹ Applicant’s Brief, p. 12 (12 TTABVUE 13).

registration of an applicant's mark.”). *see generally*, 6 MCCARTHY ON TRADEMARK AND UNFAIR COMPETITION § 31:160 (5th ed. September 2023 Update).

This Board has previously rejected Applicant's argument stating in a cancellation proceeding that:

The fact that the third persons might possess some rights in their respective marks which they could possibly assert against petitioner in a proper proceeding can avail respondent nothing herein since respondent is not in privity with nor is the successor in interest to any rights which such persons have acquired in their marks. ... [P]etitioner need not have exclusive rights in a mark in order to seek to cancel the registration. ... That is, the conflict here is between petitioner and respondent and not between petitioner and the world.

Krug Vins Fins de Champagne v. Rutman Wine Co., 197 USPQ 572, 574-575 (TTAB 1977).

Accordingly, the use and registration of COOKIES & DREAM for popcorn vis-à-vis the registration and use of COOKIES N' DREAMS for coffee-related products is irrelevant to the issue likelihood of confusion between Applicant's mark COOKIE & DREAMS for cookies and the cited mark COOKIES N' DREAMS for coffee.

Finally, Applicant's contentions do not rebut the third-party Internet evidence and third-party registration evidence showing that the same entities use (or may use in the case of the registrations) the same mark to identify the respective goods at issue.

We find that the goods are related and, therefore, the similarity or dissimilarity and nature of the goods is a *DuPont* factor that weighs in favor of finding likelihood of confusion.

III. Established, likely-to-continue channels of trade and classes of consumers

The third-party webpages show that companies that sell coffee and cookies offer their products through their own websites.

Applicant, in its brief, does not refer to channels of trade or classes of consumers.

We find that the products are offered in some of the same channels of trade to some of the same classes of consumers and, therefore, this factor weighs in favor of finding likelihood of confusion.

IV. Conclusion

Because the marks are very similar, the goods are related, and are offered in some of the same channels of trade to some of the same classes of consumers, we find that Applicant's mark COOKIES & DREAMS for "cookies" is likely to cause confusion with the registered mark COOKIES N' DREAMS for "coffee; coffee beans; coffee pods; coffee pods, filled; ground coffee beans; roasted coffee beans."

Accordingly, we do not reach the refusal that Applicant's mark is likely to cause confusion with the registered mark COOKIES & DREAM for popcorn *See Azeka Bldg. Corp. v. Azeka*, 122 USPQ2d 1477, 1478 (TTAB 2017) (the Board has "discretion to decide only those claims necessary to enter judgment and dispose of the case.") (quoting *Multisorb Tech., Inc. v. Pactive Corp.*, 109 USPQ2d 1170, 1171 (TTAB 2013)).

Decision: We affirm the refusal to register Applicant's COOKIES & DREAMS under Section 2(d) of the Trademark Act.