

This Opinion is Not a
Precedent of the TTAB

Mailed: March 24, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re NBCUniversal Media, LLC

Serial No. 97831933

Timothy D. Hance of NBCUniversal Media, LLC, and Rick D. McMurtry of M C
Law Group, for NBCUniversal Media, LLC.¹

Elaine Xu, Trademark Examining Attorney, Law Office 128,
Travis Wheatley, Managing Attorney.

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

Opinion by Dunn, Administrative Trademark Judge:

NBCUniversal Media, LLC (Applicant) seeks registration on the Principal
Register of the mark DUNDER MIFFLIN (in standard characters) for (inter alia):²

¹ Attorney Hance filed Applicant's appeal brief and Attorney McMurtry filed the reply brief.

² Application Serial No. 97831933 was filed March 9, 2023 under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based upon Applicant's allegation of a bona fide intention to use the mark in commerce. The application also includes the following goods in Class 16 which are not subject to the refusal:

Printed Books and magazines in the fields of entertainment; printed children's activity books; printed storybooks; printed comic books; printed graphic novels; printed coloring books; book marks; loose leaf binders; stationery-type portfolios; scrapbook albums; sketchbook albums; sticker albums; stamp pads; inking pads; rubber stamps; temporary tattoo transfers; slateboards for writing; pen cases and

Paper party decorations; paper party supplies, namely, paper napkins, paper place mats, gift wrapping paper and paper gift wrapping ribbons, paper gift wrap bows, paper table cloths and paper party bags; wire-bound notebooks; paper note pads; writing pads; blank journals for writing; printed diaries; printed daily planners; printed calendars; photograph albums; stickers, decals; pencils; pens; pencil erasers; decorative pencil-top ornaments; printed posters; printed postcards; printed greeting cards; stationery packs consisting of writing paper, envelopes, markers, and stencils, in International Class 16.

The Trademark Examining Attorney refused registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that Applicant's mark, as applied to the goods identified in the application, so resembles the mark MIFFLIN for the goods listed below on the Principal Register as to be likely to cause confusion, to cause mistake, or to deceive.³

Paper labels and tags, in International Class 16;

Luggage tags, in International Class 18;

Replacement plastic sheets specially adapted for picture frames, in International Class 20;

Plastic ornamental bows for decoration and gift wrapping, in International Class 26.

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

We reverse the refusal to register.

pencil cases; pen boxes and pencil boxes; pencil sharpeners; chalk; markers; printed trading cards, other than for games; pennants made of paper; painting sets, other than for artists being a type of arts and craft paint kit; arts and crafts paint kits; study kits, consisting of pencil erasers, drawing rulers, pencil sharpeners and pencil case; activity kits consisting of stickers and rubber stamps.

³ Registration No. 6106662, issued July 21, 2020, Sec. 8 and 15 accepted.

I. Evidentiary Matter

The Examining Attorney objects to consideration of third-party registrations (Exhibit A) that Applicant attached to its appeal brief.⁴ Trademark Rule 2.142(d) provides that “[t]he record in the application should be complete prior to the filing of the appeal. Evidence should not be filed with the Board after the filing of a notice of appeal.” 37 C.F.R. § 2.142(d); *In re Inn at St. John’s, LLC*, No. 87075988, 2018 TTAB LEXIS 170, at *4 (“The evidence submitted with Applicant’s appeal brief that Applicant did not previously submit during prosecution ... is untimely and will not be considered.”), *aff’d mem.*, 777 F. App’x 516 (Fed. Cir. 2019). We give the third-party registrations no consideration.

Applicant’s brief also was accompanied by Exhibits B-F. The Examining Attorney made no objection to these exhibits. Exhibits B, C, D, and E were submitted during examination. As duplicates, they do not warrant separate consideration. Exhibit F comprises excerpts from Registrant’s website. Because the Examining Attorney did not object to these excerpted pages and discussed them in her brief,⁵ we have considered them. *In re Chestek PLLC*, No. 88938938, 2022 TTAB LEXIS 100, at *6 n.14 (“[E]vidence submitted after an appeal may be considered by the Board when there is no objection to the evidence and it is either discussed or otherwise affirmatively treated as being of record by the nonoffering party.”), *aff’d*, 92 F.4th 1105 (Fed. Cir. 2024).

⁴ 9 TTABVUE 8.

⁵ 9 TTABVUE 13.

II. 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 ... 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). 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. Du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (*DuPont*). We consider each *DuPont* factor for which there is evidence and argument. *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, 1356 (Fed. Cir. 2011).

In every Section 2(d) case, two key factors are the similarity or dissimilarity of the marks and the goods or services. *See In re i.am.symbolic, llc*, 866 F.3d 1315, 1322 (Fed. Cir. 2017). These two factors are addressed in this decision.

A. Similarity or Dissimilarity and Nature of the Goods; Similarity or Dissimilarity of Established and Likely-to-Continue Channels of Trade and Classes of Purchasers

We turn first to the second *DuPont* factor, “[t]he similarity or dissimilarity and nature of the goods or services as described in an application or registration.” *In re Detroit Athletic Co.*, 903 F.3d 1297, 1307 (Fed. Cir. 2018) (quoting *DuPont*, 476 F.2d at 1361). Our analysis under this factor is based on the identifications of goods in the

application and the cited registration. *Id.*⁶ It is sufficient for finding a likelihood of confusion if relatedness is established for any item encompassed by the identification of goods within a particular class in the application. *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp.*, 648 F.2d 1335, 1336 (CCPA 1981).

For convenience, we restate that the goods identified in the application subject to the refusal are:

Paper party decorations; paper party supplies, namely, paper napkins, paper place mats, gift wrapping paper and paper gift wrapping ribbons, paper gift wrap bows, paper table cloths and paper party bags; wire-bound notebooks; paper note pads; writing pads; blank journals for writing; printed diaries; printed daily planners; printed calendars; photograph albums; stickers, decals; pencils; pens; pencil erasers; decorative pencil-top ornaments; printed posters; printed postcards; printed greeting cards; stationery packs consisting of writing paper, envelopes, markers, and stencils.

The goods identified in the cited registration include: Paper labels and tags, and Plastic ornamental bows for decoration and gift wrapping.

We find a close inherent relationship between Applicant's "paper gift wrap bows" and the registered "plastic ornamental bows for decoration and gift wrapping." That is, the goods are the same item (bows) used for the same purpose (gift wrap), and only differ in their material composition (paper v. plastic). The application and registration themselves may provide evidence of the relationship between the goods. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267 (Fed. Cir. 2002).

⁶ As a result, we need not address Applicant's argument and evidence (6 TTABVUE 14) that the goods in actual use are more specialized than the goods listed in the registration. *Octocom Sys., Inc. v. Hous. Comput. Servs. Inc.*, 918 F.2d 937, 942 (Fed. Cir. 1990) ("The authority is legion that the question of registrability of an applicant's mark must be decided on the basis of the identification of goods set forth in the application regardless of what the record may reveal as to the particular nature of an applicant's goods, the particular channels of trade or the class of purchasers to which sales of the goods are directed.").

In addition, we find a relationship based on the complementary uses of the registered goods “plastic ornamental bows for decoration and gift wrapping” and Applicant’s goods “gift wrapping paper and paper gift wrapping ribbons.” Goods which are “used in combination” are complementary, and “complementary 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). “Merely because goods can be used together is not a sufficient basis on which to find them to be complementary. Rather, there must be some showing that customers would seek out both types of goods for the same purpose, for example, making an outfit by matching shoes and clothing, or making a sandwich by combining bread and cheese, to show that the goods are complementary.” *N. Face Apparel Corp. v. Sanyang Indus. Co.*, No. 91187593, 2015 TTAB LEXIS 328, at *46 (internal citation omitted). Here, the bows, ribbons and paper are all used to wrap gifts, and so we find the goods to be not just complementary, but intrinsically related.

Finally, the record includes webpage excerpts demonstrating that the “paper labels and tags” and “plastic ornamental bows for decoration and gift wrapping” listed in the cited registration, and the gift wrapping paper, paper gift wrapping ribbons, printed greeting cards, paper party supplies, listed in the application are available under the same mark from the same specialty online retail sources (Hallmark, Paper Source, Papyrus, American Greetings, Rifle Paper Co., Sugar Paper, Gartner Studios, Caspari, Anchor Point Paper Co., Favorite Story Paperie, Oblation Papers & Press,

Shelworks Stationery, Karen Adams, Hester & Cook,).⁷ We find that this evidence shows that Applicant's goods are related to Registrant's goods because consumers may encounter the same entity offering both under the same mark. *See Hewlett-Packard Co.* 281 F.3d at 1267 (evidence that "a single company sells the goods and services of both parties, if presented, is relevant to a relatedness analysis").

Accordingly, the similarity and nature of the goods weighs in favor of a finding of likelihood of confusion.

B. Similarity or Dissimilarity of the Marks

We next turn to the first *DuPont* factor, which assesses the similarity or dissimilarity of Applicant's and Registrant's marks. *DuPont*, 476 F.2d at 1361. We analyze the marks in their entirety, considering their appearance, sound, meaning and commercial impression. *Id.*; *see also Detroit Athletic*, 903 F.3d at 1303. The test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impression that confusion as to the source of the goods offered under the respective marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053 (Fed. Cir. 2012). "The commercial impression of a trademark is derived from it as a whole, not from its elements separated and considered in detail." *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1340 (Fed. Cir. 2015) (citation omitted).

⁷ December 8, 2023 Office Action TSDR 21, 23, 27, 41, 42, 43, 45; August 7, 2024 Office Action TSDR 12-272.

As stated, the registered mark is MIFFLIN, and Applicant seeks to register the mark DUNDER MIFFLIN. The record indicates that the term MIFFLIN is a surname, a Pennsylvania county named for Pennsylvania's first governor, a township in Ohio, and a street in Madison, Wisconsin.⁸ There is no assertion or evidence that the term has any descriptive significance as applied to the registered goods or Applicant's goods.

We disagree with the Examining Attorney's unsupported assertion that MIFFLIN is the dominant part of the DUNDER MIFFLIN mark. In support, the Examining Attorney asserts:⁹

MIFFLIN could be seen as a shortened version or reference to DUNDER MIFFLIN. For example, DUNDER could be considered suggestive of dunderhead, which refers to an idiot in colloquial terms and thus act as a modifier to MIFFLIN, evoking humorous buffoonery.

There is no assertion or evidence that the term DUNDER is a dictionary term, or has any descriptive significance as applied to the registered goods or Applicant's goods. There is no evidence that DUNDER has any meaning, making it a fanciful term. *See Nautilus Grp., Inc. v. Icon Health & Fitness, Inc.*, 372 F.3d 1330, 1340 (Fed. Cir. 2004) (defining a fanciful mark as "a non-dictionary word concocted by the trademark holder for its product" and observing that such marks are typically strong). We find the assertion regarding consumer perception of DUNDER to be entirely speculative. The record provides no reason to find that the term DUNDER

⁸ February 7, 2025 Response TSDR 17-31.

⁹ 9 TTABVUE 5.

would be perceived as a form of “dunderhead,” or that the term DUNDER would be perceived as a modifier of MIFFLIN.

Based on its fanciful nature and first position in the mark, we find the term DUNDER is slightly dominant in creating the commercial impression of Applicant’s DUNDER MIFFLIN mark. *See Detroit Athletic*, 903 F.3d at 1303 (“The identity of the marks’ initial two words is particularly significant because consumers typically notice those words first.”); *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1372 (Fed. Cir. 2005) (“To be sure, CLICQUOT is an important term in the mark, but VEUVE nevertheless remains a ‘prominent feature’ as the first word in the mark and the first word to appear on the label.”). In fact, we find that the mark DUNDER MIFFLIN creates a different commercial impression than the one created by the mark MIFFLIN alone.

As corroboration, we address the record evidence in the form of Google search results for “DUNDER MIFFLIN.” These results uniformly refer to the fictional paper supply company which is the setting for the television show “The Office,” including excerpts from the website for the fictional company, a Wikipedia entry, a LinkedIn account, a Reddit thread, a podcast, the “Dunderpedia – the Office Wiki,” and Dunder Mifflin merchandise such as books about the show, mousepads, stickers, building toys, lanyards, and t-shirts and sweatshirts.¹⁰ The record also includes an article from the entertainment publication *Variety* on the show’s popularity:¹¹

¹⁰ February 7, 2025 Response TSDR 33-37.

¹¹ June 10, 2024 Response TSDR 22-23.

“The Office” Was by Far the Most-Streamed TV show in 2020, Nielsen Says
(January 12, 2021)

Amid the acceleration of the streaming wars in 2020, one thing was clear: “The Office” stood head and shoulders above every other TV show available on major subscription-video platforms. Last year, Americans cumulatively streamed more than 57 billion minutes of “The Office,” the comedy favorite that originally aired for nine seasons on NBC, on Netflix, according to figures released Tuesday by Nielsen.

...

The more than 57 billion minutes of the “The Office” spanned 192 episodes.

In addition, the record includes website photographs of merchandise (from Amazon, Peacock Shop, Etsy, Spencer’s) bearing the DUNDER MIFFLIN mark which associate the mark with the show:



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¹² *Id.* at TSDR 40.



The Office Dunder Mifflin Mug
\$17.95

COLOR — Navy

SIZE
15 oz

QUANTITY
- 1 +

ADD TO CART

Fast Ship Item! Priority (2 business days), Expedited (3 business days), Standard (5-7 business days) options available in checkout. Please allow 2 business days to ship Standard. Expedited and Priority orders will ship next business day.

This The Office Dunder Mifflin Mug lets you celebrate your favorite paper company with each use. Featuring the Dunder Mifflin logo against a navy ceramic, this mug makes those mid-afternoon coffee breaks in the office that much better.

14

14



Dunder Mifflin Coffee Mug 20 oz. - The Office
\$9.99

☆☆☆☆ No Reviews [Write the First Review](#) Item# 03529492

Color: BLACK
Size: 20 OUNCE
Quantity
- 1 +

Delivery and Pickup Options

Ship to me

Pickup in Store

Select Store

ADD TO CART

15

¹³ *Id.* at TSDR 35-36.

¹⁴ *Id.* at TSDR 51.

¹⁵ *Id.* at TSDR 65.

The Examining Attorney contends that this argument argues the comparative fame of the two marks, and “the purported lack of fame of the cited mark is not significant” in an ex parte appeal.¹⁶ While we agree with the general principle, it is inapplicable here. As set forth above, determining the connotation and overall commercial impression created by the two marks is part of the likelihood of confusion analysis. We find the evidence of how the purchasing public encounters Applicant’s DUNDER MIFFLIN mark to be directly relevant to our assessment of the term’s connotation and commercial impression. That the same type of evidence may be considered in connection with fame does not bar its consideration here.

We also disagree with the Examining Attorney’s argument that “[A]pplicant has not established the relevant consumer of the applied-for goods would readily recognize the reference of DUNDER MIFFLIN to a fictional paper company associated with The Office.”¹⁷ The paper labels and tags and paper gift wrap involved here are paper products available to the general consumer. The Office was a television show about a paper company, and originally available to the general consumer on a television network, and, as demonstrated by the article in Variety, subsequently viewed by many more consumers via streaming services.

In sum, despite the similarities in appearance and sound based on the common term MIFFLIN, we find the connotation and commercial impression of the marks

¹⁶ 9 TTABVUE 6.

¹⁷ 9 TTABVUE 7.

MIFFLIN and DUNDER MIFFLIN are not similar. There is no record support for finding that MIFFLIN is an abbreviated form of DUNDER MIFFLIN or that DUNDER MIFFLIN is a humorous reference to MIFFLIN. We find that the fanciful prefatory term DUNDER alters the overall commercial impression created by the term MIFFLIN alone. In addition, we find significant evidence that the connotation of the term DUNDER MIFFLIN to the general consumer of Applicant's goods is a reference to the setting for the television show "The Office." See *Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1372 (Fed. Cir. 2015) ("We agree with Jack Wolfskin that the Board failed to adequately account for the presence of the literal, KELME component of the New Millennium mark ... and found that the two paw print designs were substantially similar."). Cf. *Detroit Athletic*, 903 F.3d at 1304 ("[W]hile it is true that the words 'Co.' and 'Club' technically differentiate the marks, those words do little to alleviate the confusion that is likely to ensue. Both words are descriptive insofar as they merely describe the business form of the entity that owns the marks [and] ... Those words are therefore unlikely to change the overall commercial impression engendered by the marks.").

C. Balancing the Factors

We have considered all of the arguments and evidence of record, and the relevant *DuPont* factors. Because Applicant's and the registered goods are related, *DuPont* factor two weighs in favor of finding a likelihood of confusion. Because Applicant's mark DUNDER MIFFLIN and the registered mark MIFFLIN create different

commercial impressions, *DuPont* factor one weighs against finding a likelihood of confusion. When we balance the *DuPont* factors, the lack of similarity between the marks outweighs the similar goods, and so we find no likelihood of confusion between Applicant's and the registered mark.

III. Decision

The refusal to register Applicant's mark is reversed.