

Dear Examiner,

Per the Office Action for the Trademark Application with the serial number 88137934 for the word mark "BESO", the Examiner has refused registration of the mark due to the following issue(s): Section 2(d) Refusal – Likelihood of Confusion with the mark "KISS.COM" with registration numbers 2369897 and 4009396, for use in connection with "computer services, namely, providing search engines for use in providing information concerning dating services, and personal relationships," and for use in, "providing on-line electronic personal classified and dating services; internet based social networking, introduction, and dating services."

Applicant has applied to register the mark BESO for use on "downloadable software in the nature of a mobile application for social networking, dating and matchmaking; and for Internet-based dating, social introduction and social networking services."

Despite the Examiner's arguments, Applicant's mark and the registered mark are not likely to be confused because the doctrine of foreign equivalents, which calls for the English translation of marks to be considered in determining if a likelihood of confusion exists, should not be applied in the case at hand.

The doctrine of foreign equivalents will not be applied where the foreign wording has developed an alternate meaning in the relevant marketplace that is different from the translated meaning in English, and the evidence shows that the alternate meaning would be understood by the relevant purchasing public. See *La Peregrina*, 86 USPQ2d at 1649 (finding that if sufficient evidence had been provided to show that the Spanish-language mark LA PEREGRINA, which translates to mean "the pilgrim," for goods including pearls and pearl jewelry, was viewed by the relevant purchasing public as the "name of a very famous and unique pearl," such would be a situation "where purchasers would not translate the name"); cf. *Cont'l Nut Co. v. Le Cordon Bleu S.a.r.l.*, 494 F.2d

1395, 1396-97, 181 USPQ 646, 647 (C.C.P.A. 1974) (finding that applicant's ownership of a prior registration for "BLUE RIBBON" did not preclude opposer from asserting damage resulting from applicant's registration of the mark CORDON BLEU, (which literally translates to "blue ribbon") because CORDON BLEU would not be translated by, or have the same significance to, an American purchaser in view of the adoption by the English language of the wording CORDON BLEU, as evidenced by American English dictionary entries indicating that such wording refers to a highly skilled cook).

In the case at hand, BESO has an alternate meaning (a highly social woman) in the relevant marketplace of social networking. Amongst the clientele of a dating app, BESO has this alternate meaning, and would not be translated. The doctrine of foreign equivalents should thus not apply.

In consideration of the above, Applicant requests the Examining Attorney withdraw the refusal.

Sincerely,
/Jonathan Genant/