

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 Daily Harvest Café*

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Serial No. 98269684

Avraham S.Z. Cohn of Cohn Legal PLLC for Daily Harvest Café.

Anne Diamond, Trademark Examining Attorney, Law Office 111,  
Chris Doninger, Managing Attorney.

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Before Heasley, Cohen and Elgin,  
Administrative Trademark Judges.

Opinion by Cohen, Administrative Trademark Judge:

Daily Harvest Café (“Applicant”) seeks registration on the Principal Register of



the composite mark

(CAFE disclaimed) for “cafe and

restaurant services” in International Class 43.<sup>1</sup>

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<sup>1</sup> Application Serial No. 98269684 (the “Application”) was filed on November 14, 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 description of the mark reads: “The

The Trademark Examining Attorney has refused registration of the Application under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that, when used in connection with the identified services, Applicant's mark is likely to cause confusion, to cause mistake, or to deceive because it resembles the standard character mark DAILY HARVEST in five cited registrations (all owned by Daily Harvest, Inc.) (collectively referred to as "Cited Marks" or "Cited Registrations") for:

- "Frozen fruit beverages; Frozen fruit-based beverages; Fruit beverages; Fruit juice bases; Fruit-based beverages; Preparations for making beverages, namely, smoothies and fruit and vegetable juices; Smoothies; Vegetable juices; Vegetable-fruit juices";<sup>2</sup>
- "Soups; Soup mixes; Preparations for making soups; Prepared meals consisting primarily of vegetables; Prepared meals consisting primarily of beans" in International Class 29; "Coffee-based beverages; Tea-based beverages; Chocolate-based beverages; Ice cream substitutes; Oatmeal; Processed Oats; Prepackaged meals consisting primarily of pasta or rice; Prepackaged meals consisting primarily of quinoa; Prepackaged meals consisting primarily of grains" in International Class 30; "Ginger-based beverages" in International Class 32; "On-line retail store services featuring pre-prepared meals, desserts and beverages" in International Class 35;<sup>3</sup>
- "Vegetable-based snack foods, bean-based snack foods, nut-based snack foods; Fruit-based snack foods; Processed chia seeds; prepackaged meals consisting primarily of fruit and seeds; prepackaged and prepared meals consisting primarily of processed legumes; coconut milk beverages flavored with ginger as a spice" in International Class 29; "Espresso drinks; Coffee

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mark consists of the words, DAILY HARVEST CAFE, contained within an oval circle. The mark contains images of wheat, eggs, bread and a cup of coffee." The colors white, gold, green, purple are claimed as a feature of the mark.

The TTABVUE and TRADEMARK STATUS AND DOCUMENT RETRIEVAL (TSDR) citations in this opinion refer to the docket and electronic file database for the involved application. All citations to the TSDR database are to the downloadable .pdf version of the documents.

<sup>2</sup> Registration No. 4657785 issued December 16, 2014; renewed. June 20, 2024 Office Action at TSDR 12.

<sup>3</sup> Registration No. 5690150 issued March 5, 2019; Section 8 and 5 accepted. June 20, 2024 Office Action at TSDR 14.

drinks; Coffee, tea, cocoa; Coffee-based snack foods; Raw Oats; Rolled Oats; Steel Cut Oats; Unprocessed Oats; Prepackaged meals consisting primarily of oats; Cookie dough; Edible cookie dough not intended for baking; Frozen cookie dough; Confectioneries, namely, snack foods, namely, chocolate; Grain-based snack foods” in International Class 30; “Smoothie kits; Vegetable smoothies; Smoothies containing grains and oats; ginger-based beverages” in International Class 32;<sup>4</sup>

- “Pizza; Flatbread; Non-dairy frozen confections; Non-dairy pre-processed mixes for making non-dairy frozen confections; Tea-based beverages also containing non-dairy milk” in International Class 30; “coconut-based beverages not being milk substitutes; Coconut-based non-alcoholic beverages not being milk substitutes” in International Class 32;<sup>5</sup> and
- “Prepared meals consisting primarily of chia seeds; Almond milk; coconut milk-based beverages; oat milk; nut milk; plant based milk, namely, nut-based milks, almond based milks, oat based milk and coconut based milk beverages; non-dairy milks in the nature of plant-based milks; milk substitutes” in International Class 29.<sup>6</sup>

When the refusal was made final, Applicant appealed. The case is now briefed. We reverse the refusal to register.

### **I. Section 2(d) Refusal**

“The Trademark Act prohibits registration of a mark that so resembles a registered mark as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion [or] mistake, or to deceive.” *In re Charger Ventures LLC*, 64 F.4th 1375, 1379 (Fed. Cir. 2023). Our determination of likelihood of confusion under Section 2(d) of the Trademark Act is based on an analysis of all probative facts in the record that are relevant to the factors set forth in *In re E.I. du*

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<sup>4</sup> Registration No. 6135865 issued August 25, 2020. June 20, 2024 Office Action at TSDR 10.

<sup>5</sup> Registration No. 6719577 issued May 3, 2022. June 20, 2024 Office Action at TSDR 8.

<sup>6</sup> Registration No. 7026236 issued April 11, 2023. June 20, 2024 Office Action at TSDR 6.

*Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (“*DuPont*”); *Charger Ventures*, 64 F.4th at 1379. We consider each *DuPont* factor for which there is evidence and argument. *See, e.g., In re Guild Mortg. Co.*, 912 F.3d 1376, 1379 (Fed. Cir. 2019).

In any likelihood of confusion analysis, different *DuPont* factors may play a dominant role and some factors may not be relevant. *Naterra Int’l, Inc. v. Bensalem*, 92 F.4th 1113, 1116 (Fed. Cir. 2024) (citing *Tiger Lily Ventures Ltd. v. Barclays Cap. Inc.*, 35 F.4th 1352, 1362 (Fed. Cir. 2022)). In addition, varying weight may be assigned to each factor depending on the evidence presented, and “any one of the factors may control a particular case.” *Id.*; *see also Charger Ventures*, 64 F.4th at 1381. Two key considerations are the similarities between the marks and the similarities between the goods or services. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322 (Fed. Cir. 2017) (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65 (Fed. Cir. 2002)). These factors, and others, are discussed below.

#### **A. The Marks**

“Under the first *DuPont* factor, we consider ‘the similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression.’” *Sabhnani v. Mirage Brands, LLC*, No. 92068086, 2021 WL 6072822, at \*13 (TTAB 2021) (quoting *Palm Bay Imps. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.2d 1369, 1371 (Fed. Cir. 2005)).

The Cited Marks are in standard characters, meaning the marks are registered “without claim to any particular font style, size, or color ....” Trademark Rule 2.52(a),

37 CFR 2.52(a); *see also In re Aquitaine Wine USA, LLC*, No. 86928469, 2018 WL 1620989, at \*5 (TTAB 2018) (“[T]he rights associated with a standard character mark reside in the wording per se and not in any particular font style, size, or color.”). We must “use the *DuPont* factors to determine the likelihood of confusion between depictions of standard character marks that vary in font style, size, and color and the other mark.” *Citigroup Inc. v. Cap. City Bank Grp., Inc.*, 637 F.3d 1344, 1353 (Fed. Cir. 2011).

The applied-for mark is made up of the words DAILY HARVEST CAFE in stylized fonts, with DAILY HARVEST appearing in capital letters at the top of an oval shape and CAFE appearing in a mix of capital and lower-case script letters at the bottom of the oval shape along with a design. The design element is made up of blades of wheat on the oval and in the center, a loaf of bread, eggs, a steaming cup of coffee, and what appears to be a coffee grinder, set against a horizon. The design element serves to emphasize and reinforce the words DAILY HARVEST, particularly because wheat and eggs are foodstuffs that are harvested and served daily at a restaurant or café. *See Herbko Int’l v. Kappa Books*, 308 F.3d 1156, 1165 (Fed. Cir. 2002) (“This design connotes a crossword puzzle, which reinforces the connotation created by the words of the mark.”); *In re Ox Paperboard, LLC*, No. 87847482, 2020 WL 4530517, \*5 (TTAB 2020) (pictorial design element reinforces wording of composite mark).

There is no mechanical test to select the dominant element of a mark, but in general, words are considered more significant features of marks than designs, disclaimed or descriptive terms are considered less significant features of marks, and

the first or initial term in a mark may be considered the feature that will be called for, and so remembered, by consumers. *In re Detroit Athletic Co.*, 903 F.3d 1297, 1303 (Fed. Cir. 2018) (lead words are typically the dominant portion and are likely to make the greatest impression on consumers); *In re Viterra Inc.*, 671 F.3d 1358, 1366 (Fed. Cir. 2012) (“verbal portion of a word and design mark likely will be the dominant portion”); *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407 (Fed. Cir. 1997) (generic café in DELTA CAFÉ for restaurant services does not create a different commercial impression from DELTA for hotel and restaurant services); *Tao Licensing, LLC v. Bender Consulting Ltd.*, No. 920571132, 2017 WL 6336243, at \*17 (TTAB 2017) (although no mechanical test to select dominant element of a mark, “consumers would be more likely to perceive a distinctive term ... as the source-indicating feature of the mark.”).

Comparing the literal elements, Applicant’s DAILY HARVEST CAFE combines the Cited Marks’ identical terms (DAILY HARVEST) with a generic and disclaimed term for the services with which the mark is used (CAFE). The disclaimed term CAFE appears separate from DAILY HARVEST, and when used in connection with Applicant’s restaurant and café services, it would not make a significant impact in the minds of consumers for purposes of distinguishing the mark. Further, DAILY HARVEST is the entirety of the mark shown in the Cited Marks and is subsumed in its entirety by the Application. *See, e.g., China Healthways Inst. Inc. v. Wang*, 491 F.3d 1337, 1340 (Fed. Cir. 2007) (applicant’s mark CHI PLUS is similar to opposer’s mark CHI both for electric massagers).

We find the identical and distinctive first words DAILY HARVEST of the Application and the entirety of the Cited Marks form the dominant commercial impression of the respective marks, and the commercial impression is the same. Contrary to Applicant's arguments,<sup>7</sup> the design element does not alter the dominant commercial impression or connotation of the terms DAILY HARVEST CAFE or distinguish it from the Cited Marks, but may actually reinforce the commercial impression and connotation of fresh food. *Barbara's Bakery, Inc. v. Landesman*, No. 91157982, 2007 WL 196406, at \*6 (TTAB 2007) (BARBARA'S in BARBARA'S BAKERY AND DESIGN contributes more to the source indicating significance than the generic term bakery or the design element).

We emphasize that our determination as to the similarity of the marks is based on the recollection of the average purchaser, who normally retains a general, rather than a specific, impression of trademarks. *In re Cynosure, Inc.*, No. 76653359, 2009 WL 1268438, at \*2 (TTAB 2009). A consumer relies on the recollection of the various marks that she has previously seen in the marketplace and, given the fallibility of memory, recollection is based on an overall general impression, not minute details or specific characteristics of the marks. Furthermore, the identity of the dominant portion of Applicant's mark and the Cited Marks is especially important in the restaurant industry "because restaurants are often recommended by word of mouth and referred to orally, [so] it is the word portion of applicant's mark which is more

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<sup>7</sup> 4 TTABVUE 9 ("In observing Applicant's trademark, can one really dispute the fact that the ... design is the dominant and salient feature of this mark?").

likely to be impressed on the consumer's memory.” *Dixie Rests., Inc.*, 105 F.3d at 1407 (quoting *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570 (Fed.Cir.1983)).

Thus, when we consider Applicant's mark and the Cited Marks in their entirety, although there are some specific differences due to Applicant's added generic wording and design elements, we find that the marks overall are similar in sound, appearance, connotation and commercial impression.

### **B. Similarity or Dissimilarity of the Goods and Services**

“The second *DuPont* factor ‘considers [t]he similarity or dissimilarity and nature of the goods or services as described in an application or registration.’” *In re Embiid*, No. 88202890, 2021 WL 2285576, at \*10 (TTAB 2021) (quoting *Detroit Athletic Co.*, 903 F.3d at 1306 (quoting *DuPont*, 476 F.2d at 1361)). “In analyzing the [goods and] services, the Board considers [t]he similarity or dissimilarity and nature of the [goods and] services as described in an application or registration.” *In re OSF Healthcare Sys.*, No. 88706809, 2023 WL 6140427, at \*4 (TTAB 2023) (quoting *Embiid*, 2021 WL 2285576, at \*10) (quotation omitted).

With respect to the only services identified in the Cited Registrations, specifically Registration No. 5690150 for “On-line retail store services featuring pre-prepared meals, desserts and beverages” in International Class 35, we note the only evidence of record submitted by the Examining Attorney to show relatedness of these services to Applicant's restaurant and café services is from PANERA.COM;<sup>8</sup>

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<sup>8</sup> June 20, 2024 Office Action at TSDR 34-39.

AMYSDRIVETHRU.COM,<sup>9</sup> BOBEVANS.COM<sup>10</sup> and STARBUCKS.COM.<sup>11</sup> These websites indicate that an order can be placed online; in contrast, the remainder of the Examining Attorney's third-party website evidence does not indicate that any type of purchase or order can be placed on-line. Four websites in support of the relatedness of Applicant's restaurant and café services and Registrant's on-line retail store services falls short of demonstrating that the relevant services are related. *Cf. Anheuser-Busch, LLC v. Innvopak Sys. Pty Ltd.*, No. 91194148, 2015 WL 5316485, \*13 (TTAB 2015) (six third-party registrations too few).

With respect to the goods identified in the Cited Registrations and the services identified in the Application, although likelihood of confusion often has been found where similar marks are used in connection with both food products and restaurant services, there is no per se rule to this effect. *See Lloyd's Food Prods., Inc. v. Eli's, Inc.*, 987 F.2d 766, 768 (Fed. Cir. 1993). Instead, as Applicant argues,<sup>12</sup> the evidence "must show something more than that similar or even identical marks are used for food products and for restaurant services." *In re Coors Brewing Co.*, 343 F.3d 1340, 1345 (Fed. Cir. 2003) (quoting *Jacobs v. Int'l Multifoods Corp.*, 668 F.2d 1234, 1236 (CCPA 1982)).

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<sup>9</sup> *Id.* at TSDR 16.

<sup>10</sup> *Id.* at TSDR 24.

<sup>11</sup> *Id.* at TSDR 42.

<sup>12</sup> Applicant argues that because the services at issue in this appeal are "restaurant and café services" and the goods at issue are various types of prepared foods and drinks, the Examining Attorney is required, and has failed, to show "something more," beyond "taking the position that it should simply be taken for granted that there is a direct nexus between these products and services because both roughly involve 'food' in some manner or another." 4 TTABVUE 10.

The Board has found the “something more” requirement to be met where, for example, the applicant’s mark made clear that its restaurant specialized in registrant’s type of goods, *In re Golden Griddle Pancake House Ltd.*, No. 748436, 1990 WL 354562 (TTAB 1990) (GOLDEN GRIDDLE PANCAKE HOUSE for restaurant services confusingly similar to GOLDEN GRIDDLE for table syrup); *In re Azteca Rest. Enters., Inc.*, No. 74666488, 1999 WL 221655 (TTAB 1999) (AZTECA MEXICAN RESTAURANT for restaurant services confusingly similar to AZTECA for Mexican food items); or where the record showed that a registrant’s goods were actually sold in the applicant’s restaurant; *In re Opus One Inc.*, No. 75722593, 2001 WL 1182924 (TTAB 2001) (OPUS ONE for wine confusingly similar to OPUS ONE for restaurant services); or where the mark was found to be “a very unique, strong mark,” *In re Mucky Duck Mustard Co. Inc.*, No. 603019, 1988 WL 252484 (TTAB 1988) (MUCKY DUCK for mustard confusingly similar to MUCKY DUCK for restaurant services). That is not the case here.

The Examining Attorney has provided a very limited amount of evidence to satisfy the “something more” requirement, submitting the following third-party websites showing that some restaurants also offer pre-packaged foods:

- AMYSDRIVETHRU.COM which reads that it is returning to the roots of American fast food serving tasty food (picturing a burger, fries and milkshake) listing three locations and AMYS.COM picturing what appear to be pre-packaged foods such as “Indian Inspired Vegetable Pakoras,” pizza and “Moroccan Inspired Vegetable Tagine”;<sup>13</sup>

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<sup>13</sup> June 20, 2024 Office Action at TSDR 16-23. The Examining Attorney asserts that AMYSDRIVETHRU.COM and AMYS.COM are the same entity. *See* 6 TTABVUE 8 (“The previously attached Internet evidence ... consisting of pages from Amy’s, Bob Evans, Panera and Starbucks...”). The fonts used to display AMY’S appear similar on each website

- BOBEVANS.COM which has “menu” and “locations” tabs and pictures various food items such as salads, “Steak Tips Dinner,” and “Slow-roasted Turkey & Dressing” as well as pre-packaged foods such as “Bob Evans Six Cheese Pasta Single Serve” and “Bob Evans Single Serve Original Mashed Potatoes”;<sup>14</sup>
- PANERABREAD.COM which has “menu” and “locations” tabs picturing various sandwiches and allows you to “start an order” an PANERAATHOME.COM which features pre-packaged foods such as soup, bread, pizza, mac and cheese, and coffee and reads “Make easy, craveable meals with help from Panera in grocery”<sup>15</sup> and
- STARBUCKS.COM which has “menu” and “find a store” tabs picturing various drinks, sandwiches, “oatmeal and yogurt,” pre-packaged “snacks and sweets,” and pre-packaged coffee beans and instant coffee.<sup>16</sup>

The Examining Attorney also included screenshots of Applicant’s DAILYHARVESTCAFE.COM<sup>17</sup> and Registrant’s DAILY-HARVEST.COM<sup>18</sup> websites. Registrant’s website offers “Curated box plans for specific dietary needs” picturing pre-packaged pasta, grains, harvest bowls, and smoothies<sup>19</sup> and also notes that its “smoothies, meals, and snacks are now available at ... Target, Kroger, Wegmans, and more.”<sup>20</sup> Applicant’s website displays its menu, which offers various wraps and sandwiches, pastries, bagels, soups and smoothies.<sup>21</sup>

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suggesting they are owned by the same entity; however, there is no evidence in support of this assertion.

<sup>14</sup> *Id.* at 24-33.

<sup>15</sup> *Id.* at 34-39.

<sup>16</sup> *Id.* at 40-46.

<sup>17</sup> April 22, 2025 Final Office Action at TSDR 15-17.

<sup>18</sup> *Id.* at 6-14, 18-20.

<sup>19</sup> *Id.* at 10-11.

<sup>20</sup> *Id.* at 19.

<sup>21</sup> *Id.* at 15.

The Examining Attorney argues that because Registrant offers pre-packaged smoothies, soups and coffee and Applicant offers smoothies, soups and coffee at its restaurant and café, “both parties *actually* sell identical goods in similar settings, that is a retail food establishment.”<sup>22</sup> However, we find that the evidence in the record only suggests a general similarity between the type of food packaged by Registrant and some of the items available on the menu in Applicant’s restaurant and café. It is commonly known that there are a large number of restaurants and cafés in the United States and the Examining Attorney has only identified three, maybe four, restaurants that in addition to restaurant services also offer pre-packaged foods separate and independent from the menu items they serve. In light of the requirement that “something more” be shown to establish the relatedness of food products and restaurant services for purposes of demonstrating a likelihood of confusion, evidence of only three or four restaurants selling pre-packaged foods is far from what would be considered numerous or substantial. *See Coors Brewing Co.*, 343 F.3d at 1346 (evidence showing relatedness of restaurants and beer not supported by substantial evidence). Thus, the evidence before us indicates that the degree of overlap between the sources of restaurant services and the sources of pre-packaged foods is de minimis; this is far cry from establishing the requirement of “something more” than the fact that restaurants serve food. *See id.* (de minimis evidence of relatedness of restaurants and beer did not demonstrate “something more”); *In re Giovanni Food Co.*, No. 77796257, 2011 WL 810217, at \*4 (JUMPIN’ JACKS for

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<sup>22</sup> 6 TTABVUE 9.

“barbeque sauce” is not likely to cause confusion with JUMPIN JACK’S for “coffee-house services; and catering services” because the “something more” requirement has not been met). Finally, nothing has been placed in the record upon which to base a finding that the mark DAILY HARVEST is a “very unique, strong mark.” *Mucky Duck*, 1988 WL 252484, at \*2.

### C. Trade Channels

The third *DuPont* factor “considers ‘the similarity or dissimilarity of established, likely-to-continue trade channels,’” *Embiid*, 2021 WL 2285576, at \*10 (quoting *Detroit Athletic Co.*, 903 F.3d at 1308) (quoting *DuPont*, 476 F.2d at 1361), while the fourth *DuPont* factor considers, in pertinent part, the “buyers to whom sales are made.” *Sabhnani*, 2021 WL 6072822, at \*9 (citing *DuPont*, 476 F.2d at 1361).

Applicant’s arguments<sup>23</sup> that the channels of trade and classes of consumers for the involved goods and services are dissimilar rely solely (and improperly) on attorney argument and extrinsic evidence of use of the involved marks.<sup>24</sup> There are no limitations on the goods identified in the Application or the Cited Registrations, and we cannot impose the sort of marketplace limitations on the goods and services that Applicant proposes. *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

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<sup>23</sup> The Examining Attorney did not address this factor or these arguments.

<sup>24</sup> 4 TTABVUE 13-14 (“Here, the typical consumer selecting packaged goods in a supermarket exercises different considerations than a café patron seeking an immediate dining experience.”).

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.”); *In re FCA US LLC*, No. 85650654, 2018 WL 1756431, at \*4 n.18 (TTAB 2018), *aff'd*, 778 Fed. Appx. 962 (Fed. Cir. 2019) (“[W]e may consider any such restrictions [about the actual goods, or channels of trade] only if they are included in the identification of goods or services.”).

Because there are no restrictions regarding channels of trade or classes of consumers in the identifications of the Application or the Cited Registrations, we must presume that the identified goods and services are sold in the ordinary or normal trade channels for such goods and services and to all consumers for such goods and services. *Packard Press, Inc. v. Hewlett-Packard Co.*, 227 F.3d 1352, 1361 (Fed. Cir. 2000) (“When the registration does not contain limitations describing a particular channel of trade or class of customer, the goods or services are assumed to travel in all normal channels of trade.”). The Examining Attorney’s third-party website evidence, while minimal, gives a limited suggestion that Applicant’s services and Registrant’s goods may have some overlap in trade channels and consumers.

## **II. Conclusion**

We find that the first *DuPont* factor regarding the similarity of the marks weighs in favor of a likelihood of confusion and the third and fourth factors regarding the trade channels and consumers weighs slightly in favor of a likelihood of confusion. However, with respect to the goods identified in the Cited Registrations, the third-party website evidence submitted by the Examining Attorney simply fails to establish

the “something more” that is required to find that a likelihood of confusion exists between restaurant services and pre-packaged foods, even if offered under similar marks in similar trade channels to similar consumers. The second *DuPont* factor weighs heavily against a finding of likelihood of confusion and because there is insufficient evidence to meet the “something more” requirement of *Jacobs*, “we determine that the Office has not met its burden of proving likelihood of confusion.” *Giovanni Foods Co.*, 2011 WL 810217, at \*4. We are not persuaded that Registrant’s goods and Applicant’s services are related such that there is a likelihood of confusion.

Similarly, with respect to the services identified in Registration No. 5690150, “on-line retail store services featuring pre-prepared meals, desserts and beverages” in International Class 35, the second *DuPont* factor weighs heavily against a finding of likelihood of confusion. We are not persuaded that Registrant’s services and Applicant’s services are related such that there is a likelihood of confusion.

On balance, we are not persuaded that there is a likelihood of confusion.

**Decision:** The refusal to register Applicant’s composite DAILY HARVEST CAFE mark under Section 2(d) of the Trademark Act is reversed.