

This opinion is not a
precedent of the TTAB

Mailed: May 18, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

—
Trademark Trial and Appeal Board
—

In re ADG Vanguard IP LLC
—

Serial No. 98516000
—

Carmine Lippolis, Robert Kleinman, of Common Sense Counsel LLP,
for ADG Vanguard IP LLC.

Martha Fromm, Trademark Examining Attorney, Law Office 106,
Mary Sparrow, Managing Attorney.

—
Before Goodman, Casagrande, and Brock,
Administrative Trademark Judges.

Opinion by Casagrande, Administrative Trademark Judge:

Applicant ADG Vanguard IP LLC appeals the refusal of its application to register the mark GRUPPO VAVA in standard-character format, with the term “GRUPPO” disclaimed, on the Principal Register for goods in International Class 25 ultimately identified as follows: Blazers; Blouses; Boots; Dresses; Footwear; Gloves; Hats; Hoodies; Scarves; Shirts; Shorts; Trousers; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Clothing jackets for men, women and children; Polo shirts; Running shoes; Sports jerseys; Sweat pants;

Sweat shirts; T-shirts; Track suits; Waist belts; Baseball caps and hats; Shoes; Skirts; none of the aforesaid being lingerie, bras, underwear, or intimate apparel.¹

The Examining Attorney bases the refusal on Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), due to likelihood of confusion with the mark VAVA, which is registered on the Principal Register in standard-character format for “lingerie,” in International Class 28.²

After the Examining Attorney made the refusal final,³ Applicant appealed.⁴ Applicant and the Examining Attorney each filed briefs.⁵ The case is now ready for decision. For the reasons explained below, we affirm the refusal to register.

ANALYSIS

A. Section 2(d) refusals generally

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

¹ Application Serial No. 98516000 was filed on April 23, 2024, under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based on Applicant’s allegation of a bona fide intent to use the mark in commerce. The application states: “The English translation of GRUPPO in the mark is group.”

² Reg. No. 6088674 issued on June 30, 2020, with a date of first use anywhere and in commerce of May 20, 2017.

³ See June 29, 2025, Final Office Action. Citations to the application record are to the version of the documents downloaded in .pdf format from the United States Patent and Trademark Office (USPTO) Trademark Status and Document Retrieval (TSDR) database.

⁴ See 1 TTABVUE. References to the briefs and appeal record cite to the Board’s TTABVUE electronic docket system. The number preceding “TTABVUE” represents the docket number assigned to the cited filing in TTABVUE, and any number immediately following “TTABVUE” identifies the specifically-cited page(s), if any.

⁵ See 4 TTABVUE (Applicant); 6 TTABVUE (Examining Attorney).

to cause mistake, or to deceive.” 15 U.S.C. § 1052(d). We determine whether confusion is likely by analyzing all evidence of record 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) (“*DuPont*”). *See, e.g., In re Charger Ventures LLC*, 64 F.4th 1375, 1379 (Fed. Cir. 2023). Though *DuPont* lists thirteen numbered factors, we generally address only those that are relevant and material to the case before us. *See, e.g., Shen Mfg. Co. v. Ritz Hotel, Ltd.*, 393 F.3d 1238, 1241 (Fed. Cir. 2004); *Octocom Sys., Inc. v. Hous. Comput. Servs., Inc.*, 918 F.2d 937, 943 (Fed. Cir. 1990). Typically, those are the factors that the parties address and on which there is relevant evidence in the record. *See, e.g., Dollar Fin. Grp., Inc. v. Brittex Fin., Inc.*, 132 F.4th 1363, 1371-72 (Fed. Cir. 2025); *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 946-47 (Fed. Cir. 2000). After making findings on the relevant factors, we then weigh them together to determine if, on balance, they indicate that confusion is likely. *See, e.g., Charger Ventures*, 64 F.4th at 1381; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1319 (Fed. Cir. 2003).

B. Comparison of the goods, trade channels, and classes of customers

The second-listed factor in *DuPont* is “[t]he similarity or dissimilarity and nature of the goods or services as described in an application or registration.” *DuPont*, 476 F.2d at 1361. “The [goods or] services need not be identical—the evidence need only establish that the respective products are related in some manner and/or that the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that they emanate from the same source.” *Apex Bank v. CC Serve Corp.*, 156 F.4th 1230, 1234 (Fed. Cir. 2025) (cleaned up; citation omitted).

The Examining Attorney placed in the record dictionary definitions of “lingerie” as including women’s intimate apparel, sleepwear, and nightclothes.⁶ The record also contains well over a dozen third-party, use-based registrations that list, under one mark, the goods in the cited registration (lingerie) as well as one or more of the clothing items identified in the application.⁷ This type of evidence shows that consumers perceive these types of goods to emanate from the same source under a single mark. *See, e.g., Made in Nature, LLC v. Pharmavite LLC*, No. 91223352, 2022 WL 2188890, at *24 (TTAB 2022); *In re Country Oven, Inc.*, No. 87354443, 2019 WL 6170483, at *5 (TTAB 2019); *accord In re Halo Leather Ltd.*, 735 F. App’x 722, 727 (Fed. Cir. 2018). The record also contains evidence that four companies, on their respective websites, offer the goods in the registration and one or more of the goods in the application under the same overarching mark. Similarly, this, too, is evidence of product relatedness. *See, e.g., Naterra Int’l, Inc. v. Bensalem*, 92 F.4th 1113, 1117 (Fed. Cir. 2024); *In re Detroit Athl. Co.*, 903 F.3d 1297, 1306 (Fed. Cir. 2018); *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1267 (Fed. Cir. 2002).

Applicant “stipulates that the Examining Attorney has submitted adequate evidence to establish the relatedness of the Applicant’s and Registrant’s goods.”⁸

We agree that the record shows that the goods related. This factor will weigh in favor of a conclusion that confusion is likely.

⁶ *See* June 29, 2025, Final Office Action, at TSDR 8-22.

⁷ *See, e.g., id.* at 224-25, 226-27, 228-29, 230-31, 232-33, 234-35, 236-37, 238-39, 240-41, 242-43, 244-45, 246-47, 248.

⁸ 4 TTABVUE 4.

The third-listed factor in *DuPont* is “[t]he similarity or dissimilarity of established, likely-to-continue trade channels.” 476 F.2d at 1371. *DuPont* further lists “buyers to whom sales are made.” *Id.*; see also *In re Shell Oil Co.*, 992 F.2d 1204, 1207 (Fed. Cir. 1993) (“It is relevant to consider the degree of overlap of consumers exposed to the respective [goods or] services ...”). The Examining Attorney contends that the four websites that offer goods in the cited registration and the application show that “the relevant goods are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use.”⁹ In addition, we note that neither the application nor the cited registration contains any restrictions as to type of customers or channels of distribution, and thus we must presume the use of all the usual channels of trade for the type of goods. See, e.g., *Detroit Athl.*, 903 F.3d at 1308 (“The registration contains no restrictions on the channels of trade or classes of customers. As a result, the Detroit Athletic Club’s clothing is presumed to be sold in all normal trade channels to all the normal classes of purchasers.”) (citation omitted).

Applicant does not address these factors at all, let alone argue that the clothing goods listed in its application typically travel in different trade channels to different consumers than “lingerie.”

On this record, we find that there is overlap in the respective trade channels and classes of customers.

⁹ 6 TTABVUE 8.

In sum, the relatedness of the goods, the overlap in the trade channels, and the overlap in classes of customer will weigh in favor of a conclusion that confusion is likely when we engage in our final weighing of the relevant factors.

C. Comparison of the marks

DuPont begins its list of potentially relevant factors with “[t]he similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression.” *DuPont*, 476 F.2d at 1371. Our primary reviewing court has termed this, along with the comparison of the goods or services, as a “predominant inquiry” in the likelihood of confusion analysis. *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165 (Fed. Cir. 2002); *Hewlett-Packard*, 281 F.3d at 1265. In comparing the marks, we take into consideration that “[t]hose who comprise the purchasing public for [the] goods ordinarily must depend upon their past recollection of marks to which they were previously exposed.” *Franklin Mint Corp. v. Master Mfg. Co.*, 667 F.2d 1005, 1007 (CCPA 1981) (citation omitted). Thus, “marks must be considered in light of the fallibility of memory and not on the basis of side-by-side comparison.” *In re St. Helena Hosp.*, 774 F.3d 747, 751 (Fed. Cir. 2014) (cleaned up; citation omitted).

We compare marks in their entirety, *Oakville Hills Cellar, Inc. v. Georgallis Holdings, LLC*, 826 F.3d 1376, 1380 (Fed. Cir. 2016), assessing their appearances, how they sound, what, if anything, they mean, and their overall commercial impressions. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1323 (Fed. Cir. 2017). Similarity in any one of these characteristics could be enough to result in likely confusion. *Krim-*

Ko Corp. v. Coca-Cola Bottling Co., 390 F.2d 728, 732 (CCPA 1968). Ultimately, “[s]imilarity is not a binary factor but is a matter of degree.” *St. Helena Hosp.*, 774 F.3d at 752 (citation omitted).

There is no dispute that VAVA in both marks is visually and aurally identical and has no dictionary meaning. To that extent, the marks are identical. Here, however, Applicant’s mark begins with GRUPPO and, frequently, first words can make the biggest impact as source identifiers. *See, e.g., Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 876 (Fed. Cir. 1992). But its impact is blunted because Applicant disclaimed GRUPPO—which is Italian for “group”¹⁰—because it has descriptive, rather than source-identifying, significance. *See* 15 U.S.C. § 1056(a); *Citigroup Inc. v. Cap. City Bank Grp., Inc.*, 637 F.3d 1344, 1351 (Fed. Cir. 2011) (“when a mark consists of two or more words, some of which are disclaimed, the word not disclaimed is generally regarded as the dominant or critical term”) (citation omitted). In *Sabhnani v. Mirage Brands, LLC*, No. 92068086, 2021 WL 6072822 (TTAB 2021), we noted the “penchant of consumers to shorten marks and drop the non-source-identifying word.” *Id.* at *18 (cleaned up; citations omitted). Here, consumers who do so would almost certainly refer to Applicant’s mark as VAVA, not GRUPPO (i.e., “group”).

Further, Applicant’s mark incorporates the mark in the cited registration in its entirety. That can be significant in comparing the marks for likelihood-of-confusion purposes. *See, e.g., Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022 (CCPA

¹⁰ *See* Application; *see also* Applicant Brief, 4 TTABVUE 16.

1977) (“When one incorporates the entire arbitrary mark of another into a composite mark, inclusion in the composite mark of a significant, nonsuggestive element will not necessarily preclude a likelihood of confusion. And inclusion of a merely suggestive or descriptive element, of course, is of much less significance in avoiding a likelihood of confusion.”) (citations omitted).

Applicant nevertheless argues that consumers will not perceive VAVA in the two marks the same. Applicant argues that consumers will perceive the cited VAVA mark as comprising the first part of the known phrase “va-va-voom,” which connotes sexiness, which Applicant says naturally is associated with lingerie.¹¹ In contrast, theorizes Applicant, consumers will not perceive “va-va-voom” with its mark because “GRUPPO” before the term “VAVA” will cause consumers to see “VAVA” not as part of “va-va-voom” but just a “vaguely Italian-sounding term.”¹² Applicant also argues that its goods aren’t sexy.¹³

These are interesting theories, but we see little, if any, evidence, to back this up. “Each of the *DuPont* factors presents a question of fact” and, on any appeal, the Federal Circuit reviews each challenged finding to determine if substantial evidence supports it. *Omaha Steaks Int’l, Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 1319 (Fed. Cir. 2018); *see also In re Fiesta Palms, LLC*, No. 76595049, 2007 WL 950952, at *7 (TTAB 2007) (“we must decide the case based on the evidence of record

¹¹ 4 TTABVUE 7-10.

¹² *Id.* at 16-17.

¹³ *Id.* at 12-13.

and not on what either the examining attorney or applicant argues the facts are”); *Acomb v. Polywood Plastics Corp.*, No. 91054738, 1975 WL 21253, at *3 (TTAB 1975) (“Speculation and surmise is no substitute for evidence.”). If Applicant wants us to make a finding on this factor in its favor, we need evidence to do so, and here there’s almost no evidence that consumers will make the distinction that Applicant urges. There’s only the fact that Applicant doesn’t list lingerie in its application and the definition of “va-va-voom.”

We are unconvinced. “Sexiness” is highly subjective, and we don’t think the “va-va-voom” connotation—if indeed that’s the connotation that “VAVA” without the “VOOM” imparts—can be so precisely limited only to lingerie. Although Applicant characterizes some of the clothing items in its identification of goods as “functional”—as opposed to “sexy”—items (e.g., business wear, running shoes, track suits),¹⁴ other types of clothing listed in the application (dresses, skirts, shirts, blouses, and shorts, for example) are made or worn in a wide variety of ways, including ways that are perceived as “sexy.” So even if we considered VAVA in the cited registration to have that connotation in connection with lingerie, that wouldn’t differentiate that connotation from the connotation it very well could have in connection with other items of clothing, such as several items identified in the application. Moreover, the dictionary definitions of “lingerie” in the record indicate that, besides women’s

¹⁴ 4 TTABVUE 13.

intimate apparel, it also includes “sleepwear,”¹⁵ which is not exclusively a “sexy” category of goods and—to use Applicant’s terms—includes “functional” sleepwear.

Finally, we note that Applicant placed in the record documents from its prior application to register VAVABALL. In successfully arguing against a likelihood-of-confusion refusal in light of the same VAVA registration cited in this case, Applicant argued that “[w]hen consumers hear the Cited Mark ‘VA’ pronounced, they are triggered, consciously or subconsciously, to conjure the omitted syllable ‘vooom,’ much like one would upon hearing ‘BADA BING BADA, ‘YABBA DABBA, or ‘YADDA.’” But, according to Applicant, adding a term **after** VAVA, like BALL, would “disrupt” the consumer’s tendency to add “VOOM.”¹⁶ By that logic, however, there’s nothing after “VAVA” in Applicant’s GRUPPO VAVA mark to replace the otherwise-implied “VOOM” after VAVA.

In short, Applicant’s mostly evidence-free theories about the marks’ differing connotations, while creative, simply fail to persuade us that consumers will perceive these marks as dissimilar. The marks aren’t identical. But they don’t have to be. *See, e.g., Bridgestone Ams. Tire Operations, LLC v. Fed. Corp.*, 673 F.3d 1330, 1337 (Fed. Cir. 2012) (“Exact identity is not necessary to generate confusion as to source of similarly-marked products.”) (citation omitted); *Phillips Petroleum Co. v. Knox Indus. Corp.*, 277 F.2d 945, 947 (CCPA 1960) (same). Overall, we find the marks similar. That’s enough for this factor to weigh in favor of a conclusion that confusion is likely

¹⁵ *See* May 14, 2025, Response to Office Action, at TSDR 57; June 29, 2025, Final Office Action, at TSDR 8; *see also* June 29, 2025, Final Office Action, at TSDR 12-13 (nightclothes).

¹⁶ *See* May 15, 2025, Response to Nonfinal at TSDR 174-75.

when we weigh all the factors upon which we've made findings. It won't weigh as heavily as this factor would have had the marks been identical, *see, e.g., Majestic Distilling*, 315 F.3d at 1315, but it will, nevertheless, weigh on that side of the ledger.

D. Conclusion as to whether confusion is likely

Having made our findings on the relevant likelihood-of-confusion factors, our final step is to assess these findings together to determine if, on balance, they indicate that confusion is likely. *See, e.g., Charger Ventures*, 64 F.4th at 1384. Here, we found the marks to be similar. We also find the goods to be related. And there is overlap in the trade channels and classes of customers for these related goods. No factors indicate confusion is unlikely. With the only relevant factors all indicating that confusion is likely and nothing to counterbalance them, there's no real balancing to be done. On the record here, we conclude that confusion is likely.

Decision: The refusal to register Applicant's mark is affirmed.