This Opinion is Not a Precedent of the TTAB

Mailed: April 10, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Family Focus Retirement Group, LLC

Serial No. 98499819

Glenn K. Robbins II of Spencer Fane LLP for Family Focus Retirement Group, LLC.

Susan Hayash, Managing Attorney,[1] Law Office 123.

Before Larkin, English, and Bradley,
Administrative Trademark Judges.

Opinion by Larkin, Administrative Trademark Judge:

In this appeal, Family Focus Retirement Group, LLC ("Applicant") seeks a green light from the Board to register the mark shown below on the Principal Register for "Financial planning for retirement; Financial planning and investment advisory services; wealth management advisory services" in International Class 36:

[1] The application was initially examined by Trademark Examining Attorney John LaMont, who issued the final refusal to register from which this appeal was taken. Managing Attorney Hayash filed the brief of the United States Patent and Trademark Office ("USPTO"). We will refer to Mr. LaMont as the "Examining Attorney" and to Ms. Hayash as the "Managing Attorney."

[2]

The Examining Attorney placed a red light in front of Applicant's application, refusing registration of Applicant's mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that it so resembles the following three marks, registered on the Principal Register by the same owner in International Class 36, as to be likely to cause confusion when used in connection with the services identified in the application: (1) the standard-character mark GREENLIGHT for "investment

[2] Application Serial No. 98499819 was filed on April 15, 2024 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), based on Applicant's claimed first use of the mark and first use of the mark in commerce at least as early as March 18, 2024. Applicant has disclaimed the exclusive right to use the words and phrases RETIREMENT PLAN, TAXES, LIFESTYLE, INCOME, GROWTH, and HEIRS & HEALTHCARE apart from the mark as shown. Applicant describes its mark as follows: "The mark consists of a circle design with an outer band of light green, outlined in green, with five white circles, outlined in green, dividing it into roughly equal segments. A white arrow, outlined in green, emerges from each circle and points clockwise to the next circle. The circles contain the following elements, clockwise from the top: a green and light green car above the green wording 'LIFESTYLE', a green money bag with a light green '$' above the green wording 'INCOME', a stack of three green squares with a light green arrow pointing upwards above the green wording 'GROWTH', a green and white clipboard with a light green wave form across it above the green wording 'HEIRS & HEALTHCARE', a green and light green pie chart above the green wording 'TAXES'. A green circle is at the center of the circular design and it contains a green traffic signal, outlined in light green, with the bottom light showing a green circle, outlined in white, with a white check mark. The wording 'GREEN LIGHT RETIREMENT PLAN' appears in the green circle, superimposed over the traffic light." The colors green, light green, yellow green and white are claimed as a feature of the mark.

management services,"[3] (2) the composite word-and-design mark shown below for "investment advisory and investment management services":

[4]

and (3) the composite word-and-design mark shown below for "investment management":

[5]

When the Examining Attorney made the refusal final, Applicant requested reconsideration, which was denied, and then appealed. Applicant and the Managing Attorney have filed briefs.[6] We affirm the refusal to register.

I. Prosecution History and Record on Appeal[7]

We briefly summarize below the prosecution history of the application because it provides useful background to our disposition of the appeal.

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[3] Registration No. 3062353 issued on February 28, 2006 and has been renewed.

[4] Registration No. 2231494 issued on March 16, 1999 and has been renewed. The registrant has disclaimed the exclusive right to use CAPITAL, INC. apart from the mark as shown.

[5] Registration No. 4383978 issued on August 13, 2013 and has been renewed.

[6] Citations in this opinion to the briefs refer to TTABVUE, the Board's online docketing system. The number preceding TTABVUE corresponds to the docket entry number, and any numbers following TTABVUE refer to the page(s) of the docket entry where the cited materials appear. Applicant's brief appears at 4 TTABVUE and the Managing Attorney's brief appears at 6 TTABVUE.

[7] Citations in this opinion to the application record are to pages in the downloadable .pdf version of the USPTO's Trademark Status & Document Retrieval ("TSDR") database.

The Examining Attorney initially refused registration of Applicant's mark under Section 2(d) based on the three cited registrations identified above, required an amendment of Applicant's description of its mark, and required a disclaimer of all wording in the mark other than the words GREEN LIGHT.[8] The Examining Attorney made of record USPTO electronic records regarding the cited registrations,[9] and USPTO electronic records regarding third-party registrations of marks for the involved services.[10]

Applicant responded by arguing against the refusal, entering a revised description of its mark, and entering the requested disclaimer.[11] Applicant made of record screenshots of third-party webpages that it claimed showed use of "Green Light-" or "Greenlight"-formative marks in connection with various financial services.[12]

The Examining Attorney then issued an Office Action making final the Section 2(d) refusal to register.[13] The Examining Attorney made of record pages from the website at investopedia.com and capital.com regarding the meaning of the term "investment management;"[14] third-party webpages,[15] and third-party registrations,[16]

[8] October 30, 2024 Office Action at TSDR 2-6.

[9] *Id.* at TSDR 8-12.

[10] *Id.* at TSDR 13-28.

[11] January 22, 2025 Response to Office Action at TSDR 1-11.

[12] *Id.* at TSDR 12-113.

[13] February 20, 2025 Final Office Action at TSDR 3-8.

[14] *Id.* at TSDR 9-17.

[15] *Id.* at TSDR 18-52.

[16] *Id.* at TSDR 53-84.

regarding the involved services; a dictionary definition of "green light;"[17] and a Wikipedia entry captioned "Greenlight."[18]

Applicant then requested reconsideration,[19] which was denied.[20] Applicant subsequently appealed, and the appeal is now ready for decision.

II. Analysis of Likelihood of Confusion 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) (cleaned up). Our determination of the 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 likelihood of confusion factors set forth in *In re E.I. DuPont DeNemours & 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).

"Two key factors in every Section 2(d) case are the first two factors regarding the similarity or dissimilarity of the marks and the goods or services, because the fundamental inquiry mandated by §2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the

[17] *Id.* at TSDR 85-90.

[18] *Id.* at TSDR 91-92.

[19] June 20, 2025 Request for Reconsideration at TSDR 1-7.

[20] July 15, 2025 Denial of Request for Reconsideration at TSDR 1-4.

marks." *DC Comics v. Cellular Nerd LLC*, No. 91246950, 2022 WL 17832492, at *10 (TTAB 2022) (internal quotations and quotation marks omitted). In its brief, Applicant discusses the first *DuPont* factor, 4 TTABVUE 4-9, and the sixth *DuPont* factor, the "number and nature of similar marks in use on similar goods," *DuPont*, 476 F.2d at 1361. 4 TTABVUE 9-14.

In our analysis, we will focus on the composite mark shown in cited Registration No. 2231494 (the "'494 Registration"), which is registered on the Principal Register for "investment advisory and investment management services" and which we reproduce again below:

If we find a likelihood of confusion with respect to this mark and the services for which it is registered, which are identical in part to services identified in the application, we need not find a likelihood of confusion with respect to the other two cited marks and the services for which they are registered. *In re Max Cap. Grp. Ltd.*, No. 77186166, 2010 WL 22358, at *2 (TTAB 2010).

We will begin our analysis with the second and sixth *DuPont* factors because the similarity of the involved services and the possible weakness of the word GREENLIGHT in the cited mark may affect the degree of similarity between that mark and Applicant's mark required under the first factor for confusion to be likely. *See*, *e.g.*, *Keystone Consol. Indus., Inc. v. Franklin Inv. Corp.*, No. 92066927, 2024 WL 3771168, at *19 (TTAB 2024) ("[w]hen marks would appear on virtually identical

goods or services, the degree of similarity between the marks necessary to support a conclusion of likely confusion declines") (quoting *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877 (Fed. Cir. 1992)); *Apex Bank v. CC Serve Corp.*, 156 F.4th 1230, 1236 (Fed. Cir. 2025) ("Because commercial impression informs the analysis under the first *DuPont* factor, we must . . . vacate the Board's analysis here because reconsideration of the sixth *DuPont* factor may result in a different determination of the mark's commercial strength or weakness and affect the overall commercial impression"); *Heil Co. v. Tripleye GmbH*, No. 91277359, 2024 WL 4925901, at *17 (TTAB 2024) ("Because it affects the scope of protection to which it is entitled, we commence by addressing the strength or weakness of Opposer's registered 3RD EYE mark.").

A. Similarity or Dissimilarity of the Services, Channels of Trade, and Classes of Consumers

"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 Detroit Athletic Co.*, 903 F.2d 1297, 1306 (Fed. Cir. 2018). "This factor considers whether 'the consuming public may perceive [the services] as related enough to cause confusion about the source or origin of the . . . services.'" *In re St. Helena Hosp.*, 774 F.3d 747, 752 (Fed. Cir. 2014) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1267 (Fed. Cir. 2002)). "In analyzing the services, the Board considers [t]he similarity or dissimilarity and nature of the services as described in an application or registration." *In re OSF Healthcare Sys.*, No. 88706809, 2023 WL 6140427, at *4

(TTAB 2023) (quoting *In re Embiid*, No. 88202890, 2021 WL 2285576, at *10 (TTAB 2021)).

The "Examining Attorney need not prove, and we need not find, similarity as to each [service] listed in the description of [services]" in Class 36 in the application. *Id.* at *5 (citation omitted). "'[I]t is sufficient for finding a likelihood of confusion if relatedness is established for any [service] encompassed by the identification of [services] within a particular class in the application." *Id.* (citations omitted).

"Apparently conceding the issue [as to the similarity or dissimilarity of the services and the similarity or dissimilarity of trade channels], Applicant did not address these *du Pont* factors in its brief, so we offer only a brief explanation of our conclusion." *In re Ye Mystic Krewe of Gasparilla*, No. 90522364, 2025 WL 2953731, at *3 (TTAB 2025) (quoting *In re Morinaga Nyugyo K.K.*, No. 86338392, 2016 WL 5219811, at *2 (TTAB 2016)).

The services identified in the '494 Registration are "investment advisory and investment management services" and the services identified in the application include "Financial planning and investment advisory services." The "investment advisory" services in the '494 Registration and in the application are identical, and the second *DuPont* factor strongly supports a conclusion that confusion is likely. *OSF Healthcare*, 2023 WL 6140427, at *9.

The third *DuPont* factor considers the "similarity or dissimilarity of established, likely-to-continue trade channels." *DuPont*, 476 F.2d at 1361. "Because the [investment advisory] services are identical and unrestricted as to trade channels and

consumer classes, we must presume that the services travel in the same ordinary trade and distribution channels and will be marketed to the same potential consumers." *In re Jimenez*, No. 97551823, 2025 WL 3126703, at *4 (TTAB 2025) (citing *In re Viterra Inc.*, 671 F.3d 1358, 1362 (Fed. Cir. 2012)). The third *DuPont* factor also strongly supports a conclusion that confusion is likely. *Id.*

B. Number and Nature of Similar Marks in Use on Similar Services

The sixth *DuPont* factor, "'[t]he number and nature of similar marks in use on similar goods' . . . is a measure of the extent to which other marks weaken the assessed mark." *Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023) (quoting *DuPont*, 476 F.2d at 1361 and citing *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1373 (Fed. Cir. 2005)).

"There are two prongs of analysis for a mark's strength under the sixth factor: conceptual strength and commercial strength." *Id.* (citation omitted). "Conceptual strength is a measure of a mark's distinctiveness . . . and distinctiveness is often classified in categories of generally increasing distinctiveness[:] . . . (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; or (5) fanciful." *Id.* (citation, quotation, and quotation marks omitted). "Distinctiveness is relevant to a mark's overall strength in the likelihood of confusion analysis." *Id.* (citation omitted). "Commercial strength, on the other hand, is 'the marketplace recognition value of the mark.'" *Id.* at 1363 (quoting 2 J. Thomas McCarthy, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 11:80 (5th ed. 2023)).

Applicant focuses exclusively on the claimed commercial weakness of the word GREENLIGHT in the mark shown in the '494 Registration. 4 TTABVUE 4 (discussing "the extensive third-party use of 'GREEN LIGHT' across related financial services that demonstrates the relative commercial weakness of the mark GREENLIGHT"). Applicant argues that it "submitted evidence . . . of 22 instances of unregistered third party usages of names incorporating the wording 'Green Light' or 'Greenlight' to provide evidence of the extensive usage in connection with services related to those under Applicant's mark and the cited marks, namely retirement planning and investment advisor services," consisting of "screen shots taken of web sites in which use of the names were made by the respective entities." *Id.* at 10.

According to Applicant, during prosecution the Examining Attorney "acknowledged that Applicant had submitted twenty-two different websites as examples of third-party use of marks including the components GREEN and LIGHT," but claimed "that such evidence does not constitute twenty-two relevant instances of use," *id.* at 11, based on duplication of some of the evidence. *Id.* at 12. Applicant also argues that during prosecution the Examining Attorney incorrectly asserted "that Applicant's evidence of third party usage included many instances of use that are not relevant to the services under consideration," *id.*, offering three examples where the Examining Attorney "mischaracterized the relevance of the services in cited evidence." *Id.* at 13. Applicant concludes that if the Examining Attorney "maintains his argument that the evidence includes unrelated and nonrelevant uses of the Green Light name, Applicant respectfully requests that [he] provide a specific analysis of

those third-party uses submitted in the record that he alleges are unrelated and nonrelevant, in accordance with the USPTO's duty to consider all relevant evidence under" *DuPont*. *Id.* at 14.

The Managing Attorney responds that only seven of the cited websites "are arguably relevant to the commercial strength of GREEN LIGHT," 6 TTABVUE 10 (emphasis deleted), because "[a]lthough applicant provided twenty-two websites, the evidence does not constitute twenty-two relevant instances of use because it includes duplicates and shows use with unrelated services." *Id.*

With respect to duplication, the Managing Attorney argues as follows:

> Applicant provided the LinkedIn page for Greenlight Financial LLC . . . [and] also provided Greenlight Financial LLC's website. . . . Applicant protests they are not the same entity, apparently overlooking the shared name and the shared design mark. . . . The same entity's use is also shown by its website and advertising via Liberty Bank's website. These sites both show GREENLIGHT used in connection with debit cards for kids, with the mark depicted in the same green, stylized font. . . .

Id. (record citations omitted).

The Managing Attorney also argues that "[o]ther examples applicant provided are not relevant because they are not used in connection with sufficiently related services." *Id.* She notes that "[b]oth Applicant and Registrant identify 'investment advisory services,'" and acknowledges that "the record includes evidence demonstrating an undisputed relationship between investment management and financial planning." *Id.*

In apparent response to Applicant's request in its brief for a bill of particulars regarding the third-party uses, the Managing Attorney then discusses 13 specific

webpages that she claims "lack a clear relationship to 'investment planning' and/or 'financial planning.'" *Id.* at 11-12. She acknowledges, but rejects, Applicant's contrary arguments, claiming that all of them "are offered without evidence." *Id.* at 12. She concludes that "[b]ecause Applicant has not offered any evidence that providing auto loans, home loans, and/or accounting is related to investment advice, the [13] examples of use . . . cannot support the conclusion that GREEN LIGHT is weak in the context of the relevant services." *Id.*

The Managing Attorney then discusses seven third-party uses that she describes as involving "questionably related services." *Id.* at 12-13. She argues that "these seven examples fall substantially short of the 'ubiquitous' or 'considerable' use of similar marks found probative in the cases," *id.* at 13 (citing *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334 (Fed. Cir. 2015) and *Jack Wolfskin Ausrustung Fur Draussen GmbH v. New Millenium Sports, S.L.U.*, 797 F.3d 1363 (Fed. Cir. 2015)), and concludes that "[o]n this record, the Board should find that Applicant has not provided sufficient evidence to narrow the scope of protection afforded to the registered marks." *Id.*[21]

In assessing the probative value of the third-party uses, we keep in mind that the Federal Circuit has held that the "probative value of third-party trademarks depends entirely upon their usage." *Palm Bay*, 396 F.3d at 1373 (citation omitted). Where "the 'record includes no evidence of the **extent of [third-party uses]** . . . [t]he probative value of this evidence is thus minimal.'" *Id.* (emphasis in bold here in italics in *Palm*

[21] Applicant did not file a reply brief to respond to the Managing Attorney's arguments.

Bay) (quoting *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1338 (Fed. Cir. 2001)). Applicant's third-party use evidence consists of what it describes as "screen shots taken of web sites in which use of the names were made by the respective entities," 4 TTABVUE 10, without sufficient evidence of the duration and exposure of such uses, and, as stated in *Palm Bay*, the probative value of this sort of evidence is ordinarily "minimal."

But in a judicial application of the adage that "quantity has a quality all its own,"[22] the Federal Circuit has held that if there is "voluminous," "extensive," or "considerable" evidence of use of third-party marks, the specifics of the uses need not be shown to make the evidence probative of commercial weakness. *See Juice Generation*, 794 F.3d at 1339 (the applicant's evidence of third-party uses with "no specifics regarding the extent of sales or promotional efforts surrounding the third-party marks and, thus, what impact, if any, these uses have made in the minds of the purchasing public" was "nonetheless powerful on its face" because the "fact that a considerable number of third parties use similar marks was shown in uncontradicted testimony"); *Jack Wolfskin*, 797 F.3d at 1373 (where the applicant "presented voluminous evidence of paw print design elements that have been registered and used in connection with clothing," such "extensive evidence of third-party use and registrations is 'powerful on its face,' even where the specific extent and impact of the usage has not been established." (quoting *Juice Generation*, 794 F.3d at 1339)).

[22] This adage is often attributed to a comment by Joseph Stalin about the Red Army in World War II.

Applicant suggests here that the number of third-party uses in the record is large enough to make its evidence "powerful on its face" under *Juice Generation* and *Jack Wolfskin*. 4 TTABVUE 9-11.

The *Juice Generation* and *Jack Wolfskin* cases make the analysis of the probative value of third-party uses something of a numbers game because if the number is large enough, the specifics of the uses need not be shown to make the evidence probative of commercial weakness, but they do not establish exactly how many third-party uses are enough to constitute "voluminous" or "extensive" evidence in a particular case. In that regard, the Federal Circuit noted in the recent *Apex Bank* case that in *Juice Generation*, the court "refer[red] to 26 third-party marks as 'a considerable number,'" *Apex Bank*, 156 F.4th at 1235 (quoting *Juice Generation*, 794 F.3d at 1337 n.1), and that in *Jack Wolfskin*, the court "highlight[ed] fourteen 'notable examples of third-party registration and use." *Id.* (quoting *Jack Wolfskin*, 797 F.3d at 1373 n.2).

Where, as here, the involved goods or services are identical for purposes of the second *DuPont* factor, "the Board should retain the same scope in its consideration of similarity under the other factors," *Apex Bank*, 156 F.4th at 1236 (citations omitted), including the sixth factor, which considers the number and nature of marks in use in connection with "similar" goods or services. For purposes of the sixth factor, the similarity between the goods or services identified in a registration and the goods or services offered in third-party uses must be proven in every case if it is not self-evident. *Omaha Steaks Int'l Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 1325 (Fed. Cir. 2018) (where the involved goods were identical meat products, the Board

erred in considering third-party uses on other food products that had not been shown to be "similar" to meat products). Accordingly, we must identify which of the 22 third-party uses of Greenlight- and Green Light-formative marks cited by Applicant are for either the "investment advisory" services identified in the '494 Registration,[23] or for services that have been shown to be "similar" to those services.[24]

We begin with the seven websites that the Managing Attorney acknowledges are "arguably relevant to the commercial strength of GREEN LIGHT," 6 TTABVUE 10 (emphasis deleted), based on what she calls "an undisputed relationship between investment management and financial planning." *Id.* The Managing Attorney expressly concedes that two of the websites involve "related services," *id.*, the website of Greenlight Investors, which she quotes as offering "a full range of investment and financial services," *id.*,[25] and the website of Greenlight Group, which she quotes as consisting of "financial advisors focused on quality over quantity." *Id.*[26] We agree that

[23] Under the second *DuPont* factor, we must construe the "investment advisory" services identified in the '494 Registration as broadly as reasonably possible, *OSF Healthcare*, 2023 WL 6140427, at *5, and we will apply that principle here in deciding what uses are "similar" to those services under the sixth factor.

[24] Under the second *DuPont* factor, the Board has acknowledged that "in determining exactly what services are offered through . . . websites, . . . services may not be explicitly described at all, or may be described in colloquial language that does not track the technical language of acceptable identifications of goods and services in applications and registrations . . . ." *OSF Healthcare*, 2023 WL 6140427, at *10 (citations omitted). "In such instances, we must determine the nature of the services that are offered, and decide whether they fall within the full scope of the language in the involved identifications." *Id.* (citation omitted). We will apply these principles under the sixth *DuPont* factor as well in our effort to identify the services offered through the cited third-party websites.

[25] January 22, 2025 Response to Office Action at TSDR 36-37.

[26] *Id.* at TSDR 39-42.

these two websites show uses of Greenlight-formative marks that are probative of the possible commercial weakness of the cited mark.

We turn next to the five websites described by the Managing Attorney as involving "questionably related services." *Id.* at 12. The website of Green Light Growth Partners describes the company as "Strategic Acquirers of Automotive Companies," a "private equity company that makes control equity investments within the automotive industry," and "partners to owner-operators and management teams."[27] With respect to this website, Applicant argues that the company's "'[e]quity investments' relate directly to the services of the respective marks." 4 TTABVUE 13. The investment-related services discussed on the Green Light Growth Partners website could fall within the broadest reasonable construction of the services identified in the '494 Registration, and we find that this website is probative of the possible commercial weakness of the cited mark.

The website of GreenLight Energy Solutions displays the mark Greenlight Equity,[28] and appears to offer investment services in real estate properties and assets that produce energy, including renewable energy.[29] It appears that the company necessarily provides investment advice in the field of energy-related real estate investment, and we find that this website is probative of the possible commercial weakness of the cited mark.

[27] *Id.* at TSDR 16.

[28] *Id.* at TSDR 31-34.

[29] *Id.*

The website of Greenlight Equity Group states that the company supports passive investors who invest in apartment buildings.[30] It is clear that the company provides investment advice to prospective investors, and we find that this website is probative of the possible commercial weakness of the cited mark.

The website of GreenLight Venture Partners states in an "Overview" section that the company "focuses on seed-stage investments in consumer electronics, consumer goods, and e-commerce sectors, primarily in New York,"[31] and is an invitation-only fund formed by a former NBA player directed to "athletes looking to learn about venture capital with the access and expertise of his family office partners at Limited Ventures."[32] As with the Green Light Growth Partners website, the GreenLight Venture Partners website is directed to a niche investment market and selected investors, but the investment advice services discussed on the website could fall within the broadest reasonable construction of the services identified in the '494 Registration, and we find that this website is probative of the possible commercial weakness of the cited mark.

Finally, the Greenlight Financial Advisory website is directed to investments in commercial real estate.[33] There is no doubt that the company provides investment advice to prospective investors, and we find that this website is probative of the possible commercial weakness of the cited mark.

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[30] *Id.* at TSDR 65-68.

[31] *Id.* at TSDR 70.

[32] *Id.* at TSDR 71.

[33] *Id.* at TSDR 73-79.

We turn now to the remaining websites that display a Green Light- or Greenlight-formative mark.[34] We agree with the Managing Attorney that there are two instances of duplicative evidence. The LinkedIn page of Greenlight Financial LLC describes the company's goal as "assist[ing] small-to-medium size businesses with their financial accounting and bookkeeping needs."[35] Applicant separately made of record the Greenlight Financial LLC website, which identifies the company as a "Top-Rated Miami Accounting Firm" that provides "Expert Tax Preparation and Bookkeeping Solutions Tailored to Your Unique Needs."[36] There is nothing on the LinkedIn page or on the company's website indicating that Greenlight Financial LLC provides investment advisory services.

The website at greenlight.com offers a "debit card for kids" that helps "kids and teens learn to spend wisely, keep an eye on balances, and track their spending," as

[34] We agree with the Managing Attorney that two of the websites in the record have no probative value regarding the possible commercial weakness of the cited mark because they do not show current use of a Greenlight- or Green Light-formative mark. The website of Green Retirement, Inc. displays the mark Green Retirement. *Id.* at TSDR 47-49. The website at refi.com discusses the 2013 acquisition of "Greenlight Financial Services" by Nationstar, which later changed its name to "Mr. Cooper" in 2017. *Id.* at TSDR 104-07. This website refers to "Greenlight Financial Services" in the past tense, advises "[f]ormer Greenlight Financial clients with questions on their mortgage" to contact Mr. Cooper, and discusses the "transition to the Mr. Cooper brand." *Id.* at TSDR 105. Applicant argues that the Examining Attorney "failed to demonstrate that notwithstanding the acquisition by Mr. Cooper of the GREENLIGHT debit card business that such debit card business was discontinued," that "[i]t is not inconceivable that one entity may acquire another and that the acquired entity [may] continue as an ongoing business that operates independently of the party that acquired it," and that the Examining Attorney "failed to disprove that the GREENLIGHT use for [a] debit card continued in commerce notwithstanding the acquisition by Mr. Cooper." 4 TTABVUE 12. Under the sixth factor, the burden is on Applicant to prove the current use of relevant third-party marks, and Applicant failed to show that the "Greenlight Financial Services" mark is still in use.

[35] January 22, 2025 Response to Office Action at TSDR 13.

[36] *Id.* at TSDR 55.

well as "start investing,"[37] and allows parents to monitor and control their kids' spending and activities.[38] The website of Liberty Bank offers a free Greenlight money app and the same Greenlight debit card that allows parents to "[t]each your kids to earn, save, and spend wisely with a Greenlight debit card."[39] The investment-related services discussed on the website could fall within the broadest reasonable construction of the investment advisory services identified in the '494 Registration, and we find that this website has some probative value regarding the possible commercial weakness of the cited mark.

Two of the websites offer financing for automobile purchases. The website of GreenLight Auto Finance offers "Car loans that get you moving,"[40] while the website of Green Light Auto Credit "specialize[s] in providing auto loan solutions for those with bad or no credit, as well as for those living on a fixed income, such as social security and disability,"[41] and offers credit counseling to assist purchasers.[42] There is nothing on these websites indicating that the two companies provide investment advisory services.

The website of Greenlight Advisors states that the company "provides consulting services and portal tools that illuminate data in an easy and useful way,"[43] and claims

[37] *Id.* at TSDR 88-89.

[38] *Id.* at TSDR 89-90.

[39] *Id.* at TSDR 109.

[40] *Id.* at TSDR 26.

[41] *Id.* at TSDR 100.

[42] *Id.*

[43] *Id.* at TSDR 22.

that "[w]ith more than 30 years' experience in accounting and integrating business solutions, we can be your trusted source of financial fact."[44] There is nothing on the website indicating that the company provides investment advisory services.

The website of Greenlight Premium Finance Company identifies the company as "the provider of your insurance premium financing needs."[45] The website states that "insureds can view their premium finance loan information and perform account maintenance functions, including making their payments on-line" and that "[a]gents can view account information on their insureds as well as make a payment on behalf of their insureds."[46] There is nothing on the website indicating that the company provides investment advisory services.

The website of Greenlight Credit Repair Services and Notary touts the company as "THE MOST EFFECTIVE CREDIT REPAIR SERVICE AVAILABLE!"[47] There is nothing on the website indicating that the company provides investment advisory services.

The website of Greenlight Mortgage Group states that the company is "dedicated to providing the best value in home lending,"[48] and allows visitors to apply online for

[44] *Id.* at TSDR 23.

[45] *Id.* at TSDR 28.

[46] *Id.*

[47] *Id.* at TSDR 44.

[48] *Id.* at TSDR 81.

a mortgage.[49] There is nothing on the website indicating that the company provides investment advisory services.

The website of Green Light Finance allows visitors to "[s]ubmit a finance application today to obtain purchasing power for your portable building and help increase your credit score."[50] There is nothing on the website indicating that the company provides investment advisory services.

The website of GreenLight Fund involves a "national nonprofit network matching local communities' unmet needs with evidence-based social innovations."[51] There is nothing on the website indicating that the company provides investment advisory services.

Finally, the website of Hub International discusses The Greenlight Retirement Program®, which is "an example of HUB's leadership role within the retirement space" and a "single comprehensive investment oversight program that consolidates the governance function for all Plan Sponsors of Capital Accumulation Plans."[52] The website also states that the "program is a pioneer of the growing OCIO (Outsourced Chief Investment Officer) movement becoming an extension of the Plan Sponsor's Pension Committee."[53] The program offers "[e]xtensive experience with employee retirement programs including plan designing/implementing, auditing and pricing,

[49] *Id.* at TSDR 82.

[50] *Id.* at TSDR 86.

[51] *Id.* at TSDR 94.

[52] *Id.* at TSDR 51.

[53] *Id.*

investment performance analysis, governance/compliance, and plan member guidance."[54] The website appears to be directed to companies that are responsible for employee retirement programs, but it offers investment management services, which are paired with investment advisory services in the '494 Registration, and the investment services discussed on the website could also fall within the broadest reasonable construction of the investment advisory services identified in the '494 Registration. We find that this website has some probative value regarding the possible commercial weakness of the cited mark.

To summarize, with the exception of the Greenlight Retirement Program mark and the Greenlight mark for debit cards, the third-party Green Light- and Greenlight-formative marks displayed on the websites discussed immediately above are used in connection with services other than investment advisory services. Applicant argues that "[s]ervices are related if they are offered to the same class of purchasers and are encountered together such that they would be reasonably expected to emanate from the same source," 4 TTABVUE 13 (citing TRADEMARK MANUAL OF EXAMINING PROCEDURE ("TMEP") Section 1207.01(a)(i)), and that "[c]learly, each third party website identified in Applicant's evidence provides services that are related, and are relevant to, the services under Applicant's mark and the marks of the cited registrations," *id.*, but "[a]ttorney argument is no substitute for evidence." *Ye Mystic Krewe of Gasparilla*, 2025 WL 2953731, at *6 n.15 (quoting *Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1371 (Fed. Cir. 2018) (internal

[54] *Id.*

quotation omitted). Applicant did not show by competent evidence that tax preparation, accounting, and bookkeeping services; automobile, insurance premium, and portable building financing services; business consulting services; credit repair services; home mortgage generation services; and national nonprofit networking services are similar to investment advisory services for purposes of the sixth *DuPont* factor. The record shows that there are at most nine relevant third-party Green Light- or Greenlight-formative marks in use for investment advisory services.

As noted above, the Federal Circuit has not specified how many third-party uses must be shown to constitute "voluminous," "extensive," or "considerable" evidence of commercial weakness that is "powerful on its face." *Juice Generation*, 794 F.3d at 1339. Obviously there can be no bright-line number because the number of third-party uses necessary to show that the relevant "customers have become so conditioned by a plethora of such similar marks that customers have been educated to distinguish between different such marks on the bases of minute distinctions," *Palm Bay*, 396 F.3d at 1374, will depend on the facts of each case, including the number of sellers in the United States market for the involved goods and services, and other factors. But nine relevant third-party uses in what appears to be a substantial market for investment advisory services in the United States are considerably lower in number than the number of third-party uses found to be "powerful on [their] face" in *Juice Generation*, which involved at least 26 third-party uses for restaurant services, and *Jack Wolfskin*, which involved at least 14 third-party uses for clothing. *See also Sage Therapeutics, Inc. v. Sageforth Psych. Servs.,*

LLC, No. 91270181, 2024 WL 1638376, at *12-14 (TTAB 2024) (16 relevant uses of third-party SAGE-formative marks for mental health services involving screenshots of websites found "not sufficiently probative to contract the scope of protection based on commercial weakness"); *In re FabFitFun, Inc.*, No. 86847381, 2018 WL 4043156, at *4 (TTAB 2018) ("ten third-party uses of SMOKIN' HOT formatives as marks for cosmetics in general, and, in particular, eye makeup of various colors and shades" "reflect[ed] a more modest amount of evidence than that found convincing in *Jack Wolfskin* and *Juice Generation*," and was not "as persuasive as that in either *Juice Generation* or *Jack Wolfskin*."). We find that evidence of nine third-party uses for investment advisory services is not "powerful on its face" to show that the cited mark is commercially weak, and the sixth *DuPont* factor is thus neutral in our analysis of the likelihood of confusion.[55] We will accord the cited mark in the '494 Registration the "normal scope of protection to which inherently distinctive marks are entitled." *Iron Balls Int'l Ltd. v. Bull Creek Brewing, LLC*, No. 92079099, 2024 WL 2844425, at *15 (TTAB 2024) (citation omitted).

C. Similarity or Dissimilarity of the Marks

Under the first *DuPont* factor, "we consider the 'similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.'" *Ye Mystic Krewe of Gasparilla*, 2025 WL 2953731, at *4

[55] Although Applicant did not argue the conceptual weakness of the cited mark, the uses discussed above, as well as Applicant's own use of its mark discussed below, indicate that "Greenlight" and "Green Light" are mildly suggestive of success in investing through use of the involved services. The mildly suggestive nature of the word GREENLIGHT in the cited mark does not affect our conclusion regarding the sixth *DuPont* factor.

(quoting *DuPont*, 476 F.2d at 1361). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *Sage Therapeutics*, 2024 WL 1638376, at *5 (quoting *In re Inn at St. John's, LLC*, No. 87075988, 2018 WL 2734893, at *5 (TTAB 2018), *aff'd mem.*, 777 F. App'x 516 (Fed. Cir. 2019)); *accord Krim-Ko Corp. v. Coca-Cola Bottling Co.*, 390 F.2d 728, 732 (CCPA 1968) ("It is sufficient if the similarity in either form, spelling or sound alone is likely to cause confusion.") (citation omitted).

"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." *Sage Therapeutics*, 2024 WL 1638376, at *5 (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368 (Fed. Cir 2012)). The "marks 'must be considered . . . in light of the fallibility of memory' and 'not on the basis of side-by-side comparison.'" *St. Helena Hosp.*, 774 F.3d at 751 (quoting *San Fernando Elec. Mfg. Co. v. JFD Elecs. Components Corp.*, 565 F.2d 683, 685 (CCPA 1977)). "The focus is on the recollection of the average purchaser, who normally 'retains a general rather than a specific impression of marks.'" *Sage Therapeutics*, 2024 WL 1638376, at *5 (quoting *In re i.am.symbolic, llc*, No. 85916778, 2018 WL 3993582, at *4 (TTAB 2018) (citations omitted)).

Where, as here, "the services are identical, the degree of similarity between the marks necessary to support a determination that confusion is likely declines."

Jimenez, 2025 WL 3126703, at *4 (citing *Bridgestone Ams. Tire Operations, LLC v. Fed. Corp.*, 673 F.3d 1330, 1337 (Fed. Cir. 2012)).

We again reproduce below the mark shown in the application and the mark shown in the '494 Registration for ease of reference in following our analysis:

In its argument for dissimilarity, Applicant describes the significance of the multiple words and accompanying designs in its mark, 4 TTABVUE 4-5, and argues that "[t]his unique arrangement presents a substantially different appearance, sound, connotation and visual impression than the marks of the cited registrations for GREENLIGHT and GREENLIGHT CAPITAL, INC. which comprise essentially only the single word GREENLIGHT," and that Applicant's mark, "with its combination of wording and design elements, presents a wholly different commercial impression than just the word(s) 'Green Light'." *Id.* at 5. According to Applicant, "[t]he circular array of the wording describes the facets of the retirement planning services and how they collectively interrelate strategically in providing services to customers"

and "[t]he wording and design elements of Applicant's mark create a unique visual impression beyond just the wording itself." *Id.* Applicant contrasts this meaning with that of the cited marks, which Applicant claims "do not seem to communicate anything in particular by the single word 'GREENLIGHT'." *Id.*

Applicant cites the Federal Circuit's decision in *In re Hearst Corp.*, 982 F.2d 493 (Fed. Cir. 1992), in arguing that the marks must be considered in their entireties and that during prosecution, the Examining Attorney "failed to meaningfully address the additional words GREEN LIGHT RETIREMENT PLAN and the extra words in Applicant's mark and to consider how that affected the likelihood of confusion analysis with respect to the single word GREENLIGHT in the cited marks." 4 TTABVUE 7. Applicant then rounds up the usual suspects that are cited for the proposition that designs may be the most prominent features of composite word-and-design marks: *In re Covalinksi*, No. 85685983, 2014 WL 7496055 (TTAB 2014);[56] *In re White Rock Distilleries, Inc.*, No. 77093221, 2009 WL 3401827 (TTAB 2009); *Parfums de Coeur Ltd. v. Lazarus*, No. 91161331, 2007 WL 683784 (TTAB 2007); and *Steve's Ice Cream, Inc. v. Steve's Famous Hot Dogs*, No. 91070603, 1987 WL 124289 (TTAB 1989). 4 TTABVUE 7-8.[57] According to Applicant, these cases "establish that distinctive design features and contextual wording can yield a wholly different commercial impression from a plain word mark," and "Applicant's addition to GREEN

[56] Applicant miscited *Covalinski* as involving Serial No. 85449967 and as being issued in June 2013. 4 TTABVUE 7.

[57] In support of its argument, Applicant also cites *Jack Wolfskin* and *In re Comput. Commc'ns, Inc.*, 484 F.2d 1392 (CCPA 1973). 4 TTABVUE 8.

LIGHT of the words 'RETIREMENT PLAN TAXES LIFESTYLE INCOME GROWTH HEIRS & HEALTHCARE PLAN' and the inclusion of highly distinctive design features presents a unique commercial impression of the mark as a whole, just as it did in these cases." *Id.* at 8-9.

Applicant concludes that

> [t]he design portion of Applicant's mark is a central and dominant feature of the mark and can reasonably be said that it is the first thing about the mark that a viewer would notice. It renders the mark as a whole quite different than the cited marks to avoid confusion. The prominence, stylization, and symbolic nature of the Applicant's design must be considered in the likelihood of confusion analysis.
>
> An appropriate analysis of Applicant's mark should therefore consider the connotation of "GREEN LIGHT RETIREMENT PLAN" in the context of the overall mark with all of its words and design elements and how it helps distinguish the mark from the cited marks. Accordingly, Applicant's mark is dissimilar from the cited marks.

Id. at 9.

The Managing Attorney responds that "[t]he wording GREEN LIGHT dominates in forming the commercial impression of the applied-for mark because the wording is used in referring to or requesting the services and GREEN LIGHT is (1) the largest and conceptually first part of the wording, (2) centrally placed, and (3) the only non-disclaimed wording in the mark." 6 TTABVUE 7. She argues that

> [t]he design elements in the applied-for mark and in Registration Nos. 2231494 and 4383978 do not change the result because they do no nothing to change the meaning of the shared, dominant wording. On the contrary, the design elements in the applied-for mark reinforce the commercial impression of GREEN LIGHT, further demonstrating the dominance of this term. This is because the design is wholly congruent with GREEN LIGHT in that

> it is green in color and features a traffic light highlighting the green signal through its depiction in a brighter shade of green. The record shows that "greenlight" means "authority or permission to proceed," and that "[t]he term is a reference to the green traffic signal."

Id. at 8 (citations omitted).

The Managing Attorney further argues that

> [t]he addition of many descriptive words to the applied-for mark has little impact on the overall commercial impression. Applicant argues that the wording "suggests its services of retirement planning," and "[t]he circular array of the wording describes the facets of retirement planning services," but this illustrates the problem: the wording will be interpreted as describing something about the services offered rather than as identifying the commercial source of the services. For this reason, the descriptive wording has a minimal effect on the commercial impression in comparison to the wording GREEN LIGHT, which is arbitrary for the services. Moreover, nothing about the descriptive terms in the marks changes or alters the meaning of the shared combination of GREEN and LIGHT; in each case, the wording creates the same impression of a traffic light and its associations with motion.

Id. (citations omitted).

The Managing Attorney also distinguishes the Federal Circuit and Board cases cited by Applicant, *id.* at 8-9, and concludes that "the marks are confusingly similar because the wording GREEN LIGHT is the largest, most central, and only inherently distinctive wording in the applied-for mark, and the design elements reinforce the impression formed by this wording," and the "commercial impression of the registered marks is dominated by GREENLIGHT, because only Registration No. 2231494 includes additional wording, but that wording does not change the meaning or impression of GREENLIGHT because it is disclaimed as descriptive." *Id.* at 9.

Marks must be considered in their entireties, but "in articulating reasons for reaching a conclusion on the issue of confusion, 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 consideration of the marks in their entireties." *Detroit Athletic Co.*, 903 F.3d at 1305 (quoting *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058 (Fed. Cir. 1985)). As discussed above, Applicant and the Examining Attorney disagree about the dominant portion of Applicant's mark,[58] with Applicant claiming that "[t]he design portion of Applicant's mark is a central and dominant feature of the mark and can reasonably be said that it is the first thing about the mark that a viewer would notice," 4 TTABVUE 9, and the Managing Attorney claiming that "[t]he wording GREEN LIGHT dominates in forming the commercial impression of the applied-for mark . . . ." 6 TTABVUE 7. We agree with the Managing Attorney.

"In the case of marks, such as Applicant's, consisting of words and a design, the words are normally accorded greater weight because they are likely to make a greater impression upon purchasers, to be remembered by them, and to be used by them to request the goods." *In re Aquitaine Wine USA, LLC*, No. 86928469, 2018 WL 1620989, at *2 (TTAB 2018) (citing *Viterra*, 671 F.3d at 1362). "The verbal portion of a word

[58] There is no such disagreement about the dominant portion of the mark shown in the '494 Registration, however, because Applicant characterizes the two cited composite marks as "compris[ing] essentially only the single word GREENLIGHT." 4 TTABVUE 5. Applicant's characterization is accurate. In the mark shown in the '494 Registration, the registrant disclaimed the exclusive right to use the words CAPITAL, INC. apart from the mark as shown, and the modest design element is subordinate in source-identifying significance to the bolded and capitalized word GREENLIGHT.

and design mark 'likely will appear alone when used in text and will be spoken when requested by consumers.'" *Id.* (quoting *Viterra*, 671 F.3d at 1366 (citing *CBS Inc. v. Morrow*, 708 F.2d 1579, 1582 (Fed. Cir. 1983)).

In Applicant's mark, the words GREEN LIGHT are centrally located against the backdrop of what Applicant calls in its mark description "a green traffic signal" and a "traffic light," which reinforces the words' prominence and meaning. The words GREEN LIGHT "comprise[ ] the largest literal portion of the mark in terms of size, position, and emphasis." *Id.* The other wording in the mark "is in significantly smaller lettering, and has been disclaimed," and "[t]herefore, it is entitled to less weight in the likelihood of confusion determination." *Id.*

Applicant's specimen of use confirms that the words GREEN LIGHT are the portions of the mark that "are likely to make a greater impression upon purchasers, to be remembered by them, and to be used by them to request the [services]." *Id.* We display below a page from Applicant's specimen that shows that the words GREEN LIGHT "'likely will appear alone when used in text,'" *id.*, and that encourages consumers to think of and remember the words GREEN LIGHT when they form a "general rather than a specific impression of [the] mark[ ].'" *Sage Therapeutics*, 2024 WL 1638376, at *5:

[59]

As noted above, Applicant concedes that GREENLIGHT is the dominant portion of the composite mark shown in the '494 Registration, and we find that the words GREEN LIGHT are the dominant portion of Applicant's composite mark.[60] We turn now to the required comparison of the marks in their entireties, giving greater weight in that comparison to the words GREEN LIGHT in Applicant's mark and the word GREENLIGHT in the cited mark than to the other elements of the marks.

[59] April 15, 2024 Application at TSDR 9.

[60] We agree with the Managing Attorney that "[t]he cases Applicant cites do not support a different conclusion given the circumstances present here." 6 TTABVUE 8. The cited Board cases all involved composite marks where the design elements were larger or more significant as source-identifiers than the word elements. *See Covalinski*, 2014 WL 7496055, at *3-4 (finding that "the overall commercial impression of Applicant's mark is dominated by its design features, particularly the large double-letter RR configuration," and discussing the *White Rock Distilleries*, *Parfums de Coeur*, and *Steve's Ice Cream* cases). In *Jack Wolfskin*, the Federal Circuit held that in the opposer's composite mark consisting of the word KELME and a design of a paw print, the word was "the dominant portion of the mark," *Jack Wolfskin*, 797 F.3d at 1374, and was not likely to be confused with the applicant's mark, which was a paw print alone. *Id.* In *Comput. Commc'ns*, the CCPA did not directly address the issue of the dominant portion of the applicant's composite mark consisting of a double "C" design and the words "Computer Communications" in small lettering within the double "C" design, but affirmed the Board's finding that the mark was likely to be confused with a cited mark consisting of a round "C" within a block "G" because "[w]e do not think that the presence of appellant's 'Computer Communications' sufficiently differentiates between the marks, considering appellant's prominent letter-design portion." *Comput. Commc'ns*, 484 F.2d at 1394.

With respect to visual similarity or dissimilarity, "we recognize that the additional wording and design elements in [Applicant's] mark create differences in appearance from" the composite mark shown in the '494 Registration. *Jansen Enters., Inc. v. Rind*, No. 92042871, 2007 WL 809857, at *5 (TTAB 2007). But the "marks must be considered . . . in light of the fallibility of memory and not on the basis of side-by-side comparison." *St. Helena Hosp.*, 774 F.3d at 751 (internal quotation and quotation marks omitted). We must compare the marks in appearance from the standpoint of a consumer with a general rather than specific recollection of the appearance of the composite mark shown in the '494 Registration and used for investment advisory services who separately encounters Applicant's composite mark used for the same services. The dominant element of the cited mark in the mind's eye of such a consumer is the word GREENLIGHT, which appears in Applicant's mark as two words and against the backdrop of a green traffic light. It is unlikely that the consumer will recall that the cited mark contains GREENLIGHT as one word, not two as in Applicant's mark, and the other visual elements in Applicant's mark "merely give additional information about the nature of" Applicant's identical services. *Jansen Enters.*, 2007 WL 809857, at *5. We find that the marks are more similar than dissimilar in appearance because of the common presence of the dominant words GREENLIGHT and GREEN LIGHT.

With respect to sound, the cited mark, which Applicant concedes is "essentially only the single word GREENLIGHT," 4 TTABVUE 5, would be verbalized as "Greenlight." Applicant's mark is a proverbial "mouthful," as it contains eight words

in addition to GREEN LIGHT, and the Board has recognized the "'penchant of consumers to shorten marks.'" *Iron Balls*, 2024 WL 2844425, at *25 (quoting *In re Bay State Brewing Co.*, No. 85826258, 2016 WL 1045677, at *3 (TTAB 2016) (citing *In Abcor Dev. Corp.*, 588 F.2d 811, 815 (CCPA 1978) (Rich, J., concurring) ("the users of language have a universal habit of shortening full names from haste or laziness or just economy of words.")). As shown above, Applicant's specimen uses "Green Light" alone to identify Applicant, and it is very likely, indeed probably inevitable, that when Applicant's mark is verbalized, it would be as "Green Light" alone. In that situation, the marks would be identical in sound. But even if Applicant's mark were verbalized as "Green Light Retirement Plan," the marks are very similar in sound due to the common presence of the words "Greenlight" and "Green Light."

With respect to meaning, Applicant's specimen indicates that Applicant's mark conveys the idea that Applicant's services "help give you the 'Green Light' that you are good to go." That is a colloquial use of the phrase "green light," which means "authority or permission to proceed."[61] As discussed above, Applicant argues that the cited marks "do not seem to communicate anything in particular by the single word 'GREENLIGHT'," 4 TTABVUE 5, but "there is no evidence here, or other reason to find" that the words GREEN LIGHT have "one meaning when used" in Applicant's mark for investment advisory services that "you are good to go," and that the word GREENLIGHT has "a second and different meaning" when used in the cited mark for the identical services. *Embiid*, 2021 WL 2285576, at *9. We find that the marks

[61] February 20, 2025 Final Office Action at TSDR 85 (MERRIAM-WEBSTER DICTIONARY).

are very similar in meaning because both marks convey the commercial impression that consumers of the investment advisory services are "good to go" with respect to their finances.[62]

"We find that any difference between the marks in appearance is outweighed by the similarities in sound, meaning and overall commercial impression. In sum, when the marks are considered in their entireties, the[y] are confusingly similar" when used with identical services. *Jansen Enters.*, 2007 WL 809857, at *6. The first *DuPont* factor strongly supports a conclusion that confusion is likely. *Naterra, Inc. v. Bensalem*, 92 F.4th 1113, 1119 (Fed. Cir. 2024).

D. Conclusion

The key first two *DuPont* factors strongly support a conclusion that confusion is likely because the marks are similar and the services are identical, the channels of trade and classes of consumers are also identical, and the sixth *DuPont* factor is neutral. We conclude that a consumer with a general rather than specific recollection of the cited mark who separately encounters Applicant's mark used for identical services is likely to believe mistakenly that the services have a common source.

Decision: The refusal to register is affirmed.

[62] The word CAPITAL in the cited mark and words in Applicant's mark such as "Income" and "Growth" reinforce the similar meanings of the marks because they suggest that investors are "good to go" in terms of their financial futures.