

This Opinion is Not a
Precedent of the TTAB

Mailed: May 7, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Huella Studio LLC

Serial No. 97751731

David K. Friedland and Jaime Rich Vining of Friedland Vining PA,
for Huella Studio LLC.

Ashton Copeland, Trademark Examining Attorney, Law Office 111,
Chris Doninger, Managing Attorney.

Before Greenbaum, English and Casagrande,
Administrative Trademark Judges.

Opinion by English, Administrative Trademark Judge:

Huella Studio LLC (“Applicant”) seeks registration on the Principal Register of the standard-character mark HUELLA for “leather bags, leather handbags, leather purses, leather wallets, leather briefcases, leather satchels, leather business card holders, leather credit card holders, leather tote bags, leather backpacks, and leather duffel bags” in International Class 18.¹

¹ Application Serial No. 97751731 was filed on January 12, 2023, based on a claim of first use and first use in commerce since July 23, 2022, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a). The application includes the following translation: “The English translation of HUELLA in the mark is FINGERPRINT.”

The Examining Attorney refused registration of Applicant's mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), based on a likelihood of confusion with the standard-character mark HUELLA registered on the Principal Register for "cosmetics and make-up; nail-polish removers; nail polish; nail polish base coat; nail polish protector in the nature of a thin plastic covering applied to nails; nail polish remover pens; nail polish top coat; nail polishing powder; nail care kits comprising nail polish; non-medicated lotions for body, skin, and face; cosmetic preparations for removing gel nails, acrylic nails, and nail polish; nail cosmetics; natural cosmetics; organic cosmetics; pads impregnated with nail polish remover; wipes impregnated with nail polish remover" in International Class 3 (the "Cited Registration" or "Cited Mark").²

When the refusal was made final, Applicant requested reconsideration and appealed. The request for reconsideration was denied and the appeal proceeded. Applicant and the Examining Attorney filed appeal briefs. We affirm the refusal to register under Section 2(d) of the Trademark Act.

I. Analysis

Section 2(d) of the Trademark Act prohibits registration of a mark that "so resembles a mark registered in the Patent and Trademark Office ... as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. § 1052(d). We determine whether confusion

² Registration No. 7043078 issued on May 2, 2023. The registration includes the following translation: "The English translation of 'HUELLA' in the mark is 'FOOTPRINT or FINGERPRINT'."

is likely by analyzing all probative facts in evidence relevant to the likelihood of confusion factors set forth in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (providing a nonexclusive list of 13 factors potentially relevant to likelihood of confusion) (“*DuPont*”). *See, e.g., In re Charger Ventures LLC*, 64 F.4th 1375, 1379 (Fed. Cir. 2023).³ The Board considers “each ... factor for which there is evidence and argument.” *Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023) (quoting Board Decision). We then weigh together our findings on relevant factors to determine if, on balance, they indicate that confusion is likely. *See, e.g., In re Charger Ventures*, 64 F.4th at 1381; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1319 (Fed. Cir. 2003).

Although “the various evidentiary factors may play more or less weighty roles in any particular determination,” the similarities between the marks and the relatedness of the goods or services are two key factors. *In re Shell Oil Co.*, 992 F.2d 1204, 1206 (Fed. Cir. 1993); *see also Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165 (Fed. Cir. 2002); *In re Chatam Int’l Inc.*, 380 F.3d 1340, 1341-42 (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

³ This opinion is issued as part of an internal Board pilot citation program on broadening acceptable forms of legal citation in Board cases. It cites decisions of the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Customs and Patent Appeals only by the page(s) on which they appear in the Federal Reporter (e.g., F.2d, F.3d, or F.4th). Westlaw (WL) citations are used for decisions of the Board. Serial or proceeding numbers are provided where available to assist finding cited Board opinions in USPTO and other databases. The citations in this opinion conform to the practice set forth in TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (“TBMP”) § 101.03(a) (2024).

differences in the essential characteristics of the goods and differences in the marks.”). We address these two factors and other relevant *DuPont* factors below.

A. Similarity or Dissimilarity of the Marks

Under the first *DuPont* factor, we consider the “similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.” *DuPont*, 476 F.2d at 1361; *see also Stone Lion Cap. Partners, L.P. v. Lion Cap. LLP*, 746 F.3d 1317, 1321 (Fed. Cir. 2014). There is no dispute that the marks involved here are identical.⁴ The first *DuPont* factor weighs heavily in favor of finding a likelihood of confusion.

B. Similarity or Dissimilarity of the Goods

We next consider the similarity or dissimilarity and nature of the goods under the second *DuPont* factor. *See* 476 F.2d at 1361. We must base our comparison on the goods identified in the Cited Registration and the involved application. *See, e.g., In re Charger Ventures*, 64 F.4th at 1383 (“The relevant inquiry in an ex parte proceeding focuses on the goods and services described in the application and registration.”) (emphasis omitted).

Goods need not be identical, competitive, or similar in kind to be related for purposes of likelihood of confusion. *See, e.g., Recot, Inc. v. M.C. Becton*, 214 F.3d 1322, 1329 (Fed. Cir. 2000); *In re Samsung Display Co.*, Ser. No. 90502617, 2024 WL 3451873, at *3 (TTAB 2024). It is sufficient if the evidence establishes that the goods

⁴ Indeed, Applicant did not present any arguments concerning the first *DuPont* factor.

are related in some manner, or the conditions surrounding their marketing are such that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods emanate from a common source. *Coach Servs. Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369 (Fed. Cir. 2012); *Recot v. M.C. Becton*, 214 F.3d at 1329 (“[G]oods can be related in the mind of the consuming public as to the origin of the goods. It is this sense of relatedness that matters in the likelihood of confusion analysis.”). Moreover, it is sufficient if relatedness is established for any item encompassed in the identification of goods in a particular class. *SquirtCo v. Tomy Corp.*, 697 F.2d 1038, 1041 (Fed. Cir. 1983) (“[T]he opposition must be sustained if Tomy’s use of SQUIRT SQUAD is so similar to use of SQUIRT for a single product with respect to which SquirtCo has established prior rights that there is likely to be confusion as to their source.”); *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp.*, 648 F.2d 1335, 1336 (CCPA 1981).

In assessing the evidence under the second *DuPont* factor, we keep in mind that where, as here, the marks are identical, the degree of similarity or relatedness between the goods needed to support a finding of likelihood of confusion declines. *See, e.g., In re Thor Tech, Inc.*, Ser. No. 78634024, 2009 WL 1098997, at *2 (TTAB 2009) (“[T]he greater the degree of similarity between the applicant’s mark and the registered mark, the lesser the degree of similarity between the applicant’s goods and registrant’s goods that is required to support a finding of likelihood of confusion.”); *see also In re Shell Oil Co.*, 992 F.2d at 1207 (“[E]ven when the goods or services are

Serial No. 97751731

not competitive or intrinsically related, the use of identical marks can lead to the assumption that there is a common source”).

Applicant argues that despite the identity of the marks “the clear differences” between the goods precludes a likelihood of confusion.⁵ We disagree. Importantly, there is an inherent relationship between Applicant’s leather bags and Registrant’s cosmetics. As shown in the image below, Applicant’s leather bags are broad enough to encompass leather makeup bags for storing cosmetics identified by the Cited Mark.⁶ *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267 (Fed. Cir. 2002) (identifications themselves may support finding of relatedness); *Monster Energy Co. v. Lo.*, Opp. No. 91225050, 2023 WL 417620, at *7 (TTAB 2023) (“If an application or registration describes goods or services broadly, and there is no limitation as to their nature, it is presumed that the ‘registration encompasses all goods or services of the type described.’”); *In re Country Oven, Inc.*, Ser. No. 87354443,

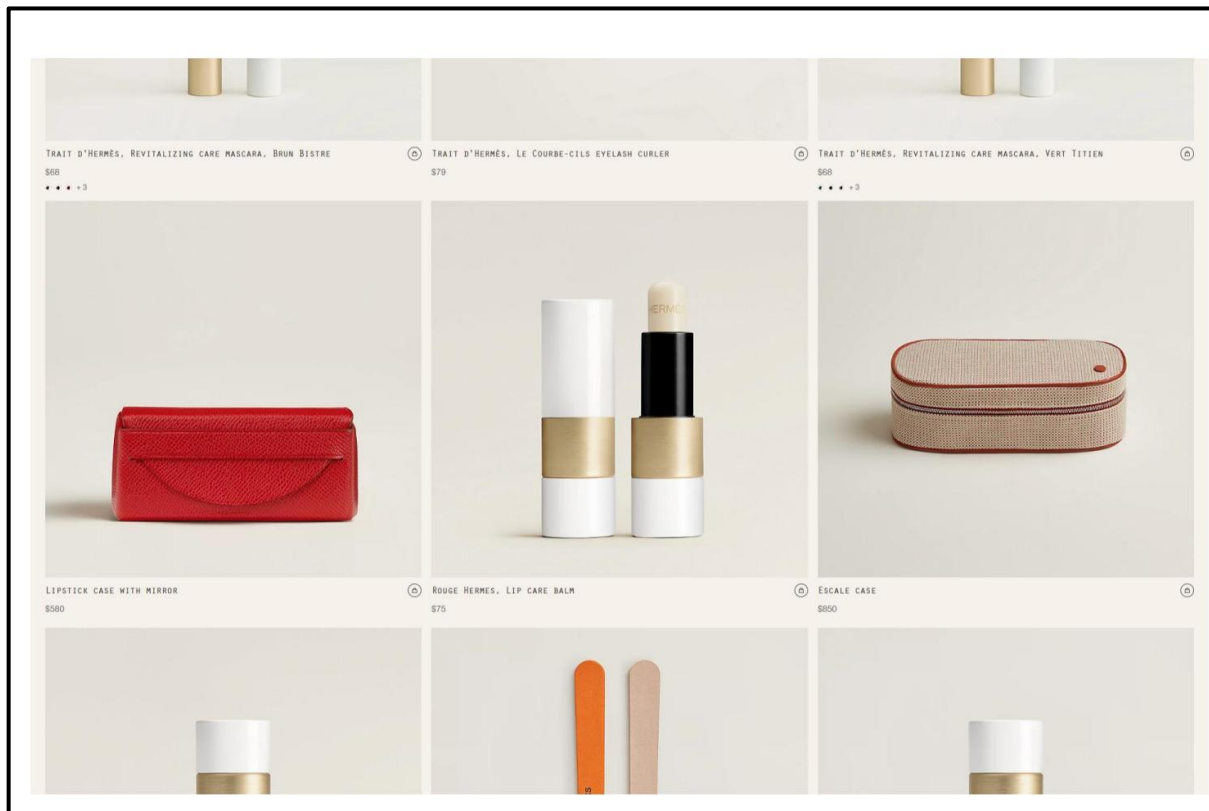
⁵ Appeal Brief, 6 TTABVUE 8.

⁶ In this way, the facts here are different from those in *In re British Bulldog, Ltd.*, Ser. No. 73354851, 1984 WL 63176 (TTAB 1984), cited by Applicant. *Id.* at *3 (finding underwear and shoes “not complementary or companion items”). In addition, unlike in *British Bulldog*, there is no evidence here, nor does Applicant argue, that the mark HUELLA would have one meaning in connection with Registrant’s cosmetics and another meaning for Applicant’s leather bags. *Id.*

Applicant also relies heavily on the Board’s non-precedential decision in *In re Dileep Essentials Pvt. Ltd.*, Ser. No. 90978154, 2024 WL 2316582 (TTAB 2024). The Board discourages the citation of non-precedential decisions, which are not binding on the Board. *In re tapio GmbH*, Ser. No. 87941532, 2020 WL 6938377, at *9 n.30 (“Generally, the practice of citing non-precedential opinions is not encouraged.”). Each case must be decided on its own merits on the particular facts of record. *In re Nett Designs Inc.*, 236 F.3d 1339, 1342 (Fed. Cir. 2001). The facts here differ from those in *Dileep Essentials* where there was no evidence of an inherent relationship between the respective goods. Further, as discussed below, the record here contains a broader range of evidence of third-party relatedness than in *Dileep Essentials*, where there were only a handful of well-known designer brands offering the inherently unrelated goods.

Serial No. 97751731

2019 WL 6170483, at *3, 5 (TTAB 2019) (finding that “the identifications in the application and registration themselves support finding the goods and services are related” and explaining that “[b]ecause the benefits of registration are commensurate with the scope of the goods specified in the certificate of registration, a registration that describes goods broadly is presumed to encompass all goods ... of the type described.”).



7

Complementary or companion use has long been recognized as a relevant consideration in determining a likelihood of confusion. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1567 (Fed. Cir. 1984); *see also In re Ox Paperboard, LLC*,

⁷ September 17, 2024 Denial of Request for Reconsideration, at TSDR 24.

Serial No. 97751731

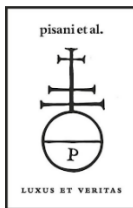
Ser. No. 87847482, 2020 WL 4350517, at *7 (TTAB 2020) (evidence that goods used together demonstrated that goods were related and complementary in nature).

In addition, the Examining Attorney introduced fifteen third-party use-based registrations identifying both cosmetics and leather bags:⁸

- PINK LABEL (Reg. No. 5886312) for, inter alia, cosmetics and nail polish (Cl. 3) and leather handbags, wallets, briefcases, and tote bags (Cl. 18);
- YVO (Reg. No. 6702976) for, inter alia, cosmetics (Cl. 3) and leather bags (Cl. 18);



- (Reg. No. 6917867) for, inter alia, cosmetics (Cl. 3) and leather purses (Cl. 18);



- (Reg. No. 6987331) for, inter alia, cosmetics (Cl. 3) and leather bags (Cl. 18);
- CRIMSONOIR (Reg. No. 4643684) for, inter alia, cosmetics and nail polish (Cl. 3) and leather bags, wallets, suitcases, credit card holders, handbags, and purses (Cl. 18);



- (Reg. No. 6512416) for, inter alia, cosmetics and nail polish (Cl. 3) and leather bags and handbags (Cl. 18);

⁸ February 15, 2024 Final Office Action, at TSDR 123-37, 140-48, 151-52, 156-57, 160-62. We have not considered Reg. Nos. 5482666, 5482665, 6229427 and 5538394 (*id.* at 138-39, 149-50, 153-55, 158-59) because they have since been cancelled in whole or relevant part. *Made in Nature, LLC v. Pharmavite LLC*, Opp. No. 91223352, 2022 WL 2188890, at *15 (TTAB 2022) (“A cancelled or expired registration has no probative value other than to show that it once issued and it is not entitled to any of the statutory presumptions of Trademark Act Section 7(b).”) (citations omitted).



- (Reg. No. 4322129) for, inter alia, nail polish (Cl. 3) and leather handbags (Cl. 18);



- CREMA BELLA SPECIAL (Reg. No. 6881056) for, inter alia, cosmetics (Cl. 3) and leather handbags (Cl. 18);
- ANLISON (Reg. No. 5905127) for, inter alia, cosmetics and make-up (Cl. 3) and leather bags, suitcases and wallets (Cl. 18);
- SANWOOD (Reg. No. 5326701) for, inter alia, cosmetics and nail polish (Cl. 3) and purses, wallets, backpacks, fashion handbags, credit card cases and holders (Cl. 18);⁹



- (Reg. No. 6361693) for, inter alia, cosmetics (Cl. 3) and backpacks and handbags;
- OLDE ENGLAND (Reg. No. 7170091) for, inter alia non-medicated cosmetics (Cl. 3) and suitcases, wallets, and credit card holders (Cl. 18);
- AHTEMU (Reg. No. 6170463) for, inter alia, nail polish and cosmetics, namely, lipstick, facial powders, cosmetic foundations, concealers, blushes, lip gloss, lip balm, lip pencils, eye shadows, eye liner pencils, mascaras, makeup remover, eye cream (Cl. 3) and handbags, purses, and pocket wallets (Cl. 18);
- DIVINE ROSE (Reg. No. 6882270) for cosmetics and makeup (Cl. 3) and, inter alia, tote bags (Cl. 18); and
- BORGHESE (Reg. No. 3703691) for, inter alia, cosmetics (Cl. 3) and tote bags (Cl. 18).

⁹ The last six listed registrations do not specify that the Class 18 goods are made of leather but the identifications are broad enough to encompass such goods made of leather. *In re Country Oven*, 2019 WL 6170483, at *5 (“Just as we must consider the full scope of the goods and services as set forth in the application and registration under consideration, we must consider the full scope of the goods and services described in a third-party registration.”).

Generally, third-party registrations that cover goods from both the cited registration and an applicant's application are relevant to show that the goods are of a type that may emanate from a common source under a single mark. *In re Country Oven*, 2019 WL 6170483, at *5; *see also, e.g., DeVivo v. Ortiz*, Opp. No. 91242863, 2020 WL 1227592, at *14 (TTAB 2020) ("While not evidence of use of the marks therein, third-party registrations may serve to suggest that the parties' goods ... are of a type which may emanate from a single source.").

The Examining Attorney also introduced website screenshots showing 11 third parties using the following marks for both cosmetics, including nail polish, and leather bags, including handbags: CHANEL, DIOR, GUCCI, ZARA, TOM FORD, YSL, VICTORIA BECKHAM, HERMÈS, CAROLINA HERRERA, CHRISTIAN LOUBOUTIN, and PRADA.¹⁰ In addition, the Examining Attorney submitted website screenshots showing Armani's use of the marks ARMANI BEAUTY for cosmetics and GIORGIO ARMANI for leather bags.¹¹

¹⁰ October 12, 2023 Office Action, at TSDR 18-157; February 15, 2024 Final Office Action, at TSDR 8-122; September 17, 2024 Denial of Request for Reconsideration, at TSDR 5-185.

Applicant asserts that the CHANEL, DIOR and GUCCI marks are subject to separate registrations in Classes 3 and 19 "indicat[ing] that even if their goods may travel in similar channels of trade, separate registrations in the two classes were pertinent to their businesses." This argument is not persuasive as separate registrations for goods in different classes is not determinative of the relatedness of the goods. *In re Detroit Athletic Co.*, 903 F.3d 1297, 1307 (Fed. Cir. 2018) ("Classification is solely for the 'convenience of Patent and Trademark Office administration,' 15 U.S.C. § 1112, and 'is wholly irrelevant to the issue of registrability under section 1052(d), which makes no reference to classification.'") (quoting *Jean Patou, Inc. v. Theon, Inc.*, 9 F.3d 971, 975 (Fed. Cir. 1993)); *Lifezone Inc. v. Middleman Grp., Inc.*, Opp. No. 91160999, 2008 WL 2781162, at *7, n.19 (TTAB 2008) ("Although the relationship (if any) of the goods and services is an important factor, . . . their classification is not.") (emphasis omitted).

¹¹ September 17, 2024 Denial of Request for Reconsideration, at TSDR 40-78.

Applicant argues that these marks “are famous designer brands that are often associated with ‘the practice of designers to licensing their names for a wide variety of goods’” and because “[t]he Examiner has not cited any evidence that either the owner of the cited mark or Applicant” are designers, this evidence does “not support a conclusion that the goods are similar [or] commercially related[.]”¹² In some cases the marks of well-known or famous designers may have more limited probative value in demonstrating relatedness because consumers are more cognizant that such designers tend to use their marks on a wide variety of goods. *Cf. In re Donnay Int’l, Societe Anonyme*, Ser. No. 74160268, 1994 WL 515456, at *1, n.3 (TTAB 1994) (in determining relatedness between soccer balls and various racket-sports goods, Board suggested that two of the cited third-party registrations were somewhat less probative because they were for “house marks” and thus are known to be applied to a wide variety of goods). Here, however, the third-party use evidence corroborates the evidence of inherent relatedness and supports that consumers encounter these inherently related goods in the marketplace in a manner that would lead consumers to believe they emanate from a common source. *Wet Seal, Inc. v. FD Mgmt., Inc.*, Opp. No. 91157022, 2007 WL 458529, at *10 (TTAB 2007) (evidence of three designer companies, CALVIN KLEIN, CHANEL and BCBG, selling both clothing and fragrances under their house marks supported that clothing and fragrances are related). The third-party use also corroborates the numerous third-party

¹² Appeal Brief, 6 TTABVue 6. Applicant did not specifically address the uses of HERMÈS, CAROLINA HERRERA, CHRISTIAN LOUBOUTIN, PRADA, and ARMANI BEAUTY/GIORGIO ARMANI, but the same argument applies to these marks.

registrations showing that it is common for third-parties to register a single mark for both cosmetics and leather bags.¹³

In sum, the evidence here shows that Applicant's leather bags and Registrant's cosmetics are inherently and commercially related under the second *DuPont* factor, and thus, supports finding a likelihood of confusion.

C. Similarity or Dissimilarity of Trade Channels and Buyers to Whom Sales are Made

We next consider the similarity or dissimilarity of the trade channels and classes of purchasers based on the goods as they are identified in the application and registration. *Stone Lion*, 746 F.3d at 1323; *Sabhnani v. Mirage Brands, LLC*, Can. No. 92068086, 2021 WL 6072822, at *8 (TTAB 2021). (quoting *DuPont*, 476 F.2d at 1361) (“[A]s with the relatedness of the goods, the similarity or dissimilarity of the channels of trade must be determined based on the identifications of goods in the parties’ registrations[.]”). The identifications in the Cited Registration and involved application are unrestricted as to trade channels and consumers. Thus, we must presume that the identified goods will travel in all normal channels of trade and to all usual prospective purchasers for such goods. *In re i.am.symbolic, llc*, 866 F.3d

¹³ The third-party registrations are particularly probative of relatedness because they do not cover a laundry list of goods and there is no evidence that the registered marks are designer brands or house marks. *Compare In re Davey Prods. Pty Ltd.*, Ser. No. 77029776, 2009 WL 2420527, at *5 (TTB 2009) (finding third-party registrations also supported that the goods were related; “[W]e find that in none of the third-party registrations are the identified goods so varied, numerous and obviously unrelated that the probative value of the registration ... is negated.”), *with In re Mucky Duck Mustard Co.*, Ser. No. 73603019, 1988 WL 252484, at *3, n.6 (TTAB 1988) (giving “little weight” to third-party registrations because two of the four registrations which were based on use were issued to “owners of a large department store and an amusement or theme center, respectively, where a wide variety of goods are sold”).

1315, 1327 (Fed. Cir. 2017) (“In the absence of meaningful limitations in either the application or the cited registrations, the Board properly presumed that the goods travel through all usual channels of trade and are offered to all normal potential purchasers.”) (citations omitted). Here, Applicant’s and Registrant’s goods are general consumer products sold to the general public.

Applicant acknowledges that that “[t]he existence of multiple registrations owned by [designer] brand owners makes it more likely that they would be marketing their products in a way that consumers would encounter both classes of goods while browsing their respective websites, just as the Examiner’s evidence suggests.”¹⁴ Applicant nevertheless argues that “the goods offered under the respective marks **would not** be encountered by the same persons in situations that would create the assumption that they originate from the same source.”¹⁵

In this case, the presumption regarding the channels of trade and classes of customers is confirmed by additional evidence, such as the excerpt from the HERMÈS website showing cosmetics sold side-by-side cosmetic bags,¹⁶ as well as six websites showing designer retailers selling both cosmetics and leather bags.¹⁷ Collectively, this

¹⁴ Appeal Brief, 6 TTABVUE 6-7.

¹⁵ *Id.* at 7. For this proposition, Applicant again relies heavily on the nonprecedential *Dileep Essentials* decision and the unique facts there where the respective goods were significantly less related than the respective goods before us in this case, insisting that “[a]n identical result is appropriate here.” *Id.* We disagree. As discussed in n.6 above, the evidence in this case is significantly different from that in *Dileep Essentials*.

¹⁶ September 17, 2024 Denial of Request for Reconsideration, at TSDR 24.

¹⁷ *Id.* at 104-44 (CHRISTIAN LOUBOUTIN); February 15, 2024 Final Office Action, at TSDR 8-31, 59-83 (ZARA, TOM FORD); October 12, 2023 Office Acton, at TSDR 18-157 (CHANEL, DIOR, GUCCI).

evidence supports a finding that the goods are offered in at least one common channel of trade, namely, websites operated by third-party designer retailers, and, as Applicant acknowledges, it shows that “consumers would encounter both classes of goods while browsing the[] respective websites[.]”¹⁸

We find that the overlap in trade channels and relevant consumers favors finding a likelihood of confusion.

II. Conclusion

As a final step, we must “weigh the *DuPont* factors used in [our] analysis and explain the results of that weighing.” *In re Charger Ventures*, 64 F.4th at 1384 (emphasis omitted). Here, all of the relevant *DuPont* factors weigh in favor of finding a likelihood of confusion. The marks are identical, and the record shows that the goods are inherently and commercially related and travel through some of the same trade channels to some of the same consumers. We thus find that Applicant’s mark HUELLA for leather bags is likely to be confused with Registrant’s identical mark for cosmetics.

Decision: The refusal to register Applicant’s mark under Section 2(d) of the Trademark Act is affirmed.

¹⁸ Appeal Brief, 6 TTABVUE 6-7.