

The Examiner states that the marks are similar. However, they have different designs (one with words only and one with design) and much different products (one is brushes, powder, and sponges and one is for nail related products) that do not overlap and thus the marks are not legally similar. The registered mark is not famous, the products are different and no overlap, there is no evidence of actual confusion, the uses of the products are different and have no overlap.

Specifically, there is no evidence that the registered mark is famous, or that there is actual confusion.

Second, ASH COSMETICS and  (ASH WITH Design) are very much different. The impression is much different.

Third, the products are different. For ASH COSMETICS, the products are Make-up brushes; Powder puffs; Facial sponges for applying make-up. For ASH WITH DESIGN, the revised products are only nail related (see below). Nothing to do with brushes, powder puffs, and sponges.

~~Eyebrow cosmetics; Eyebrow gel; Eyebrow pencils; Eyebrow powder; Lotions for cosmetic purposes; Nail art pens; Nail art stickers; Nail buffing preparations; Nail care kits comprising nail polish; Nail care preparations; Nail care preparations, namely, nail softeners; Nail cosmetics; Nail gel; Nail paint; Nail primer; Nail repair preparations; Paraffin wax for cosmetic purposes; Acrylic nail powder preparations for shaping or sculpting nails; Adhesives for affixing false eyebrows; Artificial eyelashes; Beauty lotions; Beauty masks; Cosmetic masks; Cosmetic nail preparations; Cosmetic preparations for nail drying; Cosmetic preparations for removing gel nails, acrylic nails, and nail polish; Cosmetic preparations, namely, firming lotions; Eye lotions; Facial masks; Facial scrubs; Facial beauty masks; False eyebrows; False eyelashes; False nails; Foot masks for skin care; Foot scrubs; Gel eye masks; Hand scrubs; Make-up removing lotions; Make-up removing milk, gel, lotions and creams; Nail polish; Nail polish base coat; Nail polish pens; Nail polish protector in the nature of a thin plastic covering applied to nails; Nail polish remover; Nail polish remover pens; Nail polish top coat; Nail polishing powder; Scrubbing powder; Skin masks~~

The Examiner raises conflicts with the potential overlapping on cosmetics. The Applicant will withdraw these potential conflict products to moot any possible conflict.

In light of the above, there is no actual and no likelihood of confusion as to the goods. The average consumer will not believe that the marks are connected, affiliated or related because their product category is different. Therefore, the applicant respectfully requests that the Examiner withdraw the objections and permit the registration of applicant's mark.