

The Examiner has preliminarily refused registration of the Applicant's mark MOOG on the grounds the mark is primarily merely a surname. The Applicant respectfully disagrees and requests the refusal be withdrawn on the following grounds.

The primary significance of the Applicant's mark to the purchasing public is not primarily a surname. In reviewing whether a mark is considered to be primarily merely a surname, the analysis should focus on five factors. TMEP §1211.01. Given the circumstances at hand, the analysis of two factors of this analysis indicates the mark MOOG is not primarily merely a surname and is protectable as a trademark.

The first factor evaluates how rare it is for there to be use of the term as a surname. *In re Garan, Inc.*, 3 USPQ2d 1537 (TTAB 1987) ("The degree of a surname's rareness should have material impact on the weight given the directory evidence."). In the present case, the term MOOG is rarely used as a surname. Indeed, the 100 listings in a nationwide telephone directory indicates use of MOOG as a surname appears to be relatively rare. See, *In re Sava Research Corp.*, 32 USPQ2d 1380 (TTAB 1994) (The term SAVA is registrable because the 100 listings in the telephone directory database pale in comparison to the over 90,000,000 total listings.) The rarity of the surname MOOG makes it unlikely that purchasers are likely to regard the term as a surname, but rather that such purchasers will identify the term as a trademark to indicate the source of goods.

Second, given the existence of third party use and registration of the term "MOOG", any surname meaning for "MOOG" is not predominant in the public mind. U.S. Patent and Trademark records indicate the term MOOG has been registered by several parties, including the Applicant without the requiring of a 2(f) acquired distinctiveness. See, U.S. Registration Nos.

893,181, 988,779, 1,055,970, 2,473,815 and 2,707,918. This extensive use of "MOOG" as a brand demonstrates consumers perceive the term beyond that as a surname.

Given the rarity of MOOG as a surname and the extensive trademark use of the term MOOG, the Applicant respectfully requests the application be approved for publication.