

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

December 19, 2016

Elizabeth Kajubi
Trademark Examining Attorney
Law Office 107
United States Patent and Trademark Office

RE: Serial No: 87115495
Mark: **MEEZAN**
Applicant: Crystal Foods, Inc.
Office Action Of: November 9, 2016

APPLICANT'S RESPONSE TO OFFICE ACTION

The following is the response of Applicant, Crystal Foods, Inc., by Counsel, to the Office Action sent via email on November 9, 2016, by Examining Attorney Elizabeth Kajubi.

SIGNIFICANCE INQUIRY

The Examining Attorney has requested that Applicant explain whether the term MEEZAN has any significance, either in Applicant's industry or as a term of art, or as a geographic place. Applicant responds:

MEEZAN is a transliteration of the Arabic word meaning "balance." It has no significance in the food goods industry, does not specifically identify a geographic place. Furthermore, the term MEEZAN is not an Arabic surname (but, in fact, is a common *given* name) and is not the surname of anyone connected to Applicant.

TRANSLATION STATEMENT

The English translation of the word "MEEZAN" in the mark is "BALANCE."

IDENTIFICATION OF GOODS

Applicant hereby amends the Identification of Goods as follows:

“Spices, snacks, namely, gajak peanut and gajak sesame (peanut and sesame brittles), toffee snacks, nuts and seeds; tea; rice; food products in the nature of nut and seed based snack foods, baking powder, baking soda, spices, gelatins, herbal powders in the nature of chili powder, karela powder, jaman powder, neem powder, and amla powder, and cooking oils in the nature of sesame oil, clove oil, and taramira oil,” in International Class 30.

SURNAME REFUSAL

The Examining Attorney has refused registration of Applicant’s mark pursuant to Trademark Act Section 2(e)(4), 15 U.S.C. § 1052(e)(4), on the grounds that the primary significance of Applicant’s mark is that of a surname. Applicant respectfully disagrees.

The Trademark Trial and Appeal Board has identified five factors to be considered in making this determination: (1) whether the surname is rare; (2) whether the term is the surname of anyone connected with the applicant; (3) whether the term has any recognized meaning other than as a surname; (4) whether it has the "look and feel" of a surname; and (5) whether the stylization of lettering is distinctive enough to create a separate commercial impression. *In re Benthin Mgmt. GmbH*, 37 USPQ2d 1332, 1333-1334 (TTAB 1995). Where the mark is in standard characters, it is unnecessary to consider the fifth factor. *In re Yeley*, 85 USPQ2d 1150, 1151 (TTAB 2007). The rarity of a surname is an important factor to be considered in determining whether a term is primarily merely a surname. *In re Joint-Stock Co. "Baik,"* 84 USPQ2d 1921, 1924 (TTAB 2007) (finding the extreme rarity of BAIK weighed against surname refusal); *In re Benthin Mgmt. GmbH*, 37 USPQ2d 1332, 1333 (TTAB 1995) (finding the fact that BENTHIN was a rare surname to be a factor weighing against a finding that the term would be perceived as primarily merely a surname). **If there is any doubt as to whether a term is primarily merely a surname, the Board will resolve the doubt in favor of the applicant.** *Yeley*, 85 USPQ2d at 1151; *Benthin*, 37 USPQ2d at 1334.

Applicant’s mark not convey a primary significance of a surname to consumers. First, to the extent the term MEEZAN is a surname, it is extremely rare. Second, the term MEEZAN is not the surname of anyone connected to Applicant. Third, the mark has two recognized meanings other than that of a surname, one of which being a common *given* name. These considerations all weigh against a finding that consumers would ascribe surname significance to the mark.

Accordingly, the Section 2(e)(4) refusal should be withdrawn and Applicant's mark should proceed to publication.

MEEZAN is an Extremely Rare Surname

Terms not regularly encountered by the purchasing public are less likely to be perceived primarily as surnames. *See In re Eximius Coffee, LLC*, 102 USPQ2d 1276 (TTAB 2016); *Miller v. Miller*, 105 USPQ2d 1615, 1620 (TTAB 2013); *In re Gregory*, 70 USPQ2d 1792 (TTAB 2004). Here, the evidence shows that the term MEEZAN is only rarely encountered as a surname. Moreover, that evidence has only limited probative value.

The Examining Attorney has submitted evidence that there are approximately 34 individuals in the United States with the surname MEEZAN. Among the listings, which come from an unverified website, there are numerous apparent duplicate listings. For example, there are two 25-29 year old women from Southern California named Hailey L. Meezan, and another Southern California listing for Hailey Meezan. Because only the first page of the Examining Attorney's evidence was made available, it is unknowable how many other listings are duplicative. The Board gives little deference to such evidence. *Eximius Coffee, LLC*, 102 USPQ2d 1276, No. 86262060, slip op. at 10. ("We agree that the probative value of the Lexis listings is limited for the reasons stated by Applicant [duplicative and incomplete listings]").

Even giving the Examining Attorney's evidence full weight, a mere 34 individuals in the entire U.S., which has a population approximately 10,000,000 times larger than that, is an extremely small proportion. Consumers are highly unlikely to have ever encountered the term MEEZAN as a surname. The Board has found surnames far more common than MEEZAN to be rare. For example, in *In re Joint-Stock Co. "Baik"*, 84 USPQ2d 1921 (TTAB 2007), the surname "Baik" was found to be an "extremely rare surname" based on a listing of 456 individuals with that surname in the Verizon superpages.com database. In *United Distillers*, the name "Hackler" was held to be a rare surname despite 1295 listings in phone directories. *In re United Distillers plc*, 56 USPQ2d 1220, 1221 (TTAB 2000). The 34 examples of MEEZAN are a pittance even compared to those small numbers.

Thus, the evidence shows that that, to the extent MEEZAN is a surname, it is extremely rare and unlikely to be encountered by consumers. Because of that rareness, it is unlikely that consumers encountering the mark MEEZAN would believe its primary significance to be that of

a surname, especially when considering that the mark is not the name of anyone connected to Applicant or Applicant's goods and that the term MEEZAN has other meanings.

The Term MEEZAN Has Non-Surname Meanings and Connotations

The Examining Attorney argues that the mark has no meaning other than surname significance. MEEZAN is not an English word, however, and therefore would not be found in a standard English language dictionary such as that searched by the Examining Attorney. The fact that a term is a word in another language does not mean that this meaning would be unknown in the United States. *In re Isabella Fiore, LLC*, 75 USPQ2d 1564 (TTAB 2005) (applying the doctrine of foreign equivalents in a surname refusal analysis to find that FIORE means FLOWER); *In re Picone*, 221 USPQ 93, (TTAB 1984). The doctrine of foreign equivalents should be applied when it is likely that the ordinary American purchaser would stop and translate the foreign word into its English equivalent. *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1377, 73 USPQ2d 1689, 1696 (Fed. Cir. 2005). "The 'ordinary American purchaser' in this context refers to the ordinary American purchaser who is knowledgeable in the foreign language. . . ." *In re Thomas*, 79 USPQ2d 1021, 1024 (TTAB 2006); TMEP § 1209.03(g).

The term MEEZAN is a transliteration of the Arabic نازيم (alternately, ميزان), which means "balance." Arabic and its variants are widely spoken and read in the United States. Arabic is the fastest growing foreign language in the United States, and is widely taught in universities across the country. *See*, Exhibit A; Exhibit B. There are more Arabic speakers in the United States than there are of languages regularly found to be translatable for purposes of the doctrine, such as Italian. *See* Exhibit A. The term MEEZAN has two non-surname meanings. First, the term means "balance." *See* Exhibit C. Secondly, the term is widely used as a *given* name for boys, and derives from use in the Quran. *See* Exhibit D.

These other meanings would be familiar to Arabic speakers and, because of its Quranic roots, Muslim-Americans. Not only would these consumers recognize that MEEZAN has the non-surname meaning of balance, but these consumers would recognize that if MEEZAN has any name significance, it is that of a *given* name rather than a surname. There is no statutory prohibition on registration of given names.

Conclusion

MEEZAN is at most an extremely rare surname that consumers are much more likely to perceive as having non-surname significance. There is no individual connected to Applicant or Applicant's goods with the surname MEEZAN. Applicant's goods are not marketed in a way that would convey an impression that MEEZAN is a surname. *See Eximius Coffee, LLC*, 102 USPQ2d 1276, No. 86262060, slip op. at 17 (website showing founder's and current owner's surname was ALDECOA; packaging referred to "A Family Coffee" directly under the surname ALDECOA). The mark is not structured in a way that would suggest a surname and lacks other indicia that would suggest MEEZAN is a surname. *See Integrated Embedded*, 120 USPQ2d 1504 (GROUP in BARR GROUP); *Miller*, 105 USPQ2d at 1622 (noting that LAW GROUP is a common designation for an entity comprised of lawyers offering legal services); *In re Etablissements Darty et Fils*, 759 F.2d 15, 225 USPQ 652, 653 (Fed. Cir. 1985) (noting that "and Sons" is a common indicator of a family business). The term has multiple non-surname meanings, and to the extent the mark is a surname, those incidents are extremely rare. Consumers are not likely to ascribe primarily surname significance to the mark. Accordingly, the statutory refusals should be withdrawn and Applicant's mark should proceed to publication.

Applicant has responded to all issues raised in the Office Action. If any further information or response is required, please contact Applicant's attorney. The attorney may be reached by telephone at 703-525-8009.

Respectfully submitted,



Erik M. Pelton, Esq.
Attorney for Applicant

Exhibits

Exhibit A: "The 10 Most Popular Languages in the US," ACCREDITED LANGUAGE SERVS. (Sept. 13, 2016), <https://www.accreditedlanguage.com/2016/09/13/the-10-most-popular-languages-in-the-us/> (last visited Dec. 15, 2016).

- Exhibit B: Diane Heldt, "Arabic is fastest-growing language at U.S. colleges," THE GAZETTE (Mar. 25, 2010), <http://www.thegazette.com/2010/03/25/arabic-is-fastest-growing-language-at-u-s-colleges> (last visited Dec. 15, 2016).
- Exhibit C: BAB.LA, <http://en.bab.la/dictionary/arabic-english/%D9%85%D9%8A%D8%B2%D8%A7%D9%86> (last visited Dec. 15, 2016).
- Exhibit D: "Mizan," QURANIC NAMES, <http://quranicnames.com/mizan/> (last visited Dec. 15, 2016).

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The 10 Most Popular Languages in the US (https://www.accreditedlanguage.com/2016/09/13/the-10-most-popular-languages-in-the-us/)

By: Dan () On: September 13, 2016 In: Languages (https://www.accreditedlanguage.com/category/languages/) Comments: 4 (https://www.accreditedlanguage.com/2016/09/13/the-10-most-popular-languages-in-the-us/#comments)

The number of people in the US who speak a language other than English has more than doubled since 1980. That's hardly surprising, given the ever-expanding diversity of language in the United States (https://www.accreditedlanguage.com/2016/09/14/language-diversity-in-the-us-most-multilingual-states/) and the increasing trend toward bilingual households, but a few of the most common non-English languages spoken might surprise you.

According to a 2011 Census Bureau report, the following are the most popular languages in the United States:

10) Italian

Representing the largest decline on this list, Italian claims only 723,632 speakers – half as many as in 1980. Italian can still be heard in places like New York, Boston, Chicago and Philadelphia.

9) Russian

The 905,843 Russian-speakers in New York, Los Angeles, Chicago and San Francisco, among other cities, have increased by 391 percent since 1980.

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Arabic is fastest-growing language at U.S. colleges



Denes Gazsi, UI lecturer and Arabic program coordinator teaches an Arabic Language class in Phillips Hall Monday, March 22, 2010 on the University of Iowa campus in Iowa City. UI is seeing huge enrollment growth in its Arabic language classes, mirroring a national trend showing the most growth in Arabic and Chinese. (Brian Ray/The Gazette)

Diane Heldt

Mar 25, 2010 at 12:01 am | [Print View](#)

Arabic is the fastest-growing foreign language taught at U.S. colleges and universities, a trend mirrored at the University of Iowa.

Enrollment in Arabic classes grew 127 percent nationally from 2002 to 2006, by far the largest jump of any language, according to the Modern Language Association.

At the UI, enrollment in Arabic classes tripled from their launch in fall 2006 to fall 2009 — from 34 students to 102 students. The UI in December added an Arabic minor.

“That’s fast growth,” said Roland Racevskis, chairman of the UI French and Italian department, which also houses Arabic. “Interest in languages is often influenced by the world political scene.”

Iowa State University and the University of Northern Iowa have fewer Arabic offerings than the UI, but the three universities participate jointly in a regents study-abroad program in Morocco for students in Arabic. Officials at Cornell College in Mount Vernon are considering adding Arabic classes.

Students often have interest in Arabic because of family background, because they are in the military or because they have career interests in linguistics, said Denes Gazsi, UI lecturer and Arabic program coordinator.

Arabic is the main language in 24 countries, mostly in the Middle East and North Africa.

Diversity in dialects and a different alphabet written from right to left make Arabic tricky to learn, said Gazsi, a native of Hungary. The UI program offers three years, six classes total: two elementary, two intermediate and two advanced.

“It seems every fall, the numbers almost double,” Gazsi said.

Arabic, Chinese and Korean show the biggest growth nationally, but enrollments in those languages remain dwarfed by the big three — Spanish, French and German, which combined account for about 70 percent of foreign language enrollments.

While Spanish enrollment grew 10 percent in the most recent Modern Language Association study, French and German grew by only 2.2 percent and 3.5 percent, respectively. That compares with the 127 percent growth of Arabic, 51 percent for Chinese and 37 percent for Korean. Arabic in 2006 became the 10th most-studied language in the United States.

There is an ebb and flow in language popularity, partly linked to economic and political trends, said Rosemary Feal, executive director of the Modern Language Association.

Another factor is what students learn in high school, Feal said. German and Russian used to be common offerings, but now more than 90 percent of high school language instruction is Spanish, she said.

The UI suspended enrollment to German graduate programs for one year, but undergraduate enrollment remains steady. Russian, Spanish, Portuguese and French are all growing at the UI, said Helena Dettmer, associate dean for undergraduate programs and curriculum in the College of Liberal Arts and Sciences.

Dawn Bratsch-Prince, associate dean in Liberal Arts and Sciences at ISU, said interest in Russian has dwindled as fewer high schools offer it, and ISU may downgrade Russian from a specialization to a minor. It would make sense to upgrade Arabic to a minor because of demand, but ISU needs more than the two courses it has, she said.

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- **She wore very little, and the cameras kept rolling.** (TVGuide.com)

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Dictionary

ميزان



Arabic English

Translate

SUMMARY

ميزان {noun}
scale · weighing machine ·
balance · see-saw · budget

[full details](#)

CONTEXT SENTENCES

ميزان الحرارة
ميزان الساعة
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Arabic-English translation for "ميزان"



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"ميزان" ENGLISH TRANSLATION

Results: 1-10 of 10

 ميزان {noun}[m z n] {noun} (also: كفة, قنبر, قنبر, قنبر, قنبر, قنبر, قنبر, قنبر) [scale](#) {noun}[m z n] {noun} ميزان [weighing machine](#) {noun}[m z n] {noun} ميزان [balance](#) (scales) {noun}
اختلال ميزان القوى a deterioration in the **balance** of power[m z n] {noun} (آلة لعب) {noun} (also: مَرَجُوحَة, رُجَاحَة, رُجَاحَة, مَرَجُوحَة) [see-saw](#) {noun}[m z n] {noun} [bus.] ميزان [budget](#) {noun} [bus.]

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SIMILAR TRANSLATIONS

Similar translations for "ميزان" in English

ميزان الحرارة thermometer, thermometers

ميزان الساعة escapement

ميزان الهواء aerometer

CONTEXT SENTENCES

Context sentences for "ميزان" in English

These sentences come from external sources and may not be accurate. bab.la is not responsible for their content. Read more [here](#).

دَرَجَة تُشيرُ ميزانُ الحرارة إلى the thermometer reads 18 degrees

ميزان الربح والخسارة statement of profit and loss



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Exhibit D: “Mizan,” QURANIC NAMES, <http://quranicnames.com/mizan/> (last visited Dec. 15, 2016).

QuranicNames.com is the most authentic, most detailed and most original Islamic baby name site on the internet—all in good English.

Last Updated: December 14, 2016 1:26 am GMT | 6289 Baby Names | 13457 Questions Answered | 783 Quranic Roots | 21283 Total Articles

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Mizan

« »

A Quranic Name for Boys

How to pronounce Mizan

MEEt + **Zoom + mAN**

Each block is a syllable. Thick black border indicates stress/emphasis. Other pronunciations are acceptable.

Arabic Spelling (How to write Mizan in Arabic)

مِيزَان

Quranic Nature (Learn more...)

Directly Mentioned

Alternate spellings of Mizan

Miyzan Miyzen Meyzan Mezan Mezan Mizaan Meezaan Meezan Meyzan Mizen Miezan

All of the above spellings are acceptable for this name. You may also create your own spelling.

Quranic Root (Learn more...)

[W-Z-N](#)

All Quranic baby names derived from W-Z-N:

[Mizan](#) [Wazeenah](#) [Wazin](#) [Wazin](#) [Wazn](#)

[Waznah](#)

Meaning of Mizan

Mizan is a direct Quranic for boys that means “balance”, “scales”, “measure”, “weight”, and in the Quran it often refers to the divine guidance that lets humans weigh and measure the propriety and justice of deeds. *Mizan* is used nine times in the Quran.

It is God who has sent down the Book with the truth and the **scales of justice**. What will make you realize that the Hour might well have drawn near? (Quran 42:17)

How to Pronounce Mizan! - Middle Eastern Names





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Sir mujhe a jaannatha k mezaan naam rakhnesi bache ko koe takleef hoge a naam rakhsakte hai ya nahe

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H₂₇₀ I or E₁₃₂ J₁₂₇ K₁₁₅ Kh₁₁₀ L₉₃
M₁₀₆₄ N₃₈₁ P₃₇ Q₆₆ R₂₇₈ S₃₃₃ Sh₂₅₀ T₁₆₁ Th₁₂ U or O₉₈ V₆ W₁₄₈ Y₇₄ Z₂₀₅ Zh₈
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**Boy
Names
from the
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**Girl
Names
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A	B	D	A	B	D
F	Gh	H	F	Gh	H
I or	J	K	I or	J	K
E	Kh	L	E	Kh	L
M	N	Q	M	N	Q
R	S	Sh	R	S	Sh
T	U	W	T	U	W
	or	Y		or	Y
	O	Z		O	Z