

Applicant appreciates the Examining Attorney's review of the present application. However, Applicant respectfully disagrees that the mark – GREATVACS – is merely descriptive of the recited services.

**A. The mark is “suggestive” and not “merely descriptive.”**

At most, GREATVACS is “suggestive” and, therefore, registrable on the Principal Registry. A mark should not be held descriptive where the term “requires imagination, thought and perception to reach a conclusion as to the nature of the goods” as opposed to “an immediate idea of the ingredients, qualities or characteristics of the goods.” *Stix Products, Inc. v. United Merchants & Mfrs., Inc.*, 295 F. Supp. 479 (S.D.N.Y. 1968). Thus, where “a consumer must use more than a small amount of imagination to make the association [from term to product feature], the mark is suggestive and not descriptive.” See *Rodeo Collection, Ltd. v. West Seventh*, 812 F.2d 1215 (9th Cir. 1987); *In re TBG, Inc.*, 229 U.S.P.Q. 759 (TTAB 1986) (SHOWROOM ONLINE held not merely descriptive of computerized interior furnishings product information service); and *In re Shutts*, 217 U.S.P.Q. 363 (TTAB 1983) (SNO-RAKE not merely descriptive of a snow removal hand tool).

Applicant submits that the average consumer, upon encountering GREATVACS, would not have an immediate idea as to the “ingredients, qualities or characteristics of the [services].” That is, the average consumer would not necessarily (or even likely) equate GREATVACS with the on-line retail store services recited in the application. In fact, a consumer would need to use more than a “small amount of imagination” to make the association between GREATVACS and the on-line retail store services recited in the application. Indeed, the mark GREATVACS surely evokes a myriad of different and conflicting images in the minds of the consuming public. The mark could be said to be descriptive (under the Examiner Attorney's reasoning) for various goods and services, including (i) “great” “vaccines” or (ii) “great” “vacations” (and a myriad of different goods / services associated with “great vacations,” such as vacation travel agents, vacation destinations, vacation photos, vacation travel providers, etc.)

The very fact that GREATVACS could, under the Examining Attorney's reasoning, “merely describe” such a diverse collection of goods and services, indicates that the consumer would not immediately associate the GREATVACS mark with Applicant's the on-line retail store services recited in the application. At most, GREATVACS is “suggestive” and, therefore, registrable on the Principal Registry.

**B. Claim of Acquired Distinctiveness.**

Notwithstanding the foregoing, Applicant hereby wishes to amend the application to seek registration on the Principal Register based on a claim of acquired distinctiveness under Section 2(f) by submitting the following verified statement: **“The mark has become distinctive of the goods and/or services through applicant's substantially exclusive and continuous use in commerce for at least five years immediately before the date of this statement.”** 15 U.S.C. §1052(f); 37 C.F.R. §2.41; TMEP §§1212 *et seq.*

**C. Conclusion.**

In light of the foregoing remarks and amendment, Applicant respectfully requests that the Examining Attorney withdraw the refusal to register this application under Section 2(e)(1) and approve this application for publication.