

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85623170
LAW OFFICE ASSIGNED	LAW OFFICE 113
MARK SECTION	
MARK	http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=85623170
LITERAL ELEMENT	AQUARO
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>The Examiner has refused registration on the Principal Register because the Examiner believes the mark is primarily merely a surname. Applicant does not believe this is the case its mark is part of a family of “Aqua” marks for its water purification business, and this particular mark is for water filtration units and reverse osmosis units. Applicant has created a fanciful mark by combining “aqua” with “ro” which it derived from the words “ <u>r</u>everse <u>o</u>smosis.” For this reason Applicant believes its mark AQUARO to be a fanciful mark, as a made up word, and thus should be afforded very strong trademark rights, and allowed registration on the Principal Register. Furthermore, even if “Aquaro” is a surname, it is an extremely rare surname, and not a surname of anyone connected with the Applicant.</p> <p>The key to a refusal to register a mark, as a surname, is whether the “primary” significance of the mark to the purchasing public is that of a surname. If a mark is not “primarily” merely a surname, it is registrable on the Principal Register without a showing of secondary meaning. See <i>In re Monotype Corp PLC.</i>, 14 U.S.P.Q. 2d 1070, 1070 (TTAB 1989) (“As has been stated in previous cases, the question of whether a word sought to be registered is primarily merely a surname can only be resolved on a case by case basis, and the quantum of evidence which was persuasive in finding surname significance in one case may be insufficient in another because of differences in the names themselves.”)</p> <p>In this case, the Examiner has attached evidence from whitepages.com, establishing the surname significance, by stating the name appeared over 100 times. However, this evidence is not dispositive of whether the name sufficient significance to be a bar to registration. See <i>In re Sava Research Corp.</i>, 32 U.S.P.Q. 2d 1380, 1381 (TTAB 1994) (“At first blush, the material from the PHONEDISC U.S.A. database (1992 ed.) showing that at least 100 different Savas live throughout the United States would indicate that Sava is not an extremely rare surname. However, it must be remembered that this database includes over 90,000,000 listings. Thus, the uses of Sava as a surname represent about only one ten-thousandth of one percent of the surnames in this database.”). In our case, whitepages.com indicates that it has more than 200 million adults in its database, thus these results would indicate that the name “Aquaro” is extremely rare. See attached print out from whitepages.com indicating the database includes over 200 million adults.</p> <p>Furthermore, there are other factors to consider in determining whether a mark is primarily a surname, than a phone book listing. See <i>In re Kahn & Weisz Jewelry Mfg. Corp.</i>, 184 U.S.P.Q. 421 (CCPA 1975) (“[A]lthough the use of a telephone directory may be considered a factor in determining whether a mark is primarily merely a surname, we do not find this standing alone, to be determinative of the issue....Such a showing does not establish that the primary significance of DUCHARME to the purchasing public is that of a surname.”).</p> <p>As Applicant has pointed out, its mark AQUARO is a made up word, created to incorporate the term “aqua” for water, and “ro” for reverse osmosis. Applicant has a family of “aqua” marks for various water filtration systems. See attached print outs from Applicant’s website. Additionally, even if Aquaro is a surname, it is not a name associated with anyone connected with Applicant. See attached webpage about Applicant’s founders and owners. Also, See <i>In re Sava Research Corp.</i>, 32 U.S.P.Q. 2d 1380, 1381 (TTAB 1994) (“One factor that weighs in favor of a finding that SAVA is not primarily merely a surname is that there is no evidence that SAVA is in fact the surname of anyone connected with applicant.”); <i>In re Monotype Corp. PLC</i>, 14 U.S.P.Q. 2d 1070, 1071 (TTAB 1989) (“Finally, there is no evidence that CALISTO is in fact the surname of anyone connected with applicant..., such that the public would attribute a surname significance to CALISTO when it is applied to applicant’s goods.”).</p>	

Applicant believes it has alleviated the Examiner's concern that "Aquaro" will be perceived a "merely" a surname, it that it could be perceived as associated with a water filtration unit, and asks the Examiner to remove the surname refusal, and allow its mark to publish, allowing any third party that wishes to object to the registration to do so. See In re Benthin Management GmbH, 37 U.S.P.Q. 2d 1332, 1334 (TTAB 1995) ("Moreover, on the question of whether a mark would be perceived as primarily merely a surname, we are inclined to resolve doubts in favor of the applicant and pass the mark to publication with the knowledge that others who have the same surname and use it or wish to use it for the same or similar goods or services can file a notice of opposition.")

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_691748720-145500884_WhitePages_Inc._About_Us.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0003.JPG
ORIGINAL PDF FILE	evi_691748720-145500884_Drinking_Water_Systems.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0005.JPG
ORIGINAL PDF FILE	evi_691748720-145500884_AquaRO.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0007.JPG
ORIGINAL PDF FILE	evi_691748720-145500884_About_Us.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0008.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\856\231\85623170\xml3\ROA0009.JPG
DESCRIPTION OF EVIDENCE FILE	print out from website whitpages.com print out from Applicant's website showing family of "aqua" products print out from Applicant's website showing AQUARO product for reverse osmosis water filtration unit print out from Applicant's website showing names of founders and owners of Multi-Pure International

SIGNATURE SECTION

RESPONSE SIGNATURE	/Lauri S. Thompson/
SIGNATORY'S NAME	Lauri S. Thompson
SIGNATORY'S POSITION	Attorney of Record, NV bar member
SIGNATORY'S PHONE NUMBER	702-938-6886
DATE SIGNED	10/18/2012
AUTHORIZED SIGNATORY	YES

FILING INFORMATION SECTION

SUBMIT DATE	Thu Oct 18 15:05:53 EDT 2012
TEAS STAMP	USPTO/ROA-XX.XXX.XX.XX-20 121018150553455545-856231 70-490a76d56d85e78c46c5b8 326905b786-N/A-N/A-201210 18145500884251

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **85623170** AQUARO(Standard Characters, see <http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=85623170>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examiner has refused registration on the Principal Register because the Examiner believes the mark is primarily merely a surname. Applicant does not believe this is the case its mark is part of a family of “Aqua” marks for its water purification business, and this particular mark is for water filtration units and reverse osmosis units. Applicant has created a fanciful mark by combining “aqua” with “ro” which it derived from the words “ reverse osmosis.” For this reason Applicant believes its mark AQUARO to be a fanciful mark, as a made up word, and thus should be afforded very strong trademark rights, and allowed registration on the Principal Register. Furthermore, even if “Aquaro” is a surname, it is an extremely rare surname, and not a surname of anyone connected with the Applicant.

The key to a refusal to register a mark, as a surname, is whether the “primary” significance of the mark to the purchasing public is that of a surname. If a mark is not “primarily” merely a surname, it is registrable on the Principal Register without a showing of secondary meaning. See *In re Monotype Corp PLC.*, 14 U.S.P.Q. 2d 1070, 1070 (TTAB 1989) (“As has been stated in previous cases, the question of whether a word sought to be registered is primarily merely a surname can only be resolved on a case by case basis, and the quantum of evidence which was persuasive in finding surname significance in one case may be insufficient in another because of differences in the names themselves.”)

In this case, the Examiner has attached evidence from whitepages.com, establishing the surname significance, by stating the name appeared over 100 times. However, this evidence is not dispositive of whether the name sufficient significance to be a bar to registration. See *In re Sava Research Corp.*, 32 U.S.P.Q. 2d 1380, 1381 (TTAB 1994) (“At first blush, the material from the PHONEDISC U.S.A. database (1992 ed.) showing that at least 100 different Savas live throughout the United States would indicate that Sava is not an extremely rare surname. However, it must be remembered that this database includes over 90,000,000 listings. Thus, the uses of Sava as a surname represent about only one ten-thousandth of one percent of the surnames in this database.”). In our case, whitepages.com indicates that it has more than 200 million adults in its database, thus these results would indicate that the name “Aquaro” is extremely rare. See attached print out from whitepages.com indicating the database includes over 200 million adults.

Furthermore, there are other factors to consider in determining whether a mark is primarily a surname, than a phone book listing. See *In re Kahn & Weisz Jewelry Mfg. Corp.*, 184 U.S.P.Q. 421 (CCPA 1975) (“[A]lthough the use of a telephone directory may be considered a factor in determining whether a mark is primarily merely a surname, we do not find this standing alone, to be determinative of the issue....Such a showing does not establish that the primary significance of DUCHARME to the purchasing public is that of a surname.”).

As Applicant has pointed out, its mark AQUARO is a made up word, created to incorporate the term “aqua” for water, and “ro” for reverse osmosis. Applicant has a family of “aqua” marks for various water filtration systems. See attached print outs from Applicant’s website. Additionally, even if Aquaro is a surname, it is not a name associated with anyone connected with Applicant. See attached webpage about Applicant’s founders and owners. Also, See *In re Sava Research Corp.*, 32 U.S.P.Q. 2d 1380, 1381 (TTAB 1994) (“One factor that weighs in favor of a finding that SAVA is not primarily merely a surname is that there is no evidence that SAVA is in fact the surname of anyone connected with applicant.”); *In re Monotype Corp. PLC.*, 14 U.S.P.Q. 2d 1070, 1071 (TTAB 1989) (“Finally, there is no evidence that CALISTO is in fact the surname of anyone connected with applicant...., such that the public would attribute a surname significance to CALISTO when it is applied to applicant’s goods.”).

Applicant believes it has alleviated the Examiner’s concern that “Aquaro” will be perceived a “merely” a surname, it that it could be perceived as associated with a water filtration unit, and asks the Examiner to remove the surname refusal, and allow its mark to publish, allowing any third party that wishes to object to the registration to do so. See *In re Benthin Management GmbH*, 37 U.S.P.Q. 2d 1332, 1334 (TTAB 1995) (“Moreover, on the question of whether a mark would be perceived as primarily merely a surname, we are inclined to resolve doubts in favor of the applicant and pass the mark to publication with the knowledge that others who have the same surname and use it or wish to use it for the same or similar goods or services can file a notice of opposition.”)

EVIDENCE

Evidence in the nature of print out from website whitepages.com print out from Applicant's website showing family of "aqua" products print out from Applicant's website showing AQUARO product for reverse osmosis water filtration unit print out from Applicant's website showing names of founders and owners of Multi-Pure International has been attached.

Original PDF file:

[evi_691748720-145500884_.WhitePages.Inc.-About.Us.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_691748720-145500884_.Drinking.Water.Systems.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_691748720-145500884_.AquaRO.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_691748720-145500884_.About.Us.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

SIGNATURE(S)

Response Signature

Signature: /Lauri S. Thompson/ Date: 10/18/2012

Signatory's Name: Lauri S. Thompson

Signatory's Position: Attorney of Record, NV bar member

Signatory's Phone Number: 702-938-6886

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85623170

Internet Transmission Date: Thu Oct 18 15:05:53 EDT 2012

TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20121018150553455

545-85623170-490a76d56d85e78c46c5b832690

5b786-N/A-N/A-20121018145500884251



About

- WHAT WE DO
- LEADERSHIP
- CONTACT US

Connect with confidence.

WhitePages is the leading provider of contact information for people and businesses in the U.S. A top 40 property with over 40 million unique monthly users and powering over 2 billion searches on over 1,500 sites including MSN and the United States Postal Service, WhitePages offers consumers one-click access to more than 200 million adults, or over 90% of the adult population. The company's suite of mobile products includes a top-50 mobile website and popular iPhone, Android, HP webOS and BlackBerry applications that have been downloaded more than 25 million times.

WhitePages owns and operates the popular web properties 411.COM, ADDRESS.COM and PHONENUMBER.COM.



What's White & Green & Read All Over?

THE WHITEPAGES BLOG

A SHIP IN HARBOR IS SAFE, BUT THAT'S NOT WHAT SHIPS ARE BUILT FOR.

THE BEST RESOURCES FOR CALLER ID AND PHONE NUMBER LOOK UP

10 WOMEN'S NAMES IN THEIR GOLDEN YEARS

What's New



The era of caller ID simply being a name and number has officially ended with the introduction of Current Caller ID. Available in [GOOGLE PLAY](https://play.google.com/store/apps/details?id=com.whitepages.currentcallerid), Current Caller ID not only identifies nearly any incoming or outgoing call or text instantly for free, but it also displays recent status updates by friends and social contacts from Facebook, Twitter and LinkedIn. Taking innovation even further, Current Caller ID includes live local information from the caller or texter's location, such as weather and news, as well as fun infographics that provide instant insight into the communication relationship between users and the people they contact the most.





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Multipure Drinking Water Systems

Multipure Drinking Water Systems are the perfect way to ensure that your home and family are provided with cleaner, tastier, more healthful water. Our industry-leading drinking water systems can be used on the countertop or below the sink, and have several options to customize their features.

All Multipure Drinking Water Systems reduce a wide range of contaminants including Cysts, Lead, PCBs, MTBE, Mercury, Asbestos, Chlorine, Chloramine, VOCs, and other contaminants of health concern.

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AquaRO

The Multipure AquaRO combines Multipure's advanced solid carbon block filter and Arsenic filter with reverse-osmosis filter technology, resulting in our most complete water filtration system available. Because of its size and complexity, the AquaRO can only connect below the sink; the install kit is included.

- Pre-Filter: 6 months
- Carbon Post-Filter - 750 gallons: 1 year
- Reverse Osmosis Membrane: 2 - 3 years



[PURCHASE](#) SKU: MP750PlusRO

Booster Pump
Increases the speed and performance of the system

[PURCHASE](#) SKU: ROPUMP

Zero-Waste Kit
Increases system performance and conserves water

[PURCHASE](#) SKU: ROZW

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Products	wriggle	Purely Social	Product Registration
Opportunity	Multipure Vitalic	Pure Foundation	Order Status
Science	Aquaversa	Meetings & Events	Distributor Update
FAQ	Aquaperform	Product Services	Customer Update
Contact Us	Aquadome	Address Update
Careers	Aquashower	Filter Reminder Service	Promo Code Registration
Multipure Archive	Aquasplash	Automatic Filter Reorder	Website Terms of Use
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About Us

Since 1970, Multipure has been guided by brothers and founders, H. Allen Rice and Alvin E. Rice, to provide cleaner, more healthful drinking water to the public. In 1974, they developed their signature technology, the solid carbon block filter; since then, the company has further grown and flourished, manufacturing and selling filters and drinking water systems for residential and commercial use around the world. As the original manufacturer of the solid carbon block filter, Multipure uses its network of Independent Distributors to establish its products and opportunity throughout the United States, Canada, and the US Territories. Multipure's success has been built upon its values of family, integrity, and innovation; its establishment and growth can be traced to its belief in the strength of family and the promotion of the health and success of families everywhere.



Founders: H. Allen Rice and Alvin E. Rice.

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[Biographies](#)

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Products	wriggle	Purely Social	Product Registration
Opportunity	Multipure Vitalic	Pure Foundation	Order Status
Science	Aquaversa	Meetings & Events	Distributor Update
FAQ	Aquaperform	Product Services	Customer Update
Contact Us	Aquadome		Address Update

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