

This Opinion is Not a
Precedent of the TTAB

Mailed: April 2, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Lucien G. Lallouz
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Serial No. 90782980
—

Lucien G. Lallouz, pro se.

Ashley Albano, Trademark Examining Attorney, Law Office 105,
Jennifer L. Williston, Managing Attorney.

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Notice of Correction

Before Lykos, Thurmon, and Elgin,
Administrative Trademark Judges.

Opinion by Lykos, Administrative Trademark Judge:

The Board mailed a final decision in this ex parte appeal on March 27, 2026. The following errors are noted below.

On page 8, E&J Gallo Winery was misspelled as “E&J Gallow.”

On page 21, the cited mark in the following sentence was misspelled: “Based on this evidence, we find that the cited mark CASBLANCA is highly suggestive and falls on the lower end of the conceptual strength spectrum, making its scope of protection relatively limited.”

Also on page 21, the short cite to the Federal Reporter provided for *Charger Ventures* was “65 F.4th at 1379” instead of “64 F.4th at 1379.”

Attached is a corrected copy of the final decision. The final decision otherwise remains unchanged.

Applicant’s time for filing a request for reconsideration under Trademark Rule 2.144, 37 C.F.R. § 2.144; filing an appeal to the U.S. Court of Appeals for the Federal Circuit pursuant to Section 21(a) of the Trademark Act, 15 U.S.C. § 1071(a); or commencing a civil action in federal district court pursuant to Section 21(b) of the Trademark Act, 15 U.S.C. § 1071(b), continues to run from the mailing date of the March 27, 2026 final decision. *See* Trademark Rule 2.145, 37 C.F.R. § 2.145.

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In re Lucien G. Lallouz

Serial No. 90782980

Lucien G. Lallouz, pro se.

Ashley Albano, Trademark Examining Attorney, Law Office 105,¹
Jennifer L. Williston, Managing Attorney.

Before Lykos, Thurmon, and Elgin,
Administrative Trademark Judges.

Opinion by Lykos, Administrative Trademark Judge:

Lucien G. Lallouz (“Applicant”) seeks to register on the Principal Register the standard character mark CASA BLANCA for goods ultimately identified as “distilled spirits, namely, spirits distilled from the blue tequilana weber variety of agave plant” in International Class 33.² The application includes the following translation

¹ Kristin Williams was the original Trademark Examining Attorney.

² Application Serial No. 90782980, filed June 18, 2021 under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), alleging a bona fide intent to use the mark in commerce.

Citations to the prosecution file refer to the USPTO’s Trademark Status & Document Retrieval (“TSDR”) system in Portable Document Format (“PDF”). Citations to the record also include references to TTABVUE, the Board’s online docketing system.

statement: “The English translation of ‘Casa Blanca’ in the mark is ‘A House that is White.’”

Applicant appeals the Trademark Examining Attorney’s final refusal to register the mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that CASA BLANCA so resembles the typed³ mark CASABLANCA on the Principal Register for “wine” in International Class 33, that it is likely to cause confusion or mistake or to deceive.⁴ The appeal is briefed.⁵ For the reasons explained below, we reverse the refusal to register.⁶

I. Likelihood of confusion

Section 2(d) of the Trademark Act 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 on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.

³ Marks appearing in typed format in all capital letters without a claim as to standard characters are treated as the equivalent of a standard character mark. TRADEMARK MANUAL OF EXAMINING PROCEDURE (“TMEP”) § 807.03(i) (“Typed Drawings”) (Nov. 2025).

⁴ U.S. Registration No. 2306760, registered January 11, 2000 under Trademark Act Section 44(e), 15 U.S.C. § 1126(e), based on Chilean Registration No. 361.143 which expired October 22, 2000. The U.S. registration forming the basis for the refusal was renewed for a second ten-year term on March 2, 2019 under Trademark Act Sections 8 and 9, 15 U.S.C. §§ 1058, 1059.

⁵ Applicant filed its initial appeal brief on January 25, 2024. *See* 17 TTABVUE. The Board found good cause to permit supplemental briefing in view of two separate remands. *See* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (“TBMP”) § 1201.03 (2025) and cases cited therein. Applicant’s supplemental briefs were filed on July 12, 2025 and September 10, 2025. *See* 24 & 31 TTABVUE. The Examining Attorney filed a single brief on November 6, 2025. *See* 33 TTABVUE.

⁶ The evidentiary and procedural objections Applicant raises in its September 10, 2025 supplemental brief at 31 TTABVUE 13-14 are moot in light of our reversal of the refusal.

15 U.S.C. § 1052(d). Our determination under Section 2(d) is based on an analysis of all of the probative evidence of record bearing on the likelihood of confusion. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (“*DuPont*”), cited in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 144 (2015); see also *In re Charger Ventures LLC*, 64 F.4th 1375, 1379 (Fed. Cir. 2023); *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315 (Fed. Cir. 2003). In making our determination, we have considered each *DuPont* factor for which there is evidence and argument. See *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379 (Fed. Cir. 2019).

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, 353 (Fed. Cir. 2011). “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).

In any likelihood of confusion analysis, two key considerations are the similarity or dissimilarity of the marks and the goods. See *In re i.am.symbolic, LLC*, 866 F.3d 1315, 1322 (Fed. Cir. 2017); *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65 (Fed. Cir. 2002); see also *In re Embiid*, No. 88202890, 2021 TTAB LEXIS 168, at *10 (“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.”) (quoting *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103 (CCPA 1976)). These factors, as well as others raised by the Examining Attorney and Applicant, are discussed below. In our final balancing analysis, we will accord a

specific weight to each factor to determine if confusion is likely. *See, e.g., Charger Ventures*, 64 F.4th at 1381; *Majestic Distilling*, 315 F.3d at 1319.

A. The marks

We begin with the first *DuPont* factor, the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression. *See Palm Bay Imps. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371 (Fed. Cir. 2005) (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, at *13 (quoting *In re Davia*, No. 85497617, 2014 TTAB LEXIS 214, at *21-24), *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).

“[S]imilarity is not a binary factor but is a matter of degree.” *In re St. Helena Hosp.*, 774 F.3d 747, 752 (Fed. Cir. 2014) (quoting *In re Coors Brewing Co.*, 343 F.3d 1340, 1344 (Fed. Cir. 2003)). “The focus is on the recollection of the average purchaser, who normally retains a general rather than a specific impression of trademarks.” *In re St. Julian Wine Co.*, No. 87834973, 2020 TTAB LEXIS 196, at *13.

In this case, we are comparing a word mark in a foreign language, CASA BLANCA, with an English language mark, CASABLANCA.⁷ U.S. consumers familiar

⁷ We reject Applicant’s contention that the proper basis for comparison of the cited mark is not the registration certificate but how the mark is depicted on the product labeling. In an *ex parte* appeal, our determination under the first *DuPont* factor is based on the mark as it appears in the registration, not how the mark may or may not be used in commerce. *See*

with Spanish may understand Applicant's mark CASA BLANCA as meaning "white house" or "house that is white." Registrant's goods are identified as "wine" and as noted above, the registration was originally based on a Chilean registration. The record shows that that CASABLANCA refers to the "Casablanca Valley" region in Chile which is known for producing wines.⁸ Carolina Wine Brands USA (www.carolinawinebrandsusa.com) describes Registrant's wine as "a pioneer in its namesake valley" the Casablanca Valley of Chile.⁹ See *In re Zuma Array Ltd.*, No. 79288888, 2022 TTAB LEXIS 281, at *23 (Board considered information on applicant's website about the nature of goods sold under its proposed mark SMART BEZEL). Some U.S. consumers, especially those proficient in Spanish, may glean distinct meanings and commercial impressions from each mark.¹⁰

Drawing such a conclusion, however, would ignore the other salient considerations under the first *DuPont* factor, the appearance and sound of each mark. "[I]t would be improper to compare a foreign word mark with an English word mark solely in terms of connotation or meaning." *In re Ness & Co.*, No. 73778311, 1991 TTAB LEXIS 6, at

Trademark Rule 2.52, 37 C.F.R. § 2.52 (the drawing on an application shows the mark sought to be registered); see, e.g., *i.am.symbolic*, 866 F.3d at 1324 (the correct inquiry requires comparison of the applied-for mark with the registrant's mark on the certificate).

⁸ See, e.g., December 13, 2023 Request for Reconsideration at TSDR 49 (printout of a map of the Casablanca Valley in Chile depicting in a pie chart the availability of grape by percentage accessed on 5/17/2023).

⁹ December 13, 2023 Denial of Request for Reconsideration at TSDR 174-175.

¹⁰ We do not consider Applicant's opening statement in any of its briefs that "the name 'CASABLANCA' evokes a sense of intrigue and escape, immortalized by the classic film set in Casablanca, Morocco, during World War [II]." See, e.g., Applicant's Second Supplemental Brief, p. 4; 31 TTABVUE 5. Applicant offered no evidence to support this assertion.

*2. Some U.S. consumers (including those familiar with Spanish) would not translate Applicant's mark CASA BLANCA into English but instead would "take it as it is," *In re Tia Maria, Inc.*, 1975 TTAB LEXIS 130, at *4, and would immediately notice that the marks are virtually identical in sight and sound. The sole distinction in appearance is the space between the letters "A" and "B" in the middle of Applicant's mark separating the words "casa" from "blanca." The marks are pronounced in almost the same manner; if there is any difference at all in cadence and emphasis, it is only slight. Consumers do not focus on minutia but rather overall impressions. *See In re John Scarne Games, Inc.*, 1959 TTAB LEXIS 31, at *2 ("Purchasers of game boards do not engage in trademark syllable counting — they are governed by general impressions made by appearance or sound, or both.").

We find that overall the marks are nearly identical in appearance and sound. As noted above, similarity in any one of these elements suffices to find the marks confusingly similar. *See Inn at St. John's*, 2018 TTAB LEXIS 170, at *13. This *DuPont* factor weighs in favor of finding a likelihood of confusion.

B. The similarity or dissimilarity of the goods and the similarity or dissimilarity of established, likely-to-continue trade channels

We now turn to the second and third *DuPont* factors, a comparison of the goods and the established, likely-to-continue trade channels. Both factors are assessed based on the language of the identifications in the application and cited registration. *See, e.g., In re Detroit Athletic Co.*, 903 F.3d 1297, 1307 (Fed. Cir. 2018); *Cai v. Diamond Hong*, 901 F.3d 1367, 1373 (Fed. Cir. 2018). The second *DuPont* factor "considers whether the consuming public may perceive the respective goods [] of the

parties as related enough to cause confusion about the source or origin of the goods.” *Naterra Int’l, Inc. v. Bensalem*, 92 F.4th 1113, 1117 (Fed. Cir. 2024) (quoting *St. Helena Hosp.*, 774 F.3d at 752 (cleaned up) (citation omitted)). By contrast, the third *DuPont* factor addresses the question of whether the goods move from producer to consumer in the same commercial pathways (e.g., brick-and-mortar retail stores, supermarkets, online specialty retailers, or wholesale distributorships).

Applicant’s goods identified as “distilled spirits, namely, spirits distilled from the blue tequilana weber variety of agave plant” are a specific type of tequila, and Registrant’s goods are “wine.” While both goods fall within the general category of alcoholic beverages, “[t]here is no per se rule that holds that all alcoholic beverages are related.” *In re White Rock Distilleries Inc.*, No. 77093221, 2009 TTAB LEXIS 601 at *8 (citing *G. H. Mumm & Cie v. Desnoes & Geddes Ltd.*, 917 F.2d 1292 (Fed. Cir. 1990) and *Nat’l Distillers and Chem. Corp. v. William Grant & Sons, Inc.*, 505 F.2d 719 (CCPA 1974)). We must therefore decide this appeal on the record before us.

The Examining Attorney submitted evidence from the following third-party winery, distillery, and U.S. importer/distributorship websites as well as blogs purporting to show that tequila and wine are related under the second *DuPont* factor:

Kiepersol, a distillery and winery located on a family owned estate in Texas where “[e]ach brand is named after a hero in our family” featuring Pierre’s branded Texas Tequila and Kiepersol branded wine;¹¹

¹¹ March 22, 2023 Denial of Request for Reconsideration at TSDR 4-19.

Round Barn Winery Brewery Distillery produces handcrafted small batch artisan spirits such as tequila-style agave as well as wine under the mark Round Barn;¹²

Skurnik is a U.S. distributor with a worldwide portfolio of unaffiliated wine and distilled spirits brands, including several types of tequila;¹³

E&J Gallo Winery is a U.S. wine producer and distributor of unaffiliated wine and tequila brands;¹⁴

Old Town Tequila is an online retailer specializing in alcoholic beverages and offers for retail purchase wine and tequila from various brands;¹⁵

An article entitled “Reynolds Family Winery: Producing Wine and Tequila on the Silverado Trail” posted on the blog Wine Routes about a producer of both items;¹⁶

Latitude Beverage Company is a “Boston-based company behind a growing portfolio of national wine and spirits brands” including 90+Cellars, Iron Side and Corte Fiore branded wines as well as Zarpado branded tequila;¹⁷

Boisset Collection is a multinational company whose properties include wineries located in California and Casa Obsidiana, a tequila producer located in Mexico;¹⁸

Mount Hope, located in Pennsylvania in “the Heart of Amish Country” offers for sale Bravucon branded tequila as well as Becky’s Blush, Heartland Harvest, Jacob’s Choice and Quilter’s Delight branded wines;¹⁹

¹² *Id.* at 20-31.

¹³ *Id.* at 32-43.

¹⁴ *Id.* at 44-58.

¹⁵ August 25, 2025 Denial of Request for Reconsideration at TSDR 16-19.

¹⁶ *Id.* at 22-26.

¹⁷ *Id.* at 33-36.

¹⁸ *Id.* at 44-47.

¹⁹ *Id.* at 48-61.

Dai One, a wine and tequila producer, offers both beverages under the same “Dai One” mark such as Dai One 2018 California Autumn Red Blend and Dai One Tequila Anejo;²⁰ and

Tequilas & Wine is a wholesale importer/exporter of various brands of wine and tequila such as Envidia branded wine and Don Nacho tequila.²¹

The problem with the Examining Attorney’s evidence is that it conflates evidence of the trade channels for wine and tequila with the relationship between the beverages themselves. With the exception of Round Barn and Dai One, none of the entities described above produce and market both tequila and wine under the same trademark. Two examples of third-party marketplace uses is unconvincing, especially when there is no indication whether Applicant’s specific type of tequila is made by any of these wineries/distilleries.

The Examining Attorney also contends that the goods are related because they are complementary beverages often used together as cocktail mixers. In support, she submitted the following recipes posted online incorporating both beverages as ingredients:

Chowhound, “Tequila and Wine Come Together for One Devilish Cocktail” and instructions to make “devil’s margarita” with a red wine float;²²

Cupcakes & Cutlery, “Red Wine Cocktails with Tequila are unique and delicious” and providing recipes pairing wine and tequila. The article touts “[w]hile this may be your first

²⁰ *Id.* at 62-66.

²¹ *Id.* at 98-102.

²² August 25, 2025 Denial of Request for Reconsideration at TSDR 8-11.

experience with wine cocktails, *wine is surprisingly versatile when used as a mixer.*” (emphasis in original);²³

The Spruce Eats provides a recipe for Raspberry Tequila Sangria that incorporates wine and tequila, assuring the reader that “[y]es, you can combine those two alcoholic beverages.”;²⁴

Casamigos, provides a recipe for wine and tequila cocktail;²⁵ and

Food Republic, “Add Tequila to Your Sangria for a Summery Twist on a Margarita.”²⁶

Complementary use may show relatedness depending on the particular facts of the case. *See In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1567 (Fed. Cir. 1984) (“The extent to which particular food products are deemed related will depend on the facts of each individual case. ... we take notice that the products ‘bread’ and ‘cheese’ are often used in combination.”). “There is, of course, no *per se* rule that all [ingredients] appearing in the same recipe be considered related for Section 2(d) purposes. It is not unusual for recipes to contain many different ingredients and consumers are not likely to assume merely from the fact that two items are called for in the same recipe that they necessarily emanate from the same source of origin.” *Davia*, 2014 TTAB LEXIS 214, at *18.

The recipes alone do not establish that wine and tequila rise to the level of complementary goods frequently used together in cocktail mixers. The mere existence

²³ *Id.* at 79-92.

²⁴ *Id.* at 103-107.

²⁵ *Id.* at 108.

²⁶ *Id.* at 116-120.

of a handful of cocktail recipes incorporating wine and tequila does not mean that consumers recognize both beverages as ingredients commonly used together for cocktail recipes. Only one of the recipes is for a well-known cocktail, the margarita, and an unusual type, the Devil's Margarita, which features a wine float. Some of the other recipes call for adding tequilas to sangria, a non-traditional choice.²⁷ The remaining cocktail recipes are obscure because "wine is not among the most common cocktail mixers."²⁸ Equally important, we cannot extrapolate from this evidence that consumers following each recipe believe that these ingredients come from the same source. There is no evidence that the recipes use the same brands producing both wine and tequila. For the most part, wine and tequila are distinct types of alcoholic beverages consumed individually, not together, and this evidence fails to show otherwise.

Lastly, the Examining Attorney postulates that wine and tequila are related because tequila can be made using wine-making techniques. The Examining Attorney cites to a single article describing "tequila-obsessed friends in Napa's wine business joined together with the goal of creating ultra-premium tequilas using wine making techniques"²⁹ as evidentiary support. Again, this evidence fails to show wine and tequila offered to consumers from the same entity under the same trademark.

With only two examples of third-party marketplace uses under the same mark

²⁷ *Id.* at 79-92.

²⁸ Chowhound, "Tequila and Wine Come Together for One Devilish Cocktail" and instructions to make "devil's margarita" with a red wine float submitted with August 25, 2025 Denial of Request for Reconsideration at TSDR 8-11.

²⁹ *Id.* at 27-28.

and no third-party registration evidence of tequila and wine emanating from the same source under the same trademark, the Board is unable to find a relationship between Applicant's and Registrant's particular type of alcoholic beverages. The Examining Attorney has failed to establish on this record that Applicant's and Registrant's particular types of alcoholic beverages are related. *See, e.g., White Rock Distilleries*, 2009 TTAB LEXIS 601, at *9 (finding Office had failed to establish that wine and vodka infused with caffeine are related goods because "there is no evidence that vodka, much less applicant's specific type of vodka, and wine emanate from a single source under a single mark" or that "energy vodka infused with caffeine and wine are ingredients for any particular cocktails such that we could consider them complementary products that would be bought and used together."). Perhaps on a more developed record we would find otherwise. The second *DuPont* factor weighs against finding a likelihood of confusion.

This brings us to the "established, likely-to-continue channels of trade." *DuPont*, 476 F.2d at 1361. Unlike the record on the second *DuPont* factor, the record includes competent evidence showing overlapping trade channels and classes of consumers.

Because there are no limitations or restrictions as to trade channels or classes of purchasers in the respective identifications of goods, we must presume that Applicant's tequila and Registrant's wine would be marketed in all normal trade channels for such goods and to all normal classes of purchasers of such goods. *See Packard Press, Inc. v. Hewlett-Packard Co.*, 227 F.3d 1352, 1359 (Fed. Cir. 2000) (language in the identifications control, regardless of any actual marketplace

evidence of “the particular channels of trade, or the class of purchasers to which sales of the goods or services are directed”). The evidence discussed above shows that the normal trade channels for both tequila and wine includes U.S. importers, wholesale distributors, online retailers, and the premises of winery/distillery tasting rooms. This reflects the U.S. three-tier licensing system, where alcoholic beverages typically move from producers and importers to wholesaler distributors and then to retailers to be consumed on premise at bars, restaurants, and tasting rooms as well as through brick-and-mortar liquor stores and online specialty retailers. The normal classes of purchasers of wine and tequila include bar patrons, restaurant patrons and retail purchasers of alcoholic beverages of legal drinking age.

Applicant counters that “in retail settings, wines are typically segregated and displayed separately from distilled spirits, a segregation that extends to online platforms and restaurant menus.”³⁰ This argument is unavailing. Consumers browsing the aisles in retail liquor establishments are likely to “jaunt to another counter or section of the store” and encounter a variety of alcoholic beverages and spirits, including wine and tequila. *See Monarch Wine Co. v. Hood River Distillers, Inc.*, 1977 TTAB LEXIS 129, at *6.

The third *DuPont* factor therefore weighs in favor of finding a likelihood of confusion.

C. Purchasing conditions

The fourth *DuPont* factor evaluates “[t]he conditions under which ... sales are

³⁰ 31 TTABVUE 21.

made, i.e. ‘impulse’ vs. careful, sophisticated purchasing.” *DuPont*, 476 F.2d at 1361. A heightened degree of care when making a purchasing decision may tend to minimize likelihood of confusion. *See, e.g., In re N.A.D., Inc.*, 754 F.2d 996, 999-1000 (Fed. Cir. 1985) (because only sophisticated purchasers exercising great care would purchase the relevant goods, there would be no likelihood of confusion merely because of the similarity between the marks NARCO and NARKOMED). Conversely, impulse purchases of inexpensive goods may tend to have the opposite effect. *Palm Bay Imps.*, 396 F.3d at 1376.

The respective identifications of Applicant’s and Registrant’s goods are not limited in any manner as to purchasers, conditions of sale or price. We must therefore assume that both types of alcoholic beverages are available to all consumers of legal age who purchase tequila or wine, including ordinary consumers who may buy inexpensive tequila and wine on impulse. *See Sock It To Me, Inc. v. Fan*, No. 91230554, 2020 TTAB LEXIS 201, at *24-25 (where there are no limitations in the identification, goods encompass “all goods of the type identified, without limitation as to their nature or price”) (citation omitted). Although some consumers might be more sophisticated about purchasing wine and tequila, others may not be as knowledgeable. *See, e.g., In re Aquitaine Wine USA, LLC*, No. 86928469, 2018 TTAB LEXIS 108, at *29 (“Wine purchasers are not necessarily sophisticated or careful in making their purchasing decisions, and where, as here, the goods are identified without any limitations as to trade channels, classes of consumers or conditions of sale, we must presume that Applicant’s and Registrant’s wine encompasses inexpensive or moderately-priced

wine.”). Basing our analysis “on the least sophisticated potential purchaser,” *Stone Lion Cap. Partners, L.P. v. Lion Cap. LLP*, 746 F.3d 1317, 1325 (Fed. Cir. 2014), we deem this *DuPont* factor neutral.

D. Strength or weakness of cited mark

Lastly, we address the sixth *DuPont* factor, the “number and nature of similar marks in use on similar goods.” *DuPont*, 476 F.2d at 1361. This *DuPont* factor “is a measure of the extent to which other marks weaken the assessed mark.” *See Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023) (inter partes context). “The weaker [the cited] mark, the closer an applicant’s mark can come without causing a likelihood of confusion and thereby invading what amounts to its comparatively narrower range of protection.” *Id.* at 1338 (internal citations omitted).

In determining the strength or weakness of the cited mark, we consider both its inherent strength, based on the nature of the mark itself, and, if there is evidence in the record of marketplace recognition of the mark, its commercial or marketplace strength. *Spireon*, 71 F.4th at 1362; *see also In re Chippendales USA, Inc.*, 622 F.3d 1346, 1353-54 (Fed. Cir. 2010) (“A mark’s strength is measured both by its conceptual strength ... and its marketplace strength”); *Tea Bd. of India v. Republic of Tea Inc.*, No. 91118587, 2006 TTAB LEXIS 330, at *62. Conceptual or inherent strength is a measure of a mark’s distinctiveness. *Chippendales*, 622 F.3d at 1353-54. Distinctiveness is “often classified 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). “Commercial

strength, on the other hand, is the marketplace recognition value of the mark.” *Spireon*, 71 F.4th at 1362 (internal citation and quotation marks omitted). “Evidence of third-party use of similar marks on similar goods is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.” *Palm Bay Imps.*, 396 F.3d at 1371; *see also Jack Wolfskin Ausrüstung Fur Draussen GmbH v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1373-74 (Fed. Cir. 2015).

The cited mark CASABLANCA is registered on the Principal Register without a claim of acquired distinctiveness, and thus carries a presumption of validity under Trademark Act Section 7(b), 15 U.S.C. § 1057(b), that it is inherently distinctive.³¹ *See, e.g., New Era Cap Co. v. Pro Era, LLC*, No. 91216455, 2020 TTAB LEXIS 199, at *29. That said and as we noted earlier, the record shows that “Casablanca” refers to wine originating from the Casablanca Valley in Chile,³² making the cited mark highly suggestive. “Marks that are ... highly suggestive are entitled to a narrower scope of protection, i.e., are less likely to generate confusion over source identification, than their more fanciful counterparts.” *Spireon*, 71 F.4th at 1362 (quoting *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1339 (Fed. Cir. 2015)).

³¹ We will not entertain Applicant’s contention that the registered mark is geographically descriptive under Trademark Act Section 2(e)(2), 15 U.S.C. § 1052(e), because it amounts to a “thinly veiled” collateral attack on the registration. *See In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 1408 (Fed. Cir. 1997). An ex parte appeal is not the proper forum; rather, such allegations may only be brought in a formal cancellation proceeding. *Id.*

³² *See, e.g.*, December 13, 2023 Request for Reconsideration at TSDR 49 (printout of a map of the Casablanca Valley in Chile depicting in a pie chart the availability of grape by percentage accessed on 5/17/2023); *see also id.* at 203-216 (TTBGov Wine Label: Appellation of Origin printout from www.ttb.gov accessed on 7/5/2023).

To show public exposure and consumer impressions, Applicant made of record evidence from more than 1,200 search results for “Casablanca Valley” from U.S. websites.³³ By way of illustration, the excerpts from WINE ENTHUSIAST show different wine brands such as Primus, Veramont and Lapostelle using “Casablanca Valley” in advertising their wines for retail sale to U.S. consumers:³⁴

³³ December 13, 2023 Request for Reconsideration at TSDR 35-42 (search results for “casablanca valley” from www.wineenthusiast.com accessed on 7/5/2023); *see also id.* at 44-171 (search results for “Casablanca valley” from wine-searcher.com accessed on 7/5/2023). In general, search result summaries are of limited value. *See* TBMP § 1208.03 and cases cited in Notes 14-18. But here the search result summaries carry weight because they clearly show the type of wine, brand name, price and geographical region of origin.

We further add that examining attorneys are not required to establish that a particular online source or website “has significant web traffic” to establish its competence just as there is no requirement to establish the circulation or actual readership of a magazine or newspaper. *In re Wal-Mart Stores, Inc.*, No. 86261962, 2019 TTAB LEXIS 1, at *30. The converse of this principle applies with equal force to applicants making website evidence of record in an ex parte appeal. “Even websites that are not frequently visited still demonstrate how the authors use the term or phrase and how that term or phase will be perceived by the readers.” *Id.*

³⁴ December 13, 2023 Request for Reconsideration at TSDR 38.

Primus 2002 Red (Casablanca Valley)

88 Points | \$16.00

This blend of Merlot (36%), Cabernet Sauvignon (34%) and Carmenère (30%) flows creamily across the palate, delivering black cherry...

[See Full Review](#)

Veramonte 2002 Merlot (Casablanca Valley)

84 Points | \$10.00

A bit herbal, and doesn't show the same level of flavor intensity or mouthfeel that the Cabernet does. It still delivers varietal ...

[See Full Review](#)

Veramonte 2003 Chardonnay (Casablanca Valley)

85 Points | \$10.00 Best Buy

Peach, pear and pineapple fruit, all done up in toasty, butterscotchy oak. Plump in the mouth and a little soft on the vanilla-lad...

[See Full Review](#)

Lapostolle 2002 Chardonnay (Casablanca Valley)

86 Points | \$12.00

Starts off with peach, apple and pear aromas, which are followed by flavory candied pineapple slices drizzled with some aniseett...

https://www.wine-searcher.com/?q=casablanca+valley&search_type=red&page=2

Further evidence consists of printouts from Wine-Searcher.com of numerous wine brands bearing the moniker “Casablanca Valley, Chile” directly after their marks and varietal.³⁵ Representative examples are reproduced below:³⁶

³⁵ December 13, 2023 Request for Reconsideration at TSDR 44-170 (printouts of the search result summary <https://wine-searcher.com/regions-casablana+valley> accessed on 7/5/2023).

³⁶ *Id.* at 44-46. The fact that the labels from the printouts are blurry does not diminish the probative value of this evidence. Each search result clearly indicates to the right of each label in English the brand of wine (e.g., Carolina Wine, Vinamar, Emiliana); the type of wine (e.g., Savinnon Blanc, pinot noir); the price in U.S. dollars; and the region and country of origin (Casablanca Valley, Chile).

Most Popular Casablanca Valley Wines

[← Back to Casablanca Valley Wines](#)

Most Popular

Best

Best Value

Most Expensive









Cheapest



Region Navigation

	<p>31,078th in popularity</p> <p>\$ 11 / 750ml</p>	87 / 100
	<p>Root 1 Pinot Noir, Casablanca Valley, Chile</p> <p>Pinot Noir</p> <p>33,639th in popularity</p> <p>\$ 11 / 750ml</p>	83 / 100
	<p>Casas del Bosque Reserva Pinot Noir, Casablanca Valley, Chile</p> <p>Pinot Noir</p> <p>33,639th in popularity</p> <p>\$ 15 / 750ml</p>	87 / 100
	<p>Cono Sur 'Quebrada Alta' Single Vineyard Block 5 Chardonnay, Casablanca Valley, Chile</p> <p>Chardonnay</p> <p>34,004th in popularity</p> <p>\$ 16 / 750ml</p>	88 / 100

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	Santa Carolina 'Carolina' Reserva Chardonnay, Casablanca Valley, Chile Chardonnay 34,004th in popularity \$ 10 / 750ml	84 / 100
	Villard Le Pinot Noir Grand Vin, Casablanca Valley, Chile Pinot Noir 34,804th in popularity \$ 34 / 750ml	92 / 100
	Cono Sur Reserva Especial Pinot Noir, Casablanca Valley, Chile Pinot Noir 34,804th in popularity \$ 13 / 750ml	87 / 100
	Casas del Bosque Gran Reserva Pinot Noir, Casablanca Valley, Chile Pinot Noir 35,240th in popularity \$ 19 / 750ml	88 / 100
	Lapostolle Grand Selection Chardonnay, Casablanca Valley, Chile Chardonnay 35,660th in popularity \$ 15 / 750ml	86 / 100
	Emiliana Novas Gran Reserva Pinot Noir, Casablanca Valley, Chile Pinot Noir 35,660th in popularity \$ 13 / 750ml	87 / 100
	Veramonte Reserva Chardonnay, Casablanca Valley, Chile Chardonnay 36,995th in popularity \$ 11 / 750ml	87 / 100
	Quintay Clava Coastal Reserve Sauvignon Blanc, Casablanca Valley, Chile Sauvignon Blanc 38,929th in popularity \$ 10 / 750ml	87 / 100

<https://www.wine-searcher.com/regions-casablanca+valley/26> 2/7

Third-party marketplace use of “Casablanca Valley” for wine in this manner does not demonstrate commercial weakness because none of the examples involve use of “Casablanca Valley” as a trademark. But with over 1200 examples, it is a strong indicator of conceptual weakness as it signals geographic origin. “It is well settled that articles obtained from the Internet, websites, and blog posts are admissible as

evidence of information available to the consuming public and of the way in which a term is being used or would be understood by the relevant public.” *Wal-Mart Stores*, 2019 TTAB LEXIS 1, at *30 (internal citations omitted). Consumers encountering the cited mark CASABLANCA for wine are likely to perceive the mark as shorthand for the Casablanca Valley region in Chile.

Based on this evidence, we find that the cited mark CASABLANCA is highly suggestive and falls on the lower end of the conceptual strength spectrum, making its scope of protection relatively limited. *See In re Hartz Hotel Servs.*, No. 76692673, 2012 TTAB LEXIS 75, at *13 (“the mark GRAND HOTEL is highly suggestive, and therefore the scope of protection to which the cited registration is entitled is quite limited.”). The sixth *DuPont* factor therefore weighs against a likelihood of confusion.

E. Weighing the *DuPont* Factors

The final step in analyzing likelihood of confusion is to weigh the *DuPont* factors for which there has been evidence and argument. Where not all of the relevant factors point in the same direction, we must explain “the weight [we] assigned to the relevant factors” as well as “the results of that weighing.” *Charger Ventures LLC*, 64 F.4th at 1379 (citation omitted). “No mechanical rule determines likelihood of confusion, and each case requires weighing of the facts and circumstances of the particular mark.” *In re Mighty Leaf Tea*, 601 F.3d 1342, 1346 (Fed. Cir. 2010) (citation omitted). “[T]he weight afforded to each factor depends on the circumstances” and “[a]ny single factor may control a particular case.” *Stratus Networks, Inc. v. UBTA-UBET Commc’ns Inc.*,

955 F.3d 994, 998 (Fed. Cir. 2020) (citation omitted).

We have carefully considered all of the evidence made of record, as well as all of the arguments related thereto. The marks are virtually identical in sound and appearance, meaning that the first *DuPont* factor weighs heavily in favor of concluding that confusion is likely. The evidence shows that tequila and wine travel in the same ordinary trade and distribution channels and will be marketed to the same potential consumers, which strongly favors a likelihood of confusion.

On the other hand, the Examining Attorney failed to submit competent evidence that the goods are related, tipping the second *DuPont* factor heavily against finding a likelihood of confusion. The cited mark CASABLANCA is highly suggestive of wine originating from the Casablanca Valley of Chile, meaning that it has a large degree of conceptual weakness. With a relatively limited scope of protection, the sixth *DuPont* factor weighs strongly against a likelihood of confusion. The fourth *DuPont* factor of purchaser care is neutral.

On balance, the lack of competent evidence to prove the relatedness between the goods, combined with the cited mark's relative conceptual weakness in connection with wine, outweighs the virtual similarity of the marks and overlapping trade channels. We conclude that confusion is unlikely.

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