

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Google LLC  
Serial No.: 88861336  
Filed: April 6, 2020  
Mark: GOOGLE MEET  
Class: 9, 38, 42

**RESPONSE TO OFFICE ACTION**

Applicant Google LLC (“Applicant”) submits the following remarks in response to the Office Action dated May 27, 2020 regarding Application Serial No. 88861336 for the mark GOOGLE MEET (“Applicant’s Mark”) covering goods and services in Classes 9, 38, and 42. (the “Application”).

**AMENDMENTS**

The Examining Attorney has requested that the Applicant clarify the clause “computer software development tools” in the identification of goods. In response, please amend the identification of goods in the Application as follows:

Class 9: Downloadable software for publishing and sharing digital media and information via global computer and communication network; downloadable instant messaging software; downloadable communications software for electronically exchanging voice, data, video and graphics accessible via computer, mobile, wireless, and telecommunication networks; downloadable computer software for processing images, graphics, audio, video, and text; **downloadable** computer software development tools; downloadable computer software for use in developing computer programs; downloadable video and audio conferencing software; computer hardware, computers, video monitors, audio speakers, microphones, speaker microphones, video cameras

Applicant submits that the revised identification of goods is sufficiently clear and satisfies the Examining Attorney’s request.

## REMARKS

The Examining Attorney has issued an initial refusal to register the Application under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground of a potential likelihood of confusion with the prior-filed registration shown below (the “Cited Registration”):

<b>Mark</b>	<b>Reg. No.</b>	<b>Owner</b>	<b>Services</b>
MEET	8617179 2	Interactive Personal, LLC	Class 9: Computer software to determine compatibility of individuals by analyzing information from external social networks; downloadable software in the nature of a mobile application for dating; Computer software to determine physical proximity of individuals using external social networks and GPS data from mobile telephones; Computer software to determine the compatibility and physical proximity of individuals using external social network and GPS data; Computer software to communicate and leave messages with individuals within a social network

Applicant submits that there is no likelihood of confusion between the Cited Registration and Applicant’s GOOGLE MEET mark, for the reasons discussed below.

**I. There is No Likelihood of Confusion Between Applicant’s Mark and the Cited Registration.**

A likelihood of confusion evaluation under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors set forth in *In re E.I. du Pont DeNemours & Co.*, 177 U.S.P.Q. 563, 567 (C.C.P.A. 1973). But “not all of the *Du Pont* factors are relevant or of similar weight in every case,” and any one of the factors may control. *Opryland USA Inc. v. Great Am. Music Show*, 23 U.S.P.Q.2d 1471, 1473 (Fed. Cir. 1992); *Du Pont*, 177 at 567. Indeed, if the goods in question “are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely.” T.M.E.P. § 1207.01(a)(i).

The Application is sufficiently distinguishable from the Cited Registration based on (1) the dissimilarity of the goods and services as described in the respective application and registration, and (2) the dissimilarity between the parties' respective marks.

**A. The Parties' Respective Goods and Services Are Dissimilar**

Confusion is unlikely where the parties' respective services, as listed in the application or registration, are sufficiently dissimilar. See T.M.E.P. § 1207.01(a)(iii). It is well settled that that computer software is not automatically related for the purposes of likelihood of confusion. See *Electronic Data Sys. v. EDSA Micro Corp.*, 23 USPQ2d 1460, 1463 (TTAB 1992).

In this case, the Applicant's goods and services are sufficiently dissimilar from the goods recited in the Cited Registration and are not likely to cause confusion. Although the Application and the Cited Registration both cover computer software, the function of the software is distinct. In particular, the Application covers a distinct type of computer software--virtual conferencing software. Applicant's software functions as a communications platform that virtually connects users, and the description of goods and services in the Application is narrowly tailored to the specific functions of video and audio conferencing and providing a communications platform that connects users virtually.

The Cited Registration, on the other hand, is narrowly tailored to *only* encompass software used in connection with an online dating service. The software in the Cited Registration functions to match users together for the purpose of dating. Importantly, however, the goods listed in the Cited Registration do *not* include any functionality for video or audio conferencing or any other communications platform that connects users virtually. The Cited Registration thus encompasses goods that perform a narrow function that is readily distinguishable from Applicant's goods.

Moreover, as the Cited Registration only encompasses narrowly tailored goods in Class 9, it cannot overlap with any of the Applicant's services in Classes 38 or 42, particularly since Applicant's services are also limited to Applicant's distinguishable virtual conferencing and communication services. Even if Class 38 and 42 services are usually included in applications

filed with Class 9, as the Examining Attorney contends, it does not follow that Applicant's Class 38 and 42 services are necessarily related to Registrant's Class 9 goods. Specifically, Applicant's Class 38 services cover the communications services that facilitate Applicant's virtual conferencing product, whereas Registrant's Class 9 goods merely cover the software product that matches users together for the purposes of dating. In fact, since Registrant's software product does not offer any functionality to virtually connect its users, it cannot offer communications services to its users, nor would users of Registrant's products expect to be able to virtually connect with other users by using the Registrant's dating software. In other words, users would go to Registrant's MEET software to identify a potential date, but could not hold the date on the MEET platform.

Accordingly, the parties' respective goods and services are sufficiently dissimilar to avoid a likelihood of confusion.

**B. Applicant's GOOGLE MEET Mark and the Cited Registration are Dissimilar in Overall Commercial Impression**

It is well settled that for the purposes of a likelihood of confusion analysis, the marks must be considered in their entirety. Importantly, the Supreme Court has noted that "[t]he commercial impression of a trademark is derived from it as a whole, not from its elements separated and considered in detail. For this reason it should be considered in its entirety." *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 545-46 (1920).

For example, in *In re Hearst Corporation*, the Federal Circuit found that that VARGAS was not confusingly similar to the mark VARGA GIRL, both for calendars, and criticized the Board for emphasizing the VARGA portion of the mark while discounting the GIRL element. 25 U.S.P.Q.2d 1238 (Fed. Cir. 1992). The Board has similarly found that marks can share a common term and still not cause a likelihood of confusion when there is an additional word in the mark that creates an entirely different commercial impression. *See In re Merchandising Motivation, Inc.*, 184 U.S.P.Q. 364 (T.T.A.B. 1974) (MMI MENSWEAR not confusingly similar to MEN'S WEAR); *Standard Brands, Inc. v. Peters*, 191 U.S.P.Q. 168 (T.T.A.B. 1975) (CORN-ROYAL for butter not likely to cause confusion with ROYAL marks on food products).

In this case, Applicant's GOOGLE MEET Mark and the cited MEET mark are sufficiently dissimilar in overall commercial impression and are unlikely to cause consumer confusion. Applicant's Mark contains two words instead of one, and the initial and dominant portion of the mark--GOOGLE--is an entirely different word than the cited MEET mark. Using the arbitrary term GOOGLE as the first word in the mark creates a significant and lasting impression to consumers encountering the mark and places significantly more emphasis on the term GOOGLE than on the term MEET. As a result, consumers are not likely to be drawn to the term MEET or confuse it with the prior registration for MEET. In addition, the Registrant's use of MEET in connection with a dating product suggests that the product will introduce its users to each other for the purpose of dating. On the other hand, users encountering GOOGLE MEET in connection with video conferencing products and services are likely to understand that the product is offered by Google and is not relate to dating. Based on these differences, consumers will be able to distinguish between the marks and are unlikely to be confused.

Therefore, when the marks are compared in their *entireties*, and in the context of the identified goods and services, as discussed below, the differences between the marks in overall appearance, sound, and commercial impression are more than sufficient to avoid a likelihood of confusion.

### **CONCLUSION**

Applicant believes that it has responded to all of the issues raised in the Office Action and therefore respectfully requests that the Examining Attorney remove the refusals and approve the Application for publication. If the Examining Attorney has any questions, please contact the undersigned.