

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Mark: STUDEBAKER
Serial No.: 88067376
Filing Date: August 6, 2018
Applicant: Marino Andriani, LLC

RESPONSE

This is in response to the Office Action dated November 27, 2018.

Section 2(e)(4) Refusal

The Examining Attorney has preliminarily refused registration on the basis that the subject mark is primarily merely a surname. Applicant asserts that the refusal is traversed for the reasons set forth below.

STUDEBAKER Has Acquired Secondary Meaning

Even if “Studebaker” has some surname significance, its principal significance is as a brand name. Applicant, as well as a number of third-parties have, registered the mark on the Principal Register for various goods and services without a claim of acquired distinctiveness. (See representative examples below and in the attached TESS printout.)

In particular, Applicant has used its STUDEBAKER mark in connection with its “electronic products” since at least as early as 2004 (see Reg. No. 3509858, issued Sept. 30, 2008). The mark should therefore be considered distinctive for these goods and the substantially similar goods associated with the subject mark under the natural zone of expansion.

Mark	Serial No. or Registration No.	Class/Goods/Services	Owner
STUDEBAKER	Reg. No. 3509858 Issued: 9/30/2008	Class 9: Electronic products, namely, compact stereos, boom boxes, radios, and personal stereos	Marino Andriani, LLC
STUDEBAKER	Serial No. 88072417 (published Jan. 29, 2019)	Class 9: A wide variety of weapons and ammunition for military, police, and civilians, namely, self-propelled ballistic weapons, howitzers, firearms, munitions for weapons and firearms, and parts and components therefor	Studebaker Global Services Inc.
STUDEBAKER	Reg. No. 4878486 Issued: 12/29/2015	Class 33: Alcoholic beverages except beers	Diageo North America, Inc.
STUDEBAKER	Reg. No. 3800267 Issued: 6/8/2010	Class 9: eyewear	Seaton, John A.
STUDEBAKER	Reg. No. 4542764 Issued: 6/3/2014	Class 25: Belts; Belts made of leather; Belts made out of cloth; Coats; Coats of denim; Denim jackets; Denims; Dress pants; Dresses; Jackets; Jeans; Scarves; Shoes; Sweaters; T-shirts; Tank tops; Tank-tops; Tops; V-neck sweaters; Wearable garments and clothing, namely, shirts.	FOREVER17NYC, LLC
STUDEBAKER	Reg. No. 4171362 Issued: 7/10/2012	Class 18: Luggage, namely, soft travel duffels, boarding tote bags, backpacks, handbags, tote bags, toiletry cases sold empty, satchels, shoulder bags, messenger bags, clutches, cosmetic cases sold empty, all purpose sports bags, attaché cases, hobo bags, and travel bags with wheels; leather and textile accessories, namely, wallets, key cases, and coin cases; and umbrellas.	Benditzson, Nathan
STUDEBAKER	Reg. No. 4328314 Issued: 4/30/2013	Class 35: retail gift shops Class 41: museum services.	Studebaker National Museum, Inc.
STUDEBAKER	Reg. No. 4705734 Issued: 3/24/2015	Class 12: Vehicles, namely, automobiles; apparatus for locomotion by land, air or water, namely, automobiles, airplanes, motorcycles, bicycles, and boats; ships; boats; yachts and structural parts thereof included in this class; amphibious vehicles; air cushion vehicles; land trailer vehicles for transporting persons or goods; railbound vehicles; tractors and tractor-drawn vehicles for transporting persons and goods; land vehicles for transporting people and goods; space vehicles; aircraft; vehicular air balloons	DATA ACCESS SARL

Amended Description of Goods

The Examining Attorney has requested clarification of certain goods listed in the application with suggested amendments. Applicant will adopt the Examining Attorney's suggestions in Classes 9 and 21 (but will not add Class 14 to the application), and requests that the descriptions be amended to read as follows:

Class 9: phonographic record players and turntables being record players; CD players, clock radios, namely, radios incorporating clocks

Class 21: record cleaning kits comprised of basins in the nature of receptacles, cleaning brushes, lint rollers, drying cloths, and liquid cleaning solution all for cleaning phonographic records

Conclusion

Applicant requests that the refusal be withdrawn and that the subject application be accepted for publication.

Respectfully submitted,

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