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Subject:	U.S. Trademark Application Serial No. 98657778 - YFORE - Examiner Brief
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Attachments

United States Patent and Trademark Office (USPTO)

U.S. Application Serial No. 98657778

Mark: YFORE

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Applicant: YFORE TECHNOLOGY CO., LTD.

Reference/Docket No. N/A

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EXAMINING ATTORNEY'S APPEAL BRIEF

I. INTRODUCTION

Applicant, YFORE TECHNOLOGY CO., LTD., has appealed the examining

attorney's partial final refusal to register the mark, YFORE, on the ground that it is likely to cause confusion with another mark under §2(d) of the Trademark Act, 15 U.S.C. §1052(d). It is respectfully requested that the refusal be affirmed.

II. FACTS

On July 19, 2024, YFORE TECHNOLOGY CO., LTD., hereinafter "Applicant," applied to register the mark, YFORE in standard characters, for use with Class 09 and Class 12 automotive goods, currently amended to:

> Class 09: "Radios, for use in factory-installed vehicle electronic systems; Downloadable computer software using artificial intelligence (AI) for tracking driver behavior, machine learning, facial and speech recognition, extracting environmental information from multi-sensor raw data, identifying road risks, and assessing vehicle health status in the field of autonomous vehicles and advanced driver assistance vehicle systems; Downloadable computer software using artificial intelligence (AI) for use in facial and speech recognition for use in vehicle onboard systems; Electronic key fobs being remote control apparatus for vehicles; Flat panel display screens for vehicles; Radar detectors for vehicles; Rearview cameras for vehicles; Sensors for determining vehicle position; Vehicle location detection system comprised primarily of display monitors, computers, image sensors, and video cameras for vehicles";
>
> Class 12: "Anti-theft devices for vehicles; Doors for automobiles; Rearview mirrors; Side view mirrors for vehicles".

On February 8, 2025, registration was refused pursuant to Trademark Act Section 2(d) on the grounds that the mark was confusingly similar to the registered marks FORE (U.S. Registration No. 5201440)

and FORE (U.S. Registration No. 6656424), both in standard characters. These partial refusals were made final on July 11, 2025.

Applicant requested reconsideration of the partial final refusal on January 11, 2026. In its request for reconsideration, Applicant narrowed the identified goods and submitted a coexistence agreement between Applicant and the owner of U.S. Registration No. 5201440.

On February 12, 2026, the request for reconsideration was denied in relation to U.S. Registration No. 6656424 in connection with the following goods only:

> Class 09: "Radios, for use in factory-installed vehicle electronic systems; Electronic key fobs being remote control apparatus for vehicles; Flat panel display screens for vehicles; Radar detectors for vehicles; Rearview cameras for vehicles; Sensors for determining vehicle position; Vehicle location detection system comprised primarily of display monitors, computers, image sensors, and video cameras for vehicles";[1][2]
>
> Class 12: “Anti-theft devices for vehicles; Doors for automobiles; Rearview mirrors; Side view mirrors for vehicles”.

III. ISSUE ON APPEAL

The sole issue on appeal is whether the applied-for mark, YFORE is likely to cause confusion with the registered mark FORE, both in standard characters, within the meaning of §2 of the Trademark Act, 15 U.S.C. §1052(d).

IV. ARGUMENT

YFORE IS LIKELY TO CAUSE CONFUSION WITH FORE

Trademark Act Section 2(d) bars registration of an applied-for mark that is so

similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A. 1973) (*DuPont* factors). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, "not all of the *DuPont* factors are relevant or of similar weight in every case." *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406 (Fed. Cir. 1997)).

Although not all *DuPont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See Sunkist Growers, Inc. v. Intrastate Distribs., Inc.*, 144 F.4th 1376, 1379 (Fed. Cir. 2025) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265 (Fed. Cir. 2002)); TMEP §1207.01.

A. THE MARKS ARE SIMILAR IN APPEARANCE, SOUND, AND COMMERCIAL IMPRESSION

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Charger Ventures LLC*, 64 F.4th 1375, 1380, 2023 USPQ2d 451, at *3 (Fed. Cir. 2023) (citing *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1720 (Fed. Cir. 2012); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements

may be sufficient to find the marks confusingly similar." *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff'd per curiam*, 777 F. App'x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

When considered in their entireties, the applied-for mark YFORE is confusingly similar to the registered mark FORE because the marks look similar, sound similar, and convey similar commercial impressions.

1. FORE is visually similar to YFORE.

The marks share the identical word FORE. The entirety of Registrant's mark is incorporated into Applicant's mark. In fact, Applicant's mark only differs by one letter. Thus, consumers would likely perceive FORE and YFORE as visually similar because they are identical except for a single letter.

The incorporation of an entire mark within another has often been found to increase the similarity between the compared marks where, as in the present case, the dominant portion of the marks is the same. *See In re Charger Ventures LLC*, 64 F.4th 1375, 1381-82, 2023 USPQ2d 451, at *4-5 (Fed. Cir. 2023) (holding SPARK LIVING and SPARK confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL LANCER and design and BENGAL confusingly similar); TMEP §1207.01(b)(iii).

Here, because the entirety of Registrant's mark is incorporated into Applicant's mark, the marks share a similar look.

2. FORE is phonetically similar to YFORE.

The marks are phonetically similar because they share the defined term FORE. While Applicant has added the letter "Y", this only slightly changes the sound of Applicant's mark when compared to Registrant's mark. Slight differences in the sound of similar marks will not avoid a likelihood of confusion. *In re Energy Telecomms. & Elec. Ass'n*, 222 USPQ 350, 351 (TTAB 1983); *see In re Viterra Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012). Similarity in sound alone may be sufficient to support a finding that the compared marks are confusingly similar. *In re 1st USA Realty Pros., Inc.*, Ser. No. 78553715, 2007 TTAB LEXIS 73, at *16 (2007) (citing Krim-Ko Corp. v. Coca-Cola Co., 390 F.2d 728, 732 (C.C.P.A. 1968)); TMEP §1207.01(b)(iv).

Here, the entirety of Registrant's mark is audible in Applicant's mark. Thus, the marks are phonetically similar.

3. FORE and YFORE convey similar commercial impressions.

The word FORE has a defined meaning of "forward" or "at an earlier time". *See* Jul. 11, 2025, Office Action, TSDR p. 572. Consumers will likely recognize and associate this meaning with both Registrant's mark and Applicant's mark because the word FORE is present, and dominant, in both. Applicant appears to agree that the marks share the defined term FORE. *See* Applicant's Brief, TSDR p. 20. Thus, despite Applicant's addition of the letter "Y", the marks create similar commercial impressions when considered in their entireties.

Marks may be confusingly similar in appearance where similar terms or similar parts of terms appear in the compared marks and create a similar overall commercial impression. *See Crocker Nat'l Bank v. Canadian Imperial Bank of*

Com., 228 USPQ 689, 690-91 (TTAB 1986) (holding COMMCASH and COMMUNICASH confusingly similar), *aff'd sub nom. Canadian Imperial Bank of Com. v. Wells Fargo Bank, N.A.*, 811 F.2d 1490, 1492, 1495, 1 USPQ2d 1813, 1814-15, 1817 (Fed. Cir. 1987); *In re BASF Aktiengesellschaft*, 189 USPQ 424, 424 (TTAB 1976) (holding LUTEX and LUTEXAL confusingly similar); TMEP §1207.01(b)(ii)-(iii).

Applicant states that the letter "Y" has been treated "as if it were negligible". *See* Applicant's Brief, TSDR p. 3. However, this is not the case. The marks were compared in their entireties in the Non-Final Office Action, Final Office Action, and the Request for Reconsideration Denial, and all three acknowledged that Applicant added a single letter to the registered mark. *See* Feb. 8, 2025, Office Action, TSDR p. 5; Jul. 11, 2025, Office Action, TSDR p. 8; Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 4-5. The examining attorney's analysis considers "Y" in relation to "FORE", and provides valid reasons, supported by relevant case law, for concluding that "FORE" is the dominant portion of the mark. Because there is no correct pronunciation of a mark, consumers may pronounce a mark differently than intended by the mark owner. *See In re Viterra, Inc.*, 671 F.3d 1358, 1367 (Fed. Cir. 2012) (citing *Interlego AG v. Abrams/Gentile Ent., Inc.*, Ser. No. 75011293, 2002 TTAB LEXIS 200, at *4-5 (2002)); TMEP §1207.01(b)(iv). Additionally, one or both of the compared marks is a coined term without a specific meaning, such that greater weight is given to the principle that there is no correct pronunciation of a mark. *See In re Jimenez*, Ser. No. 97551823, 2025 TTAB LEXIS 441, at *13-14 (2025). As explained previously, and above, since FORE is a defined term,

consumers will likely look to that word, and the meaning of that word, as the dominant element in Applicant's mark. FORE is obviously the dominant element of Registrant's mark as well, because it is the entirety of Registrant's mark.

Thus, when considered as a whole, FORE and YFORE look similar, sound similar, and produce similar commercial impressions.

4. Applicant's Third-Party Registration Evidence is Not Persuasive

Applicant contends that Applicant's evidence submitted with the Request for Reconsideration "is directed to how consumers perceive the mark YFORE as a whole". *See* Applicant's Brief, TSDR p. 6. Applicant refers to Applicant's previously submitted "Y-formative materials" and "FORE/FOUR/QUATTRO-adjacent third-party materials" but fails to further explain how the referenced materials support Applicant's assertion. *See* Applicant's Brief, TSDR p. 17. These arguments and evidence are not persuasive. As previously explained, in the Request for Reconsideration Denial, Applicant attached twelve third party registrations for marks incorporating the word FOUR or the number "4" in addition to other wording and design elements. *See* Jan. 11, 2026, Applicant's Request for Consideration, TSDR pp. 14-40. A thirteenth registration for the mark QUATTRO was also attached. *Id.* Despite Applicant's stated assertions, none of the registrations submitted by Applicant include the term FORE. This evidence is not persuasive because FOUR and the number "4" have a different meaning than FORE. FOUR, 4 and QUATTRO all convey the commercial impression of a specific number. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 418-424. Thus, these marks form different commercial

impressions when compared to marks utilizing the term FORE, meaning "forward" or "at an earlier time". *See* Jul. 11, 2025, Office Action, TSDR p. 572. Put another way, the mere existence of registrations for marks incorporating FOUR, 4, and QUATTRO is not probative of the strength or weakness of the term FORE, and therefore not relevant to the current analysis.

Similarly, in the Request for Reconsideration, Applicant also attached numerous registrations for marks that include the letter "Y" in addition to other wording and design elements, such as YPRIME and YINTERINCO. *See* Jan. 11, 2026, Applicant's Request for Consideration, TSDR pp. 46-140. This evidence is likewise not persuasive. Third-party registrations are generally entitled to little weight. In the case of Applicant's "Y-formative materials," the marks in the attached registrations look different, sound different, form different commercial impressions, and are registered in relation to largely unrelated goods and services—for example, a registration for THE Y is included, for Class 009 "downloadable computer game software for gambling machines" amongst other downloadable game software, and, a registration for YMIT is included, for Class 10 "scintillator plates used in an imaging sensor for producing radiation images for medical purposes". *Id.* These marks, and the associated goods, are wholly unrelated to the analysis at hand, and thus, not relevant.

Third-party registrations are entitled to little weight on the issue of confusing similarity because the registrations are “not evidence that the registered marks are actually in use or that the public is familiar with them.” *In re Midwest Gaming & Entm’t LLC*, 106 USPQ2d 1163, 1167 n.5 (TTAB 2013) (citing *In re Mighty Leaf*

Tea, 601 F.3d 1342, 1346, 94 USPQ2d 1257, 1259 (Fed. Cir. 2010)); *see* TMEP §1207.01(d)(iii). Moreover, the existence on the register of other seemingly similar marks does not provide a basis for registrability of the applied-for mark. *See Sock It To Me, Inc. v. Aiping Fan*, 2020 USPQ2d 10611, at *9 (TTAB 2020) (quoting *AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973)).

Ultimately, when compared in their entireties, FORE and YFORE look similar, sound similar, and produce similar commercial impressions. Therefore, the marks are considered confusingly similar under Trademark Act Section 2(d).

B. APPLICANT'S VEHICLE GOODS AND REGISTRANT'S AUTOMOTIVE GOODS ARE RELATED

Applicant and Registrant both offer automotive and vehicle goods designed for integration within vehicle electrical and structural systems. The goods offered by Applicant that are subject to the partial refusal are "Radios, for use in factory-installed vehicle electronic systems; Electronic key fobs being remote control apparatus for vehicles; Flat panel display screens for vehicles; Radar detectors for vehicles; Rearview cameras for vehicles; Sensors for determining vehicle position; Vehicle location detection system comprised primarily of display monitors, computers, image sensors, and video cameras for vehicles" in Class 09 and "Anti-theft devices for vehicles; Doors for automobiles; Rearview mirrors; Side view mirrors for vehicles" in Class 12. The goods offered by Registrant are: "Metal fuel rails for engines; fuel rail assemblies, for engines, comprised of metal fuel rails for engines, metal fittings, metal spacers, metal screws, and o-rings;

fuel filter assemblies comprised of fuel filters, metal filter housings, metal fittings, metal end caps, metal mounting brackets, springs, metal spacers, metal screws, and o-rings; vehicle boost/vacuum manifold assemblies comprised of metal boost/vacuum manifolds, metal fittings, and metal plugs; check valve assemblies, for fuel systems, comprised of check valves, fittings, metal springs, and o-rings; fuel regulator assemblies, for engines, comprised of metal regulator housings, metal poppets, metal spring perches, metal spring retainers, metal plugs, metal fittings, metal brackets, metal springs, diaphragms, coated metal springs, ceramic balls, metal balls, metal set screws, metal washers, and metal nuts; vehicle fuel pump systems comprised of fuel pumps, metal flanges, metal manifolds, metal extension manifolds, metal fittings, metal plugs, nylon pump retainers, copper sleeves, metal nuts, epoxy, wires to power fuel pumps, electrical connectors, insulation, o-rings, metal screws, metal dowels, fuel pre-filters, and metal c-clips" in Class 07, "Metal housings specially adapted for electronic controllers for fuel pumps; electric controllers for automotive fuel pump systems comprised of electrical controlling devices, circuit boards, electrical relays, electrical wires, wires of common metal, metal screws, metal housings specially adapted for the electrical controlling devices, and power pigtail wire connectors" in Class 09, and "Metal flanges specially adapted for vehicle fuel tank systems; metal manifolds specially adapted for vehicle fuel tank systems; metal extension manifolds specially adapted for vehicle fuel tank systems; metal boost/vacuum manifolds specially adapted for vehicle fuel tank systems; metal fittings specially adapted for vehicle fuel tank systems; metal plugs specially adapted for vehicle

fuel tank systems; metal spacers specially adapted for fuel tank systems; metal mounting brackets specially adapted for vehicle fuel tank systems; metal poppets specially adapted for vehicle fuel tank systems; metal end caps specially adapted for vehicle fuel tank systems" in Class 12.

The compared goods need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Applicant agrees that Applicant and Registrant both offer automotive goods. *See* Applicant's Brief, TSDR p. 20. The Trademark Trial and Appeal Board has previously held that marketing by different parties of different types of automotive parts and accessories under the same or similar marks is likely to cause confusion. *See, e.g., In re Delbar Prods., Inc.*, 217 USPQ 859, 861 (TTAB 1981) (holding ULTRA for outside mounted vehicle mirrors likely to be confused with ULTRA and design for automobile parts, namely pistons and pins, valves, water pumps, oil pumps, universal joints, gears, axle shafts, hydraulic brake parts, automatic transmission repair kits and parts, engine bearings and

jacks); *In re Red Diamond Battery Co.*, 203 USPQ 472, 472-73 (TTAB 1979) (holding RED DIAMOND for storage batteries likely to be confused with DIAMOND for pneumatic rubber automobile and vehicle tires); *In re Trelleborgs Gummifabriks Aktiebolag*, 189 USPQ 106, 107-08 (TTAB 1975) (holding T and design for, inter alia, hoses, namely rubber hoses and inner tubes for tires and pneumatic, semisolid and solid tires likely to be confused with T and design for, inter alia, motor oil, oil additives and fuel additives); *In re Magic Muffler Serv., Inc.*, 184 USPQ 125, 126 (TTAB 1974) (holding MAGIC for vehicle parts, namely mufflers, likely to be confused with MAGIC for motors for motor vehicles).

The application is not limited to aftermarket parts or accessories. Some of Applicant's goods are structural or electrical in nature, and some are expressly identified as intended for use with factory-installed systems. Similarly, the registration encompasses structural goods and electronic goods, specifically designed for integration within a vehicle's electrical and structural systems. While it is true that fuel systems and electronic displays are different parts of vehicles, the parts are related when they constitute component parts that are specifically designed to be installed and operate within the same vehicle utilizing the same electrical system—which the record demonstrates are typically provided through the same trade channels, and often by the same provider.

The evidence of record includes Internet evidence from *Carparts.com, Autozone, OER Parts, Napa Online, Toyota, Chevrolet, Mercedes-Benz, GM, Kia, Nissan,* and *BMW*—seven car manufacturers and four industry-specific

retailers. This evidence illustrates that multiple providers of the type of goods offered by Registrant also provide the type of goods that are offered by Applicant, as summarized below:

Evidence Source	Goods Similar to Those Offered By Applicant	Goods Similar to Those Offered By Registrant
Carparts.com	*See* Jul. 11, 2025, Office Action, TSDR pp. 222-293. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 516-521.	*See* Feb. 8, 2025, Office Action, TSDR pp. 34-35. *See* Jul. 11, 2025, Office Action, TSDR pp. 208-219. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 512-514.
Autozone	*See* Jul. 11, 2025, Office Action, TSDR pp. 304-368. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 526-532.	*See* Feb. 8, 2025, Office Action, TSDR pp. 39-40. *See* Jul. 11, 2025, Office Action, TSDR pp. 295-301. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 523-525.
OER Parts	*See* Jul. 11, 2025, Office Action, TSDR pp. 370-392.	*See* Feb. 8, 2025, Office Action, TSDR pp. 51-59.
NAPA Online	*See* Jul. 11, 2025, Office Action, TSDR pp. 396-440. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 537-539.	*See* Feb. 8, 2025, Office Action, TSDR pp. 68-80. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 533-536.
Toyota	*See* Jul. 11, 2025, Office Action, TSDR pp. 540-555.	*See* Jul. 11, 2025, Office Action, TSDR pp. 558-568.
Chevrolet	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp.	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp.

	25-55.	8-24.
Mercedes-Benz	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 57-91.	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 93-103.
GM	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 105-144.	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 145-156.
Kia	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 157-239.	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 241-265.
Nissan	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 267-324.	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 326-344.
BMW	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 346-395.	*See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 397-416.

For example, consumers looking for car goods under the brand name *Chevrolet* can find items offered by Applicant, such as display screens, rearview mirrors, and sideview mirrors, as well as items offered by Registrant—such as metal spacers and metal brackets specially adapted for vehicle fuel tank systems. *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR pp. 8-55. Indeed, consumers expect to be able to find these items under the same mark because they seek out and desire the items for their specific cars—a *Chevrolet* in this instance. Put another way, a *Chevrolet* owner expects to go to the *Chevrolet* website in order to find and purchase both the type of goods offered by Applicant, like rearview mirrors for their *Chevrolet*, and items offered by Registrant, like metal spacers for their *Chevrolet*. In this way, consumers expect the goods offered by Applicant and Registrant to emanate from the same source. And, the evidence of record illustrates that this is the case.

Likewise, consumers shop at industry-specific automotive retailers expecting to find the types of items offered by both Applicant and Registrant. For example, the evidence of record illustrates that consumers go to *Carparts.com* and expect to be able to purchase a metal fuel tank bracket, as well as an anti-theft device for their specific vehicle. The evidence of record also shows both types of items (a metal fuel tank bracket and an anti-theft device, in this example) are offered under the same brand, *Dorman*, on the *Carparts.com* website. *See* Jul. 11, 2025, Office Action, TSDR pp. 216-225. In this way, the evidence shows items offered by Applicant and items offered by Registrant emanate from the same source. The same entity provides the relevant goods, markets the goods under the same mark, and the goods are sold through the same trade channels to the same class of consumers—car owners. Accordingly, the goods are considered related for purposes of the likelihood of confusion analysis.

Applicant argues that "the identifications show material functional differences". *See* Applicant's Brief, TSDR p. 14. This argument is not persuasive. As explained in the Final Office Action and reiterated in the Request for Reconsideration Denial, the fact that the goods of the parties differ is not controlling in determining likelihood of confusion. The issue is not likelihood of confusion between particular goods, but likelihood of confusion as to the source or sponsorship of those goods. *In re Majestic Distilling Co.,* 315 F.3d 1311, 1316, 65 USPQ2d 1201, 1205 (Fed. Cir. 2003); *In re Shell Oil Co.,* 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993); TMEP §1207.01.

An examining attorney need not establish that every good or service listed in

the application is related to the goods and/or services in the cited registration(s). It is sufficient to establish relatedness for one good or service in the refused class(es), including for a good or service "encompassed by the identification of goods [or services] within a particular class in the application." *In re Samsung Display Co.*, Ser. No. 90502617, 2024 TTAB LEXIS 258, at *7 (2024) (quoting *In re Aquamar, Inc.*, Ser. No. 85861533, 2015 TTAB LEXIS 178, at *9 n.5 (2015)); *In re Info. Builders Inc.*, Ser. No. 87753964, 2020 TTAB LEXIS 20, at *8 (2020) (citing *SquirtCo v. Tomy Corp.*, 697 F.2d 1038, 1041 (Fed. Cir. 1983); *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336 (C.C.P.A. 1981)).

Applicant argues the evidence of record "consists primarily of third-party Internet evidence from broad automotive retailers, electronics retailers, parts portals, and OEM replacement-parts or accessories sites" and that this evidence is "overbroad". *See* Applicant's Brief, TSDR p. 5. However, Applicant neglects to explain with specificity why these sources of industry-specific automotive evidence are insufficient and merely repeats the assertion that the evidence does not support a showing of relatedness. *See* Applicant's Brief, TSDR pp. 9, 18. But, "[a]ssertions in briefs are not evidence." *In re Jackson Int'l Trading Co.*, 103 USPQ2d 1417, 1420 (TTAB 2012) (citing *In re Simulations Publ'ns, Inc.*, 521 F.2d 797, 798, 187 USPQ 147, 148 (C.C.P.A. 1975); *In re Vesoyuzny Ordena Trudovogo Krasnogo Znameni*, 219 USPQ 69, 70 (TTAB 1983)).

For purposes of evaluating a trademark, material obtained from the Internet is generally accepted as competent evidence. *See In re Bayer Aktiengesellschaft*,

488 F.3d 960, 966, 82 USPQ2d 1828, 1833 (Fed. Cir. 2007); *In re Reed Elsevier Props., Inc.*, 482 F.3d 1376, 1380, 82 USPQ2d 1378, 1381 (Fed. Cir. 2007); TBMP §1208.03; TMEP §710.01(b). The Court of Appeals for the Federal Circuit and Trademark Trial and Appeal Board have long recognized that the USPTO has limited resources for obtaining evidence when examining applications for registration; the practicalities of these limited resources are routinely taken into account when reviewing a trademark examining attorney's action. *See In re Pacer Tech.*, 338 F.3d 1348, 1352, 67 USPQ2d 1629, 1632 (Fed. Cir. 2003) (citing *In re Loew's Theatres, Inc.*, 769 F2d 764, 768, 226 USPQ 865, 868 (Fed. Cir. 1985)); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1087 n.4 (TTAB 2016) (quoting *In re Budge Mfg., Inc.*, 857 F.2d 773, 775, 8 USPQ2d 1259, 1260-61 (Fed. Cir. 1988)); TBMP §1208 nn.2 & 11.

Further, the presumption under Trademark Act Section 7(b) is that the registrant is the owner of the mark and that their use of the mark extends to all goods and/or services identified in the registration. 15 U.S.C. §1057(b). In the absence of limitations as to channels of trade or classes of purchasers in the goods and/or services in the registration, the presumption is that the goods move in all trade channels normal for such goods and are available to all potential classes of ordinary consumers of such goods. *In re Dare Foods Inc.*, Ser. No. 88758625, 2022 TTAB LEXIS 92, at *8-9 (2022) (citing *Citigroup Inc. v. Cap. City Bank Grp. Inc.*, 637 F.3d 1344, 1356 (Fed. Cir. 2011); TMEP §1207.01(a)(iii); *see In re Melville Corp.*, Ser. No. 73736814, 1991 TTAB LEXIS 18, at *4-5 (1991).

Incidentally, Applicant repeatedly cites to three cases discussing the "something more" standard, which is not applicable here.

The "something more" evidentiary standard applies when relatedness of the goods and services is not evident or well-known, such that the evidence must show something more than the mere fact that the goods and services are used together under the same or similar marks. *In re St. Helena Hosp.*, 774 F.3d 747, 753-54 (Fed. Cir. 2014). However, the "something more" standard has only been applied to a comparison of goods versus services. *See, e.g., In re St. Helena Hosp.*, 774 F.3d at 754 ; *Shen Mfg. Co. v. Ritz Hotel, Ltd.*, 393 F.3d 1238, 1244-45 (Fed. Cir. 2004); *In re Coors Brewing Co.*, 343 F.3d 1340, 1345-46 (Fed. Cir. 2003). Accordingly, because this case involves a comparison of goods versus goods, the "something more" standard does not apply. *See In re Samsung Display Co.*, Ser. No. 90502617, 2024 TTAB LEXIS 258, at *16 (2024); *see also In re St. Helena Hosp.*, 774 F.3d at 753-54.

Applicant also cites two non-precedential TTAB decisions calling them "persuasive". *See* Applicant's Brief, TSDR p. 13. However, Applicant misunderstands the facts in both. Applicant cites to *In re Motor City Sunroofs, Inc.* (TTAB Jan. 13, 2000) and mischaracterizes the nature of the goods and services analysis therein. Applicant states "the Board found the record insufficient to show relatedness between sunroofs and tires even though the goods could be broadly characterized as automotive parts." *See* Applicant's Brief, TSDR p. 13.However, sunroofs were not at issue—rather, the services in the relevant application were "wholesale distributorship of sunroofs" in Class

35. *See In re Motor City Sunroofs, Inc.*, Ser. No. 75/176,395, 2000 TTAB LEXIS 33, at *1-*2 (TTAB Jan. 13, 2000) (non-precedential). Thus, this decision is not persuasive in relation to the goods analysis in the present case.

Likewise, Applicant cites to *In re TruckCraft Corp.* (TTAB Sept. 20, 2003). While Applicant correctly notes there is no "per se rule that vehicles, vehicle parts, and accessories always must be deemed related", Applicant fails to recognize that the reason the TTAB made this statement in that case is because "[n]either applicant nor the Trademark Examining Attorney made any evidence of record." *See In re TruckCraft Corp.*, Ser. No. 75731589, 2003 TTAB LEXIS 499, at *2-*3 (TTAB Sept. 30, 2003) (non-precedential).This is obviously not the case with the present record, which includes significant evidence of relatedness.

Finally, under Trademark Act Section 2(d) the overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Sunkist Growers, Inc. v. Intrastate Distribs., Inc.*, 144 F.4th 1376, 1379 (Fed. Cir. 2025) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265 (Fed. Cir. 2002)); *In re Chatam Int'l, Inc*., 380 F.3d 1340, 1345 (Fed. Cir. 2004).

V. CONCLUSION

In conclusion, the marks FORE and YFORE are similar, and the goods are related based on evidence of record. Therefore, the applied-for mark is likely to cause confusion with the registered mark when used in connection with the identified goods. It is therefore requested that the refusal to register under Trademark Act Section 2(d), 15 U.S.C. §1052(d) be affirmed.

Respectfully submitted,

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End Notes

1. The refusal does not bar registration for the other Class 09 goods, as amended: "Downloadable computer software using artificial intelligence (AI) for tracking driver behavior, machine learning, facial and speech recognition, extracting environmental information from multi-sensor raw data, identifying road risks, and assessing vehicle health status in the field of autonomous vehicles and advanced driver assistance vehicle systems; Downloadable computer software using artificial intelligence (AI) for use in facial and speech recognition for use in vehicle onboard systems". *See* Feb. 12, 2026, Request for Reconsideration Denial, TSDR p. 4.
2. Please note the citations herein are to the TSDR record in .pdf format.