

This Opinion is not a
Precedent of the TTAB

Mailed: September 20, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Trelleborg Coated Systems Italy S.p.A.

Serial No. 87199438

Zachary A. Aria and Bradford C. Craig of Blank Rome LLP,
for Trelleborg Coated Systems Italy S.p.A.

Aaron Rosenthal, Trademark Examining Attorney, Law Office 120,
(David Miller, Managing Attorney).

Before Kuhlke, Wolfson and Pologeorgis,
Administrative Trademark Judges.

Opinion by Wolfson, Administrative Trademark Judge:

Applicant, Trelleborg Coated Systems Italy S.p.A., seeks registration on the
Principal Register of the mark depicted below:



identifying the following goods in International Class 7:

Serial No. 87199438

Components of printing machines, namely printing blankets component for transfer of ink in offset printing machines, coating plate component for transfer of UV and varnishing ink in offset printing machines, flexo mounting sleeve component for flexographic printing machines.¹

The Trademark Examining Attorney has refused registration of Applicant's mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground of likelihood of confusion with the mark:



issued on the Principal Register for “printing inks, toner, filled ink cartridges, filled toner cartridges” in International Class 2.²

After the Trademark Examining Attorney made the refusal final, Applicant appealed and requested reconsideration. The appeal resumed after the Examining Attorney denied the request for reconsideration. Applicant and the Examining Attorney filed briefs. We affirm the refusal to register.

¹ Application Serial No. 87199438 was filed on October 11, 2016, based upon Applicant's assertion of a bona fide intent to use of the mark in commerce under Section 1(b) of the Trademark Act. 15 U.S.C. § 1051(b). The application includes the following color statement and description of the mark: “The color(s) black, pink, yellow and blue is/are claimed as a feature of the mark. The mark consists of the stylized word PRINTEC above an ellipse which includes a pink semicircle to the left of a yellow quadrilateral to the left of a blue triangle.”

² Reg. No. 4777393 issued on July 21, 2015. The application includes the following color statement and description of the mark: “The color(s) blue, pink, black and yellow is/are claimed as a feature of the mark. The mark consists of the word ‘PRINTEC’ in blue lower case letters with the dot on the letter ‘I’ consisting of four dots, two horizontally adjacent dots in the colors pink and yellow, respectively, and two vertically adjacent dots in the colors blue and black, respectively, with the blue and black dots partially overlying the pink and yellow dots so that the blue and black dots are fully visible while the pink and yellow dots are partially visible.”

I. Likelihood of Confusion

We base our determination of likelihood of confusion under Trademark Act Section 2(d) on an analysis of all of the probative facts in evidence that are relevant to the factors enunciated in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973) (“*DuPont*”). We have considered each *DuPont* factor that is relevant, and have treated other factors as neutral. *See Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 127 USPQ2d 1797, 1800 (Fed. Cir. 2018) (quoting *In re Mighty Leaf Tea*, 601 F.3d 1342, 94 USPQ2d 1257, 1259 (Fed. Cir. 2010) (“Not all of the *DuPont* factors are relevant to every case, and only factors of significance to the particular mark need be considered.”)); *ProMark Brands Inc. v. GFA Brands, Inc.*, 114 USPQ2d 1232, 1242 (TTAB 2015) (“While we have considered each factor for which we have evidence, we focus our analysis on those factors we find to be relevant.”).

Varying weights may be assigned to each *DuPont* factor depending on the evidence presented. *See Citigroup Inc. v. Capital City Bank Grp. Inc.*, 637 F.3d 1344, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011); *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1688 (Fed. Cir. 1993) (“the various evidentiary factors may play more or less weighty roles in any particular determination”). Two key considerations are the similarities between the marks and the relatedness of the goods. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976) (the “fundamental inquiry mandated by § 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.”); *In re FabFitFun, Inc.*, 127 USPQ2d 1670, 1672 (TTAB 2018).

A. The Marks

Under the first *DuPont* factor, we determine the similarity or dissimilarity of Applicant's and Registrant's marks in their entireties, taking into account their appearance, sound, connotation and commercial impression. *DuPont*, 177 USPQ at 567; *Stone Lion Capital v. Lion Capital*, 746 F.3d 1317, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014); *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005). "The proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that persons who encounter the marks would be likely to assume a connection between the parties." *Coach Servs. Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012) (internal quotation marks omitted); *see also Mini Melts, Inc. v. Reckitt Benckiser LLC*, 118 USPQ2d 1464, 1470 (TTAB 2016); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1089 (TTAB 2016). Consumers may not necessarily encounter the marks in proximity to one another and must rely upon their "imperfect recollections" over time. *In re 1st USA Realty Professionals, Inc.*, 84 USPQ2d 1581, 1587 (TTAB 2007).

Both Applicant's applied-for mark and Registrant's cited mark comprise the identical term PRINTEC. Applicant does not contend that the term is weak or merely descriptive. We find the term to be suggestive and thus inherently distinctive, recognizing that it suggests a combination of the words "print" and "technology." In both Applicant's and Registrant's mark, this connotation is present. The marks also look and sound alike due to the presence of their shared term, PRINTEC.

Serial No. 87199438

Applicant argues that the additional design features of the mark suffice to distinguish them and avoid a likelihood of confusion. Although we must consider the marks in their entireties, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on a consideration of the marks in their entireties. *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985). Here, we accord greater weight to the identical literal term in the marks, rather than their differing design elements, because consumers are more likely to remember the term PRINTEC than the particular font style, colors, or design elements, and to use the term PRINTEC to request the goods identified thereby. *See In re Viterra Inc.*, 671 F.3d 1358, 101 USPQ2d 1905, 1911 (Fed. Cir. 2012) (“the verbal portion of a word and design mark likely will be the dominant portion”); *In re Appetito Provisions Co.*, 3 USPQ2d 1553, 1554 (TTAB 1987) (holding that “if one of the marks comprises both a word and a design, then the word is normally accorded greater weight because it would be used by purchasers to request the goods or services” and “because applicant’s mark shares with registrant’s mark that element responsible for creating its overall commercial impression, the marks are confusingly similar”). Additionally, the color scheme in both marks is essentially the same, i.e., the primary colors used in color printing: cyan, magenta, yellow, and black. And the designs themselves do not stand out. The “ellipse which includes a pink semicircle to the left of a yellow quadrilateral to the left of a blue triangle” in Applicant’s mark serves merely as a carrier for the term PRINTEC, and the four-dot combination in Registrant’s mark

simply replaces the “dot” of the letter “T” in the mark. The fact that Registrant’s mark displays PRINTEC in blue and Applicant displays it in black is a minor difference that it unlikely to be retained by a consumer and used to distinguish the marks. “[I]f the dominant portion of both marks is the same, then confusion may be likely notwithstanding peripheral differences.” *In re Denisi*, 225 USPQ 624, 624 (TTAB 1985).

Based upon the above analysis, we find that  is more similar than dissimilar to  in appearance, sound, connotation and overall commercial impression. In view thereof, the *DuPont* factor of the similarity of the marks weighs strongly in favor of a finding of likelihood of confusion.

B. The Goods

The second *DuPont* factor concerns the “similarity or dissimilarity and nature of the goods or services as described in an application or registration,” *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 110 USPQ2d at 1159; *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001 (Fed. Cir. 2002); *Octocom Sys., Inc. v. Hous. Comput. Servs. Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990). “This factor considers whether ‘the consuming public may perceive [the respective goods or services of the parties] as related enough to cause confusion about the source or origin of the goods and services.’” *In re St. Helena Hosp.*, 774 F.3d 747, 113 USPQ2d 1082, 1086 (Fed. Cir. 2014) (quoting *Hewlett-Packard*, 62 USPQ2d at 1004).

Serial No. 87199438

To support a finding of likelihood of confusion, it is not necessary that the goods be identical or even competitive. It is sufficient that the goods are related in some manner, or that the circumstances surrounding their marketing are such that they would be encountered by the same persons in situations that would give rise, because of the marks, to a mistaken belief that they originate from the same source or that there is an association or connection between the sources of the goods. *In re Thor Tech Inc.*, 90 USPQ2d 1634, 1635 (TTAB 2009). The more similar the marks at issue, the less similar the goods need to be for the Board to find a likelihood of confusion. *In re Shell Oil Co.*, 26 USPQ2d at 1689; *In re Opus One Inc.*, 60 USPQ2d 1812, 1815 (TTAB 2001).

In support of the refusal of registration, the Examining Attorney introduced with the January 27, 2017 first Office Action and September 15, 2017 final Office Action printouts from third-party websites offering, under the same mark, printing blankets for offset printing machines and printing inks.³ These include Fujifilm Holdings America Corp., Atlas Graphic Supply Inc., and Universal Graphic Solutions, as shown below:

³ Page references to the application record are to the USPTO's Trademark Status & Document Retrieval (TSDR) system. References to the briefs, request for reconsideration and request for reconsideration denial are to the Board's TTABVUE docket system.

- Fujifilm Holdings offers blankets for “coating, web, commercial offset” and “a complete line of flexo and rotary screen ink ranges specifically for narrow to medium web printers”:⁴



Types:

- **Signature SRF:** Dark blue compressible blanket designed for web or sheetfed application. Fine buffed surface provides excellent release. Available in 3 and 4-ply.
- **Signature Royal SRF:** Slightly darker than Signature SRF but offers similar performance characteristics.
- **Signature SR:** Aqua colored compressible blanket for high speed, heatset web presses. Medium buffed surface. Available in 3 and 4-ply.
- **Signature Coat:** A blue gray strippable coating blanket available in 3 or 4-ply. Available in fabric or adhesive backed. Designed for hand or CAD cutting, the Signature Coat allows crisp, clean cuts with deep relief down to the unique strip zone.
- **Signature Web:** A blue compressible blanket with quick release surface that is very resistant to edge cutting. Sink, solvent, smash and stretch resistance leads to long blanket life.
- **Signature Economy 40:** Taking advantage of converting efficiencies, Fuji offers this superb printing alternative at an economical price. This blue compressible blanket was specifically engineered for the 40" high quality commercial offset market. Available in 4 ply only.
- **Signature Economy:** The same great blanket as the Economy 40 but for non-40 inch presses which cannot be converted as efficiently. 4-ply only.

⁴ At www.fujifilmusa.com, attached to September 15, 2017 Final Office Action, TSDR 7-12.

The screenshot shows the top portion of the Fujifilm Americas website. At the top right, there are language selection buttons for English, Español, and Français, along with a Sitemap and a Go button. The Fujifilm logo is prominently displayed on the left, with the tagline 'Value from Innovation' underneath. Below the logo, the text 'Americas | USA' is visible. A horizontal navigation menu includes links for Home, Innovation, Products (which is underlined), Support & Contact, About Fujifilm, and Press Center. The main content area features a large, vibrant image of colorful ink splatters in shades of yellow, magenta, and cyan. On the left side of this image, there is a white text box with the heading 'Inks' and a paragraph of text: 'Leveraging our strengths in UV and waterbase ink technologies and commitment to innovation, Fujifilm has developed a complete line of flexo and rotary screen ink ranges specifically for narrow to medium web printers. The performance and value of these products is complemented by unmatched systems and technical support enabling our customer partners to'. Below the text box is a small downward-pointing arrow. At the bottom of the image area, there is a row of five buttons: 'UV/LED Flexo', 'UV Flexo', 'Waterbase Flexo', 'Rotary Screen', and 'See All'.

English | Español (+) | Français (+) | Sitemap | Go

FUJIFILM
Value from Innovation

Americas | USA

Home | Innovation | Products | Support & Contact | About Fujifilm | Press Center

Inks

Leveraging our strengths in UV and waterbase ink technologies and commitment to innovation, Fujifilm has developed a complete line of flexo and rotary screen ink ranges specifically for narrow to medium web printers. The performance and value of these products is complemented by unmatched systems and technical support enabling our customer partners to

UV/LED Flexo | UV Flexo | Waterbase Flexo | Rotary Screen | See All

- Atlas Graphic Supply Inc. offers “printing and coating blankets” and “environmentally friendly ink from a global supply”:⁵

The screenshot shows the Atlas Graphic Supply Inc. website. On the left is a red navigation menu with white text: HOME PAGE, ABOUT US, BLANKETS, INKS, COATINGS, PRESSROOM CHEMISTRY, PRESS PACKING, SALES FORCE, P 50, and CONTACT US. The main header is red with the Atlas logo (a stylized 'A') and the text 'ATLAS GRAPHIC SUPPLY INC.' in white. Below the header is a photograph of a brick building with the company name on the wall. A red banner below the photo contains the word 'BLANKETS' in white. Below this banner, the text reads: 'Atlas Graphic Supply Inc. offers the following printing and coating blanket varieties:'. This text is highlighted in yellow. Below it is a bulleted list of products: 'Straight cut and barred offset printing blankets for Conventional, UV and Hybrid Inks', 'Specialty blankets for coating (mylar backed / adhesive backed)', 'Business forms', and '2 Piece can blankets (Metal Decorating)'. At the bottom of this section, it says 'ALL BLANKETS ARE CUT TO OURS CUSTOMERS SPECIFICATIONS IN HOUSE'.

The screenshot shows the Atlas Graphic Supply Inc. website. On the left is a red navigation menu with white text: HOME PAGE, ABOUT US, BLANKETS, INKS, COATINGS, PRESSROOM CHEMISTRY, PRESS PACKING, SALES FORCE, P 50, and CONTACT US. The main header is red with the Atlas logo (a stylized 'A') and the text 'ATLAS GRAPHIC SUPPLY INC.' in white. Below the header is a photograph of a brick building with the company name on the wall. A red banner below the photo contains the word 'INKS' in white. Below this banner, the text reads: 'Atlas Graphic Supply Inc. provides environmentally friendly ink from a global supply.'. This text is highlighted in yellow.

⁵ At www.atlasgraphicsupply.com, attached to September 15, 2017 Final Office Action, TSDR 2-3.

- Universal Graphic Solutions offers printing blankets and printing inks:⁶

The screenshot shows the top portion of the Universal Graphic Solutions website. At the top left is the company logo, a colorful sphere with a ring, followed by the text "Universal Graphic Solutions" and the tagline "Finest Ink on the Planet!". To the right is a search bar with the text "search..." and a green "Search" button. Below this is a navigation menu with buttons for "Home", "Products", "MSDS", "Help Center", "About Us", and "Contact". The main content area is titled "Blankets" and features an image of several rolls of colored printing blankets (blue, green, purple). To the right of the image is a paragraph of text: "Here at Universal Graphic Solutions, we strive to provide the highest quality materials at the lowest possible pricing. We do not promote inferior 'offshore' type blanket materials that will not give our customers the consistent quality print reproduction characteristics required for competitive printing. Our blanket product lines are vast and complete for all types of printing, but we only carry top quality name brand materials and convert them using the highest grade equipment so you can rest assured the blankets you receive will be the best quality in the industry. We generally carry inventory in stock for immediate delivery of product for most presses to avoid any delays. Please feel free to inquire to our staff for the best blanket material for your application and printing requirements." To the right of this text is a section titled "Our Partners" which lists logos for TRELLEBORG, FlintGroup, PRINTEC, and FUJIKURA GRAPHICS. Below the image and text is the heading "CONVENTIONAL PRINTING BLANKETS".

The screenshot shows the bottom portion of the Universal Graphic Solutions website. It features the same logo and tagline as the previous screenshot. The search bar and navigation menu are also present. The main content area is titled "Printing Inks" and features an image of several cans of printing ink and a color calibration strip. To the right of the image is a paragraph of text: "We carry a complete and comprehensive line of Printing inks for all Sheet-fed and web applications. We specialize in conventional, UV, EB and Waterless Inks and back up our products with unmatched service and support. Below are just a few lines of printing inks UGS carries. Feel free to contact us with your exact requirements!"

⁶ At <http://www.universalgraphicsolutions.com/>, attached to January 27, 2017 Office Action at TSDR 25-28.

The Examining Attorney argues that this evidence “shows that the goods identified in the Registered mark, namely, printing inks, and the goods identified as being offered under Applicant’s mark, namely, printing blankets and printing plates, are of a kind that emanate from a single source under a single mark.”⁷ The Examining Attorney is correct that this evidence demonstrates that third parties offer both printing blankets and printing ink, but Applicant’s goods are not simply “printing blankets.”

A reading of both Applicant’s and the Examining Attorney’s briefs, as well as the evidence submitted in this case, suggests that both Applicant and the Examining Attorney consider Applicant’s goods to be printing blankets “for” printing machines, and not printing blankets sold as components “of” printing machines. However, as recited in the identification of goods, Applicant’s printing blankets are components of offset printing machines. As such, Applicant’s mark will not serve as the source of printing blankets per se, but only as part of the finished product, i.e., an offset printing machine. To this end, the goods have been classified in International Class 7, the class appropriate to printing machines, and not Class 16 (which is for “printers’ blankets, not of textile”) or Class 24 (which is for “printers’ blankets of textile”). TMEP § 1402.05(a) (“Components or ingredients sold as part of a finished product are classified in the class of the finished product, since the components or ingredients have been incorporated into other finished goods.”). Put another way, according to

⁷ 26 TTABVUE 12.

the identification of goods as written, Applicant intends to sell offset printing machines which display the mark PRINTEC to identify a “blankets component,” which will be sold as part of the finished product. In such case, Applicant’s specimen of use (when submitted) must show the mark PRINTEC used on or in connection with a blanket sold as a component of an offset printing machine, and the mark must identify the embedded blanket, and not the finished product. *Id.*; *see also In re Sones*, 590 F.3d 1282, 93 USPQ2d 1118, 1123 (Fed. Cir. 2009) (specimen “must in some way evince that the mark is ‘associated’ with the goods and serves as an indicator of source”); *In re Safariland Hunting Corp.*, 24 USPQ2d 1380, 1381 (TTAB 1992) (specimen must show “direct association” with identified goods).

Applicant asserts that “[t]he confusion here appears to lie in part in the fact that the goods ‘printing inks’ are entirely different depending on the context in which such term is used.”⁸ In support of this assertion, Applicant submitted pages from its website and from Registrant’s website,⁹ purporting to show that Registrant’s inks “are not used in (and are not compatible with) industrial/commercial printing equipment, nor are they used in offset printing (or any other type of industrial/commercial printing) but rather are for use with *nonindustrial/non-commercial printers for office or personal use*, such as Hewlett-Packard, Canon, and Epson desktop printers.”¹⁰ In the registration context, however, likelihood of

⁸ 23 TTABVUE 11.

⁹ Submitted with its July 27, 2017 Response to the Examining Attorney’s first Office Action at TSDR 2-31.

¹⁰ March 15, 2018 Request for Reconsideration, 23 TTABVUE 10.

confusion is determined by the marks, the goods (or services), and the usages (if any) disclosed in the application and the cited registration. An applicant may not restrict the scope of the goods covered in its application or in the cited registration by argument or extrinsic evidence. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 110 USPQ2d at 1162 (citing *Octocom Sys., Inc.* 16 USPQ2d at 1787 (“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.”). We may not consider Registrant’s goods, identified as “printing ink” without limitation, to be restricted to inks sold only for use with non-commercial printers for office or personal use.¹¹

This is an unusual case. Because neither Applicant nor the Examining Attorney takes the position that Applicant’s goods are offset printing machines with printing blanket components, the majority of the website evidence is of lesser significance. However, the evidence does show the complementary nature of the goods, with printing inks being sold for the purpose of being used with offset printers containing blankets. For example:

¹¹ Applicant argues that because Registrant’s goods are separated in the identification by commas and not semi-colons, that we must consider them as “items within a particular category” rather than as “distinct categories.” 23 TTABVUE 15. The deficiency in this argument is that even placing all the items in the same category does not make them “products for desktop printers used in homes and offices” only, as Applicant suggests.

- AGFA Graphics offers “offset ink” at <https://www.agfagraphics.com>:¹²

AGFA Start online with AGFAGRAPHICS

search [agfagraphics.com](https://www.agfagraphics.com) [Logi](#)

[Home](#) > [Product Finder](#) > [Offset Ink](#)

Offset Ink

Printing ink is one of the most valuable components to color managed printing. Choosing the right ink for the application is critical to accurate and consistent color managed printing. Agfa has invested significant time, energy and research into establishing the product line that is consistent, reliable and that meets our customer's printing needs.

Overview

Our product portfolio encompasses many print applications including: sheetfed, folding carton, packaging, coldest, heatset, UV, waterless as well as specialty applications. Additionally, our product portfolio offers environmental friendly formulations and supports green manufacturing and sustainability, as well as the G7™ Calibration Method.

More information
[RELATED INFO](#)
[PRODUCTS](#)
[AVAILABILITY](#)

[GENERATE](#)

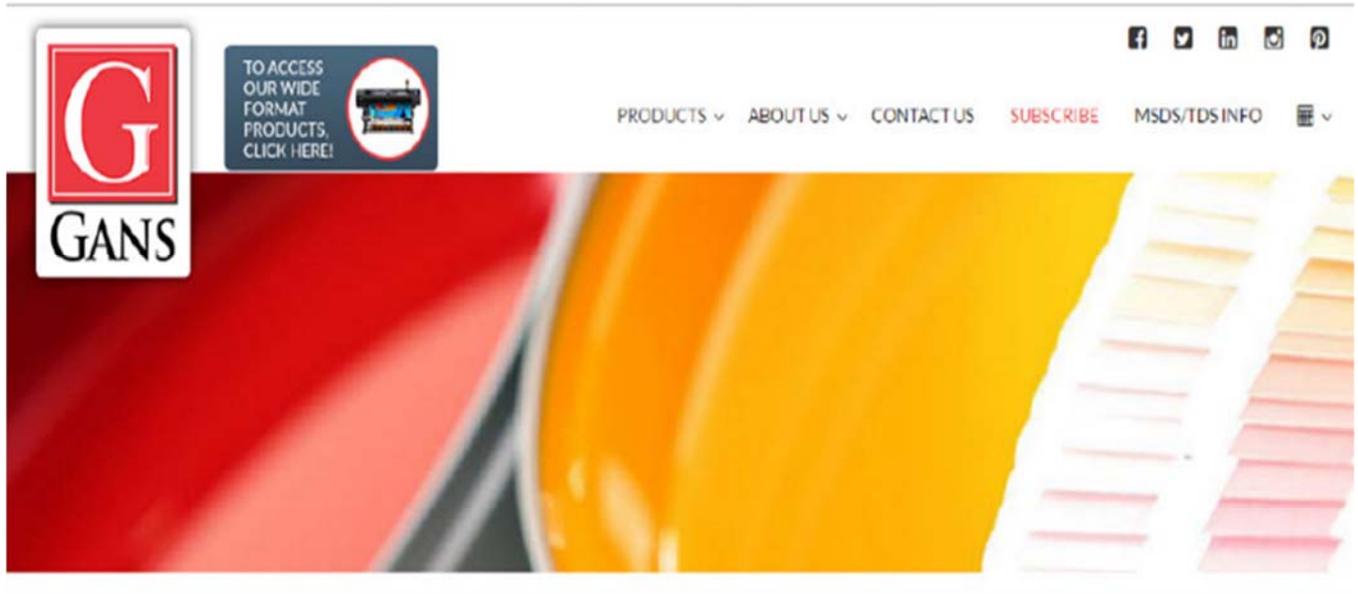
Best experience on our website - [change your settings](#)

Chemical, hubeigroup and VanSon Holland, among others. Each product offering, provides a unique and best-in-class solution for the specific application.

[Download](#)
[Pressroom Miniguide](#)

¹² Attached to January 27, 2017 Office Action at TSDR 10.

- Gans Inc. offers inks “geared to the needs of the sheet-fed and web offset printer”:¹³



Offset Inks >> Commercial



Geared to the needs of the sheet-fed and web offset printer, Gans Ink & Supply Co. employs a full-time development staff dedicated to researching and sourcing new and superior varnish vehicles. This nationwide effort has allowed Gans to consistently formulate inks that improve quality, productivity and profitability.

In addition to our ever-evolving product line of commercial inks, Gans offers the highest level of technical assistance available today, at no extra charge! Whether your needs include custom color matching services, custom ink formulations to address specific performance characteristics, color management assistance based on process controls, press fingerprinting or color-space profiling for your entire workflow, Gans Ink & Supply has expert trained technicians on staff to assist you!

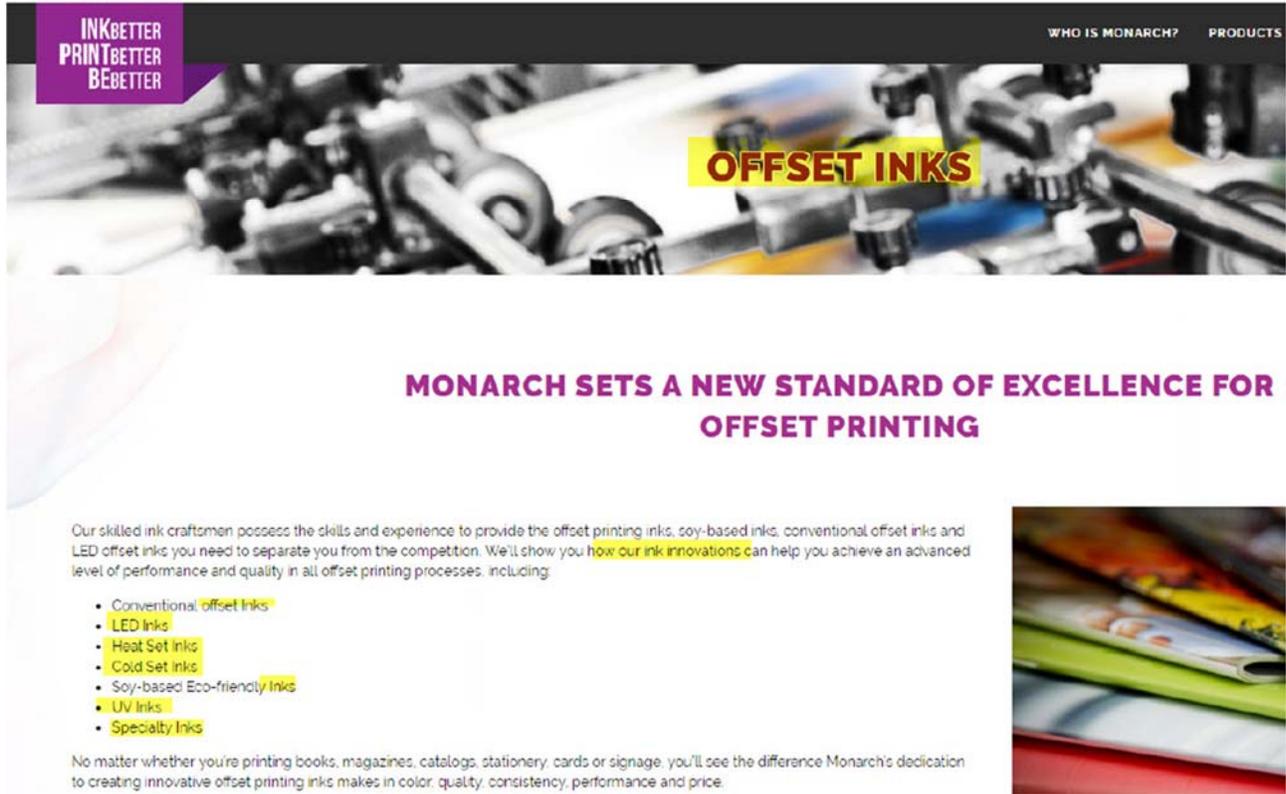
Please take a few minutes to review our most popular commercial inks, blending systems and overprint varnishes. These are proven products that are performing successfully in both large and small commercial print shops across the country.

| | | |
|--------------|---------------|---------|
| Process Inks | Blending Inks | Varnish |
|--------------|---------------|---------|

¹³ At www.gansink.com/products/, attached to September 15, 2017 Final Office Action, TSDR 13.

Serial No. 87199438

- Monarch Color Corp. offers inks designed for “offset printing”:¹⁴

A screenshot of the Monarch Color Corp. website. The top navigation bar includes the text 'WHO IS MONARCH?' and 'PRODUCTS'. A purple banner on the left contains the slogan 'INK BETTER PRINT BETTER BE BETTER'. The main header image shows an offset printing press with the text 'OFFSET INKS' overlaid in a yellow box. Below the header, a purple section contains the headline 'MONARCH SETS A NEW STANDARD OF EXCELLENCE FOR OFFSET PRINTING'. The main content area features a paragraph of text and a bulleted list of ink types. A small image of printed materials is visible on the right side of the page.

Our skilled ink craftsmen possess the skills and experience to provide the offset printing inks, soy-based inks, conventional offset inks and LED offset inks you need to separate you from the competition. We'll show you how our ink innovations can help you achieve an advanced level of performance and quality in all offset printing processes, including:

- Conventional offset inks
- LED inks
- Heat Set inks
- Cold Set inks
- Soy-based Eco-friendly inks
- UV inks
- Specialty inks

No matter whether you're printing books, magazines, catalogs, stationery, cards or signage, you'll see the difference Monarch's dedication to creating innovative offset printing inks makes in color, quality, consistency, performance and price.

If “printing ink” for use in offset printing machines displayed the same or similar mark as an offset printer containing a printing blanket, relevant purchasers would likely become confused as to their origin, sponsorship or affiliation. *See, e.g., In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Davia*, 110 USPQ2d 1810, 1815 (TTAB 2014); *In re Sela Prods., LLC*, 107 USPQ2d 1580, 1587 (TTAB 2013) (purchasers likely to encounter both surge

¹⁴ At www.monarchcolor.com, attached to September 15, 2017 Final Office Action at TSDR 20.

protectors, and wall mounts and brackets, during course of purchasing a television, audio or home theater system). Accordingly, we find on balance that the *DuPont* factor of the relatedness of the goods favors a finding of likelihood of confusion.

C. Channels of Trade and Classes of Consumers

The evidence is silent on whether or not the trade channels for these goods and classes of consumers overlap. On the other hand, we are aided by the presumption that because the identifications of goods in the cited registration and Applicant's application do not recite any limitations as to the channels of trade in which the goods are offered, these goods are presumed offered in all customary trade channels. *See Citigroup v. Capital City Bank Grp.*, 98 USPQ2d at 1261; *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006). The evidence supports a finding that printing ink is sold for use in offset printers and would be purchased by the same classes of consumers. We therefore find the *DuPont* factors of the relatedness of the channels of trade and classes of consumers slightly favors a finding of likelihood of confusion.

D. Conditions of Purchase

Under the fourth *DuPont* factor, we consider “[t]he conditions under which and buyers to whom sales are made, i.e., ‘impulse’ vs. careful, sophisticated purchasing.” *DuPont*, 177 USPQ at 567. Applicant argues that its customers are members of the commercial printing industry and as such are highly educated, sophisticated, and

knowledgeable in matters pertaining to the printing business.¹⁵ Applicant further argues that its goods are expensive.¹⁶

Applicant submitted copies of pages from its website that show Applicant sells printing blankets¹⁷ to “specialists in the graphics industry,”¹⁸ but the record does not provide price points for any of the blankets, or suggest that special expertise is required for their installation. Thus, the evidence does not support a finding that consumers of printing blankets exercise a higher degree of care than that of an ordinary purchaser; none of the evidence even addresses the level of sophistication required for the purchase of printing blanket components of printing machines. Considering that the goods identified in the application are “components of printing machines, namely printing blankets component for transfer of ink in offset printing machines,” we may presume a certain level of sophistication, since arguably offset printing machines are expensive items. Nonetheless, there are no limitations to Registrant’s “printing inks” that would exclude their use in commercial (and thus expensive) offset printing machines. Moreover, the “memories even of discriminating purchasers are not infallible.” *In re Research and Trading Corp.*, 793 F.2d 1276, 230

¹⁵ 23 TTABVUE 17.

¹⁶ 23 TTABVUE 21.

¹⁷ The website pages of record show that Applicant sells printing blankets, but not that Applicant sells components of printing machines. However, even considering that Applicant’s goods are offset printing machines with printing blanket components, because there are no limitations to Registrant’s “printing inks” that would exclude their use in commercial offset printing machines, the difference is unavailing.

¹⁸ July 27, 2017 Response to Office Action at TSDR 4.

Serial No. 87199438

USPQ 49, 50 (Fed. Cir. 1986), *quoting Carlisle Chemical Works, Inc. v. Hardman & Holden Ltd.*, 434 F.2d 1403, 168 USPQ 110, 112 (CCPA 1970).

The fourth *DuPont* factor is neutral.

E. Conclusion

When we consider the record and the relevant likelihood of confusion factors, and all of Applicant's arguments relating thereto, we conclude that consumers familiar with Registrant's printing inks offered under its mark would be likely to believe, upon encountering Applicant's mark used for its printing blanket components, that the goods emanated from the same, single source of origin.

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