

I. Introduction

Applicant has applied to register the mark OREGON (“**Applicant’s Mark**”) for the following goods: “Electric generators; portable electric power generators; component parts for electric generators and portable electric power generators and accessories in the nature of fitted covers for electric generators and portable electric power generators; high pressure washers; pressure washing machines; component parts for high pressure washers and pressure washing machines and accessories in the nature of spray wands, nozzles, hoses, power-operated spray guns and fittings for high pressure washers and pressure washing machines; snow throwers; snow blowers; component parts for snow throwers and snow blowers and accessories in the nature of fitted covers, paddles, blades, and chutes for snow throwers and snow blowers” in International Class 7. (“**Applicant’s Goods**”).

The Examining Attorney originally refused registration under § 2(e)(2) on the basis that Applicant’s Mark is primarily geographically descriptive, and Applicant submitted a claim of acquired distinctiveness under § 2(f) based on Applicant’s ownership of prior US Reg. Nos. 4376750, 4459489, 5372629 and others (the “**Prior Registrations**”).

In the present office action issued on November 22, 2019, the Examining Attorney accepted Applicant’s § 2(f) claim in part as follows:

- **§ 2(f) Accepted Goods:** snow throwers; snow blowers; component parts for snow throwers and snow blowers and accessories in the nature of fitted covers, paddles, blades, and chutes for snow throwers and snow blowers
- **§ 2(f) Refused Goods:** electric generators; portable electric power generators; component parts for electric generators and portable electric power generators and accessories in the nature of fitted covers for electric generators and portable electric power generators; high pressure washers; pressure washing machines; component parts for high pressure washers and pressure washing machines and accessories in the nature of spray wands, nozzles, hoses, power-operated spray guns and fittings for high pressure washers and pressure washing machines

With regard to the partial refusal, the Examining Attorney states that the similarity or relatedness of the § 2(f) Refused Goods and the goods covered by Applicant’s Prior Registrations (the “**Prior Registrations Goods**”)¹ is not self-evident, and therefore Applicant’s § 2(f) claim for the § 2(f) Refused Goods is not acceptable without additional information. Applicant disagrees that the relatedness between the § 2(f) Refused Goods and the Prior Registrations Goods is not self-evident.

However, in response to the Examiner’s refusal to accept Applicant’s § 2(f) claim in full, Applicant has provided evidence as discussed below which demonstrates that the § 2(f) Refused Goods are sufficiently similar or related to the Prior Registrations Goods to support acceptance of Applicant’s § 2(f) claim in full, because (1) multiple third parties sell both the Prior Registrations Goods and the § 2(f) Refused Goods under the same trademark, as shown by

¹ Applicant’s Prior Registrations Goods are listed in Appendix A to this response for ease of reference.

Internet evidence submitted by Applicant herewith, and (2) multiple third-party trademark registrations cover both the Prior Registrations Goods and the § 2(f) Refused Goods. Applicant therefore requests that the Examining Attorney accept the § 2(f) claim with regard to all of Applicant's Goods, and approve this application for publication without further delay.

II. Applicant's § 2(f) Claim Should Be Accepted in Full, as Applicant's § 2(f) Refused Goods Are Sufficiently Similar or Related to Applicant's Prior Registrations Goods

A. Legal Standards for Establishing Acquired Distinctiveness

An intent-to-use applicant "who has used the mark on related goods or services may file a claim of acquired distinctiveness under § 2(f) before filing an allegation of use." TMEP § 1212.09(a). The claim of acquired distinctiveness should be accepted "if the applicant can establish that, as a result of the applicant's use of the mark on [the] other goods or services, the mark has become distinctive of the goods or services in the intent-to-use application, and that this previously created distinctiveness will transfer to the goods and services in the intent-to-use application when use in commerce begins." *Id.* (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1347, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)).

As set forth in the TMEP, a § 1(b) applicant's "required showing" for establishing acquired distinctiveness is twofold: (1) "a showing of acquired distinctiveness of the same mark in connection with other goods and/or services"; and (2) "a sufficient relationship between the goods or services in connection with which the mark has acquired distinctiveness, and the goods or services recited in the intent-to-use application," thus warranting "the conclusion that the previously created distinctiveness will transfer" to the applicant's goods and services when use begins. TMEP § 1212.09(a) (quoting *In re Rogers*, 53 USPQ2d 1741, 1744 (TTAB 1999)).

To satisfy the first requirement, an applicant "must establish acquired distinctiveness as to the other goods or services by appropriate evidence, such as ownership of an active prior registration for the same mark for sufficiently similar or related goods or services..." *Id.* Applicant has clearly satisfied this requirement with respect to the Prior Registrations Goods by virtue of its ownership of the Prior Registrations.

To satisfy the second requirement, an applicant "must show 'the extent to which the goods or services in the intent-to-use application are related to the goods or services in connection with which the mark is distinctive, and that there is a strong likelihood that the mark's established trademark function will transfer to the related goods or services when use in commerce occurs.'" *Id.* (quoting *Rogers*, 53 USPQ2d at 1745).

B. Internet Evidence Shows That Multiple Third Parties Sell the Prior Registrations Goods and the § 2(f) Refused Goods Under the Same Mark

The relatedness between Applicant's Prior Registrations Goods and § 2(f) Refused Goods is established by the fact that each of them comprises types of outdoor power equipment that are typically sold under the same marks or brands and travel in the same or similar trade channels. Specifically, chain saws, hedge trimmers, pressure washers and electrical generators are all

motorized outdoor power equipment that are marketed and sold to homeowners and contractors through both big-box retail outlets such as The Home Depot or Lowe's as well as specialized power equipment dealers.

In support, Applicant has attached copies of Internet evidence showing that multiple third parties sell both the Prior Registrations Goods (chain saws, hedge trimmers, log splitters, etc.) and the § 2(f) Refused Goods (electric generators, pressure washers) under the same marks or brands. To wit:

- DeWalt sells chain saws, hedge trimmers, electric generators and pressure washers under the DEWALT brand;²
- Craftsman sells chain saws, hedge trimmers, log splitters, electric generators and pressure washers under the CRAFTSMAN brand;³
- Ryobi sells chain saws, electric generators and pressure washers under the RYOBI brand;⁴
- Echo sells chain saws, electric generators and pressure washers under the ECHO brand;⁵
- Stihl sells chain saws and pressure washers under the STIHL brand,⁶ and
- The Home Depot sells chain saws and electric generators under the SPORTSMAN brand.⁷

² See screen shots from Dewalt's website attached at Exhibit A (available at <https://www.dewalt.com/products/outdoor/chainsaws>, <https://www.dewalt.com/products/outdoor/hedge-trimmers>, <https://www.dewalt.com/products/storage-and-gear/pressure-washers>, and <https://www.dewalt.com/products/storage-and-gear/generators-and-portable-power>).

³ See screen shots from Craftsman's website attached at Exhibit B (available at <https://www.craftsman.com/products/outdoor-tools-and-equipment/chainsaws>, <https://www.craftsman.com/products/outdoor-tools-and-equipment/hedge-trimmers>, <https://www.craftsman.com/products/27-ton-log-splitter>, <https://www.craftsman.com/products/storage-and-garage/generators>, and <https://www.craftsman.com/products/outdoor-tools-and-equipment/pressure-washers>).

⁴ See screen shots from Ryobi's website attached at Exhibit C (available at <https://www.ryobitools.com/outdoor/products/chain-saws>, <https://www.ryobitools.com/outdoor/products/generators-power>, and <https://www.ryobitools.com/outdoor/products/pressure-washers>).

⁵ See screen shots from Echo's website attached at Exhibit D (available at <https://www.echo-usa.com/Products/Chain-Saws>, <https://www.echo-usa.com/Products/Pressure-Washers> and <https://www.echo-usa.com/Products/Generators-Inverters>).

⁶ See screen shots from Stihl's website attached at Exhibit E (available at <https://www.stihlusa.com/products/chain-saws/battery-saws/> and <https://www.stihlusa.com/products/pressure-washers/homeowner-pressure-washers/>).

⁷ See screen shots from The Home Depot's website attached at Exhibit F (available at <https://www.homedepot.com/p/Sportsman-20-in-52-cc-2-Stroke-Gas-Chainsaw-804775/311814143> and

The attached Internet evidence at Exhibits A-F clearly shows that consumers are accustomed to encountering and purchasing a variety of outdoor power equipment products – including chain saws and hedge trimmers as well as electric generators and pressure washers – under the same brands. Thus, this evidence clearly establishes the relatedness between Applicant’s Prior Registrations Goods (chain saws, hedge trimmers, log splitters, etc.) and § 2(f) Refused Goods (electric generators, pressure washers).

C. Multiple Third-Party Trademark Registrations Cover Both the Prior Registrations Goods and the § 2(f) Refused Goods

The relatedness of Applicant’s Prior Registrations Goods and § 2(f) Refused Goods is further demonstrated by the existence of multiple registrations on the USPTO Principal Register which cover both Prior Registrations Goods (chain saws, hedge trimmers) and § 2(f) Refused Goods (electric generators, pressure washers). For example:⁸

- U.S. Reg. No. 5764013 for SENIX, covering “Power-operated blowers; *electric generators, electricity generators; electric hedge shears; lawn mowers and trimmers*; electric wood saw machines; *string trimmers*; cultivators; *chainsaws and power-operated saws*” in International Class 7;
- U.S. Reg. Nos. 5676122 for HERCRENTALS and Design and 5623693 for HERC RENTALS, covering “aerial equipment, namely, mechanical and hydraulic lifts; hoists; air compressors; power operated tools namely, drills, routers, tile saws; air operated tools, namely, impact wrenches, ratchet wrenches, drills, grinders, orbital sanders; impact wrenches, nutrunners, power operated ratchet wrenches, reciprocating saws, power operated breakers, power operated grinders, power operated rivet busters, power operated rock drills, power operated rock splitters, and power operated chipping hammers, ground surface finishing and compacting machines; concrete paving machines; concrete and masonry equipment, namely, concrete construction machines, finishing machines, and concrete vibrators; concrete cutting and drilling power tools, namely, core drills and rotary and hammer drills; concrete placing machines, namely, buggies, concrete vibrators, concrete mixers, mortar mixers, power-operated saws, screeds, and power-operated trowels; earth moving machines, namely, backhoes, loaders, bulldozers, excavators, and trenchers; machines for blast cleaning a surface, floor care and surface preparation for the purposes of cleaning and restoration, namely, carpet cleaning machines, floor cleaning machines; automatic floor scrubbers, electric floor sweepers, vacuum cleaners, floor sanders, floor buffers, floor polishers, floor edgers, and floor nailing machines, power operated concrete grinders, power operated concrete planers, power operated floor strippers, power operated linoleum rollers, power operated road surface removal machines, namely, scabblers, scalers; and power operated sand blasting apparatus, namely,

<https://www.homedepot.com/p/Sportsman-4-000-3-500-Watt-Dual-Fuel-Powered-Portable-Generator-Runs-on-LPG-or-Regular-Gasoline-803266/304541553>).

⁸ Copies of the TSDR status records for each of the listed third-party registrations are attached at Exhibit G.

shot blasters; power-operated lifting and moving equipment, namely, winches, tuggers, conveyors, cranes, fork lifts, beam trolleys, hydraulic jacking cylinders, **portable electric power generators**, mechanical and hydraulic lifts, loading and unloading machines; **power generators, namely, diesel and electric generators**; power tools and machines, namely, planing machines, boring tools, drilling tools, milling tools, turning tools; hand-held battery actuated hydraulic crimp tools; power lawn and garden tools, namely, chippers; shredders for industrial use, stump removal tools, namely, brush chippers and stump grinders; machines, namely, concrete and paving breakers for industrial and commercial applications; power-operated nailing guns; grinding and polishing machines; grinders, namely, right angle grinders and die grinders; hydraulic punching presses for metalworking; portable hydraulic pumps, power lawn and garden tools, namely, aerators; power operated bed edgers; power operated blowers; power operated brush cutters; **chain saws**; **power operated hedge trimmers**; **power-operated lawn edgers**; **power machines for cutting and splitting logs**; lawn mowers; power operated pole pruners; power operated post drivers; power operated posthole augers; power operated sod cutters; power operated straw blowers; power operated thatchers; **power operated tillers and weed cutters**; power operated magnetic drills; power-operated nailing guns; power staplers; power operated paint sprayers; power-operated plumbing snakes; electric sanders and finishers; power operated street sweepers; gas-powered drills; power operated right angle drills; power operated screw guns; welding equipment, namely, electric plasma cutters; electric arc welders and welding accessories, namely, welding electrodes and welding torches; electric welding rod ovens for the purpose of preventing moist rods and electrodes from drying out and producing weak welds; pump equipment, namely, centrifugal pumps, pump diaphragms, high pressure pumps for use in oil or gas well hydraulic fracturing operations; centrifugal pumps; pump diaphragms hydraulic power unit pumps; power operated industrial pumps as parts of oilfield wellhead machines; diesel industrial pumps namely, fuel dispensing pumps for land vehicles; submersible pumps; pumps for use with wastewater capable of passing debris and diesel well point pumps for extracting groundwater; vacuum cleaners for industrial purposes, namely, vacuum trailers for the purpose of industrial clean-up, suction and storing” in International Class 7;

- U.S. Reg. No. 5608353 for RENAULT, covering “**Electric generators**; **electrically-powered tools, namely**, circular saws, **chain saws**, table saws, band saws, jig saws, reciprocating saws, routers **and electric lawn trimmers**; wood surfacers, namely, sanding machines for woodworking, planers, drills; liquid mixers in the nature of electric liquid mixers for household purposes; hammer drills; rotary hammers; electric percussion and demolition hammers; blowers, namely, power operated blowers and snow blowers; shears, namely, power-operated shears and **electric hedge shears**; electrically-powered tools, namely, disc and straight grinders; electrically-powered tools, namely, bench grinders; electrically-powered tools, namely, disc, belt and orbital sanders” in International Class 7;

- U.S. Reg. No. 5636231 for LUTOOL and Design, covering “Air compressors; Electric drills; Electric hammers; *Electric hedge shears*; Electric mixers for household purposes; Electric planers; Electric sanders; Electrical drills; Engraving machines; Floor polishing machines; Grinders; Impact wrenches; Lawn mowers; Mechanical mixing machines; *Multi-purpose high pressure washers*; Polishing machines for use in grinding and polishing metal, wood, ceramics and plastics; Power-operated polishers; Power-operated screwdrivers; Rechargeable hedge cutters; Saw fences for use on table saws; Tile removal and cutting machines; Wood grinding machines; Band saws; *Chain saws*; Circular saws; *Mobile electric power generators*; Power drills; Power-operated meat grinders; Power-operated tools, namely, grinders” in International Class 7;
- U.S. Reg. No. 5801303 for METABO HPT and Design, covering “Industrial paint agitating machines; Apparatus for machining, namely, wood sawing machines, electric wood saw machines, wood planing machines, wood grinding machines, and wood milling machines; atomizers being machines, namely, power operated atomizers for industrial or agricultural use; bending machines; blade sharpening and stropping machines; blades being parts of machines for metalworking, mining, construction, chemical processing, food or beverage processing, lumbering, woodworking, veneer or plywood making, stone working, repairing or fixing; blowing engines, namely, engines for dust removing installations for cleaning purposes; blowing machines, namely, dust removing installations for cleaning purposes; brushes being parts of machines; brushes, electrically operated being parts of machines; centrifugal machines; centrifugal pumps; centrifuges being machines; *chain saws*; chisels for machines; chucks being parts of machines, namely, chucks for power drills; cleaning appliances utilizing steam; clippers being machines, namely, wood or metal plate, plywood clipping machines; compressed air machines; compressed air pumps; compressors being machines; concrete mixers being machines; crushing machines, namely, crushing machines for industrial purposes; cultivators being machines, namely, motorized cultivators; *current generators*; cutting machines; die-cutting, nut, and screw tapping machines; ditchers and ploughs; drill chucks being parts of machines; drilling bits being parts of machines, namely, bits for power drills; drilling heads being parts of machines; drilling machines; dynamos; earth moving machines; electric arc cutting apparatus; electric arc welding apparatus; electric hammers; electric hand drills; electric welding apparatus, namely, electric welding machines; embossing machines; *emergency power generators*; engines for boats; engines, other than for land vehicles; engraving machines; excavators; finishing machines, namely, concrete finishing machines; foundry machines, namely, machines for creating metal molds; found machines, namely, machines for creating foundry-chill molds; *generators of electricity*; glue guns, electric; electric grinders and crushers, namely, crushing, wood-shaving, metal-shaving, stone-shaving, and concrete-shaving machines for household purposes; grinding machines; harrows, namely, motorized cultivator-towed harrows; *high pressure washers*; igniting devices for internal combustion engines; igniting magnetos; knives for mowing machines; lathes being machine tools; machine wheelwork; *electric machines and apparatus for cleaning, namely, compressed air cleaning*

machines, vacuum cleaners, and high pressure washers; electric machines and apparatus for polishing, namely, floor polishers; milling machines; molding machines, namely, injection molding machines; motorized cultivators; motors for boats; motors, other than for land vehicles; mowing and reaping machines; mufflers for motors and engines; nut-tapping machines; paring machines, namely, machines for trimming wood surfaces; planing machines; pneumatic hammers; power hammers; presses being machines for industrial purposes, namely, industrial machine presses; pumps being machines, namely, electric pumps; pumps being parts of machines, engines or motors; rammers being machines; *saws being machines*; scissors, electric; sharpening machines; sharpening wheels being parts of machines; shears, electric; snow ploughs; spray guns for paint; spraying machines; threading machines; trimming machines; turbocompressors; vacuum cleaner bags; vacuum cleaner hoses; vacuum pumps; metalworking machines and tools, namely, punching presses, shaping machines, metal sawing machines, perforating machines, slotting machines, boring machines, gear cutting and finishing machines, broaching machines, honing machines, lapping machines, mechanical presses, shearing machines, forging machines, oil hydraulic presses, electric metal cutting machines, namely, power-operated abrasive wheels and grindstones, electric welding machines, hand-held pneumatic drills, hand-held pneumatic hammers, electric sanders, power-driven wrenches, hand-held power driven grinders, hand-held electric drills, hand-held electric hammers, power driven screwdrivers, power driven nut runners, power driven buffers, power driven polishers, gear cutters, taps other than hand-held tools, chasers being machine tools, thread milling cutters being machine tools, turning point tools being machine tools, namely, turning tools for metalworking, broaches other than hand-held tools, namely, broaches being machines tools, milling cutters being machine tools, reamers other than hand-held tools, namely, reamers being power tools, cemented carbide tools for cutting, cemented carbide cutting tools, anticorrosive cemented carbide cutting tools, anti-abrasive cemented carbide cutting tools, cemented carbide tips, diamond-pointed metal cutting tools, wear-resistant powered metal cutting tools, forging moulds, press dies for metal forming; mining machines and apparatus, namely, rock drills, mining drill sharpeners, mine borers, coal loaders; construction machines and apparatus, namely, rooters in the nature of root cutting machines, pile drivers, pile extractors, earth scrapers, tamping machines, concrete placing machines, concrete vibrators, concrete paving machines, asphalt mixers; loading-unloading machines and apparatus, namely, winches, chain blocks, hoists; chemical processing machines and apparatus, namely, presses, absorbing machines in the nature of dust removing installations for cleaning purposes, mixing or blending machines, dust collecting machines, sintering machines, calcining machines, cleaning machines in the nature of high pressure cleaners, disintegrators, partial condensers in the nature of air condensers, separating machines, grinding mills, dissolving machines, filtering machines; lumbering, woodworking, or veneer or plywood making machines and apparatus, namely, lumbering band saws, special sawing machines in the nature of routers and trimmers, saw-tooth setting machines, circular saws, tenoning machines, wood planing machines, wood lathes, wood

milling machines, wood drilling machines, sanding machines, wood sawing machines, woodworking saw-tooth setting machines; agricultural machines, agricultural implements other than hand-operated, namely, power tillers and reapers; stone working machines; pneumatic or hydraulic machines and instruments, namely, reciprocating compressors, reciprocating water pumps, rotary pumps, axial flow pumps, reciprocating vacuum pumps, rotary vacuum pumps, diffusion pumps, centrifugal blowers, rotary blowers, axial flow blowers, turbo blowers in the nature of blowing air machines for construction or industrial use, centrifugal compressors, reciprocating compressors, rotary compressors, axial flow compressors; washing machines for laundry use; vehicle washing installations; machine elements, not for land vehicles, namely, shafts in the nature of shaft couplings for machines, axles for machines, and spindles being parts of machines; connectors, namely, connecting rods for machines, bearings in the nature of shaft bearings for machines, clutch mechanisms for machines, reduction gears, toothed machine wheels, machine gears, speed change gears, fluid couplings; lawnmowers; waste compacting machines; waste crushing machines; starters for motors and engines; electric motors for machines, namely, AC motors and DC motors, not including those for land vehicles; parts for AC motors and DC motors, namely, brushes being parts of motors; AC generators; DC generators; dynamo brushes” in International Class 7;

- U.S. Reg. No. 5755811 for ACCESSMATIC and Design, covering “**Current generators; Cutting machines**; Door openers, electric; Door openers, pneumatic; Drills for the mining industry; Electric arc cutting apparatus; Electric motors, not for land vehicles; Electric screwdrivers; Electric soldering irons; Electric hand-held drills; **Electricity generators**; Electrodes for welding machines; Engines not for land vehicles; Hydraulic engines and motors; Pumps as parts of machines, motors and engines; Window openers, electric; Window openers, hydraulic; Window openers, pneumatic; **Chains for chain saws**; Door closers, hydraulic; Door openers, hydraulic; Electric door opening and closing system; Electric hammers; **Electric chain saws**; Hydraulic door openers; Hydraulic hammers; Motorized door locks; Pneumatic hammers; Power saw blades; Power tools, namely, hammer drivers; Power-operated grinding wheels” in International Class 7;
- U.S. Reg. No. 5750228 for SIEFKEN and Design, covering “**Chains for chain saws; Current generators; Cutting machines**; Door closers, hydraulic; Door openers, electric; Door openers, hydraulic; Door openers, pneumatic; Drills for the mining industry; Electric arc cutting apparatus; **Electric chain saws**; Electric door opening and closing system; Electric hammers; Electric hand-held drills; Electric motors, not for land vehicles; Electric screwdrivers; **Electricity generators**; Electrodes for welding machines; Engines not for land vehicles; Hydraulic engines and motors; Hydraulic hammers; Motorized door locks; Pneumatic hammers; Power-operated grinding wheels; Power saw blades; Power tools, namely, hammer drivers; Pumps as parts of machines, motors and engines; Soldering irons, electric; Window openers, electric; Window openers, hydraulic; Window openers, pneumatic” in International Class 7;

- U.S. Reg. No. 5750229 for SWEISS and Design, covering “**Chains for chain saws; Current generators; Cutting machines**; Door closers, hydraulic; Door openers, electric; Door openers, hydraulic; Door openers, pneumatic; Drills for the mining industry; Electric arc cutting apparatus; **Electric chain saws**; Electric door opening and closing system; Electric hammers; Electric hand-held drills; Electric motors, not for land vehicles; Electric screwdrivers; **Electricity generators**; Electrodes for welding machines; Engines not for land vehicles; Hydraulic engines and motors; Hydraulic hammers; Motorized door locks; Pneumatic hammers; Power-operated grinding wheels; Power saw blades; Power tools, namely, hammer drivers; Pumps as parts of machines, motors and engines; Soldering irons, electric; Window openers, electric; Window openers, hydraulic; Window openers, pneumatic” in International Class 7;
- U.S. Reg. No. 5750232 for FURIUS and Design, covering “**Chains for chain saws; Current generators; Cutting machines**; Door closers, hydraulic; Door openers, electric; Door openers, hydraulic; Door openers, pneumatic; Drills for the mining industry; Electric arc cutting apparatus; **Electric chain saws**; Electric door opening and closing system; Electric hammers; Electric hand-held drills; Electric motors, not for land vehicles; Electric screwdrivers; **Electricity generators**; Electrodes for welding machines; Engines not for land vehicles; Hydraulic engines and motors; Hydraulic hammers; Motorized door locks; Pneumatic hammers; Power-operated grinding wheels; Power saw blades; Power tools, namely, hammer drivers; Pumps as parts of machines, motors and engines; Soldering irons, electric; Window openers, electric; Window openers, hydraulic; Window openers, pneumatic” in International Class 7;
- U.S. Reg. No. 5976837 for GARWINNER, covering “**Power-operated grass/weed trimmers**; Dynamos; Pumps for machines; Lawnmowers; **Chain saws**; Lawn and garden tilling machines; Earth augers; Blades for power saws; Saw machines; Earth moving machines, namely, scarifiers; **High pressure washer**; Power-operated blowers; Power lawn and garden tools, namely, shredders; Spraying machines; Cylinders for motors and engines” in International Class 7;
- U.S. Reg. No. 5914605 for APOSEN, covering; “**Chain saws**; Cleaning appliances utilizing steam; Crushers for kitchen use, electric; Dishwashers; Dust exhausting installations for cleaning purposes; Electric cherry pit removing machines; Electric garlic peeling machines; Electric hand-held drills; Electric juicers; Floor cleaning machines; Hand-held battery actuated hydraulic crimp tool; **High pressure washers**; Industrial robots; Kitchen grinders, electric; Machines and apparatus for carpet shampooing, electric; Road sweeping machines, self-propelled; Screwdrivers, electric; Shears, electric; Snow ploughs; Steam mops; Vacuum cleaners; Washing machines for clothes; Washing machines for household purposes” in International Class 7;
- U.S. Reg. No. 5884525 for MOOSOO, covering; “**Chain saws**; Cleaning appliances utilizing steam; Crushers for kitchen use, electric; Dishwashers; Dust exhausting installations for cleaning purposes; Electric cherry pit removing machines; Electric garlic peeling machines; Electric hand-held drills; Electric juicers; Floor cleaning machines; Hand-held battery actuated hydraulic crimp

- tool; **High pressure washers**; Industrial robots; Kitchen grinders, electric; Machines and apparatus for carpet shampooing, electric; Road sweeping machines, self-propelled; Screwdrivers, electric; Shears, electric; Snow ploughs; Steam mops; Vacuum cleaners; Washing machines for clothes; Washing machines for household purposes” in International Class 7;
- U.S. Reg. No. 5813488 for SEAMAGIC, covering; “Bits for power drills; Blades for power saws; Butter machines; **Chain saws**; Circular saws; Cleaning machines for ponds; **Cutting machines**; Disc brakes being parts of machines; Drill bits for rock drilling; Electric hammers; **Electric lawn trimmers**; Electric planers; Electric sanders; Extracting machines for chemical processing; Fans for machine engines; Floor sanders; Glue guns, electric; Grinders being power tools; High pressure washers; Hot adhesive guns; Impact wrenches; Lawn mowers; Lawnmowers; Machine parts, namely, blades; Metalworking machine tools; **Multi-purpose high pressure washers**; Multi-purpose steam cleaners; Pads for floor polishing machines; Polishing machines for use in grinding and polishing metal, wood, ceramics and plastics; Power-driven wrenches; Power-operated angle grinders; Power-operated grinding wheels; Power-operated jig saws; Power-operated polishers; Power-operated spray guns; Power lawn and garden tools, namely, chippers; Power lawn and garden tools, namely, shredders; Power tools, namely, hammer drills; Power tools, namely, drills, routers, circular saws; Power-operated nailing guns; Robotic vacuum cleaners; Saw machines; Screwdrivers, electric; Self-contained, weather-protected mobile engine cleaning machines; Sharpening machines; Shears, electric; Snow throwers; Spray guns for paint; Tool bits for machines; Tool grinding machines; Vacuum cleaner bags; Vehicle washing installations; Woodworking saw-tooth setting machines” in International Class 7;
 - U.S. Reg. No. 5806157 for BERGWERK and Design, covering; “Bits for power drills; Compressed air pumps; Drain jettors; Electric floor polishing machines and apparatus; Electric hand-held drills; Electric nail extractors; Electric screwdrivers; **Emergency power generators**; Hair shearing machines for animals; **High pressure washers**; Hydraulically actuated tools, namely, pliers, hammers; Lawn mowers; Power-driven wrenches; **Power-operated saws**; Power-operated sprayers; Power-operated staple guns; Sharpening machines; Three dimensional (3D) printers” in International Class 7;
 - U.S. Reg. No. 5796000 for EDOO and Design, covering; “Agricultural implements, namely, seed drills; Agricultural seed planting machines, namely, sowers; Blades for power saws; Blades for power tools; **Chain saws**; **Cutting machines**; Dust exhausting installations for cleaning purposes; Dynamamos; **Electric hedge trimmers**; Excavating machines; Gasoline engines not for land vehicles; Harvest drying machines; **High pressure washers**; Knives, electric; Mowing and reaping machines; Pumps for the beverage industry; Scissors, electric; Snow ploughs; Washing machine for industrial parts; Washing machines for household purposes; Weeding machines; Agricultural machines, namely, cultivators, harvestors, disk harrows, seeders; Centrifugal pumps; Compressed air pumps; Earth moving machines, namely, scarifiers; Electric chaff-cutters; Electric pumps; Electric washing machines for industrial purposes; Floor washing machines; Hydraulic excavators; Machine parts, namely, blades; Multi-purpose high

pressure washers; Pneumatic pumps; Rotary pumps; Sewage pumps; Suction pumps; Sump pumps; Tilling machines for agricultural use; Vacuum pumps; Vacuum pumps; Vehicle washing installations; Windmill pumps” in International Class 7;

- U.S. Reg. No. 5547444 for ENERTWIST, covering; “Blades for power tools; ***Chains for chain saws***; Drill chucks for power drills; Drilling machines; Electric glue guns; Electric rotary hammers; Electric sanders; Grinding and polishing machines; Impact wrenches; ***Multi-purpose high pressure washers***; Paint sprayers; ***Power-operated grass/weed trimmers***; Power-operated grinding wheels; ***Power-operated saws***; Power-operated staple guns; Rotary grinding machines; Sanding pads for power-operated sanders; Screwdrivers; Tool bits for machines; Vacuum cleaners” in International Class 7; and
- U.S. Reg. No. 5909230 for SHARP LI-ION, covering; “***Power operated tools, namely, lawn and garden edgers, lawn and garden trimmers***, leaf blowers, saws, drills, impact wrenches, ***chainsaws***; power-operated sanders; power operated nailing guns; air compressors; ***high pressure washers***” in International Class 7.

As shown by the Internet evidence and third-party registrations discussed above, it is clear that Applicant’s Prior Registrations Goods and § 2(f) Refused Goods are closely related and typically sold under the same brands and through the same channels. Consumers are not only accustomed to encountering both types of goods from the same source, but have come to expect it. Accordingly, Applicant has met its burden of showing a close relationship between the Prior Registrations Goods and § 2(f) Refused Goods, sufficient to show that the previously-created distinctiveness for the Prior Registrations Goods will transfer to the § 2(f) Refused Goods upon use.

III. Conclusion

In view of the foregoing, Applicant has met its burden of demonstrating that Applicant’s Mark is entitled to registration under § 2(f) as to all of Applicant’s Goods, and thus the Examining Attorney should withdraw the § 2(e)(2) refusal and approve this application for publication. Should anything further be required, a telephone call to the undersigned at (312) 456-8400 is respectfully invited.

APPENDIX A

Applicant's Prior Registrations Goods

US Registration No. 4376750: Outdoor power equipment, namely, chain saws, hedge trimmers, line trimmers, edgers; structural parts and fittings for all of the aforementioned goods

US Registration No. 4459489: Agricultural machinery, namely, log splitters and replacement parts therefor

US Registration No. 5372629: Outdoor power equipment, namely, chain saws, hedge trimmers, line trimmers, edgers, log splitters, powered hole openers used to enlarge holes in the ground, centrifugal pumps and replacement parts therefor; structural parts and fittings for outdoor power equipment and parts and fittings for internal combustion engines for outdoor power equipment, namely, saw chain, guide bars, bar covers, tip guards, sprockets for chainsaws, air filters, oil filters, fuel lines, fuel filters, fuel caps and valves, motors, gaskets, replacement wheels and deck rollers for lawn mowers, pistons for engines, tie straps for saw chain, carburetors, throttle controls for outdoor power equipment in the nature of replacement throttle levers and cables, starters for motors and engines, engine mufflers and spark plugs; machine parts, namely, bearings, bushings, control cables for outdoor power equipment, idling pulleys being parts of machines; belts for machines; clutches for machines; drive chains for machines; drive parts for machines, namely, idler sprockets, gears, drive pins, drive discs, drive rings, roller chains being parts of machines, spindle assemblies and jackshafts; parts for power operated edgers, namely, shafts, trimmer heads and blades; lawn mower parts, namely, blades, grass bags, and decks; electric bench grinders, electric mower blade grinders, and power-operated grinder accessories, namely, grinding wheels, power-operated grinding stones, grinding wheel dressing tools, grinder machine stands, mulching blade adaptors for power-operated grinders, grit collectors for attachment to grinding machines, and structural replacement parts therefor; power-operated grinding wheels; electric rivet spinners; snow thrower parts, namely, augurs, scraper bars, shave plates, namely, scraper blades for snow throwers, skid shoes for snow throwers, paddles for snow throwers; fitted tarps for power machinery; stands for machines; mower sulkies