

This Opinion is Not a
Precedent of the TTAB

Mailed: March 4, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board

In re Rahmani Group S.p.A.

Serial No. 79250686

Alexander Lazouski of Lazouski IP LLC
for Rahmani Group S.p.A.

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Before Adlin, Goodman and Pologeorgis, Administrative Trademark Judges.

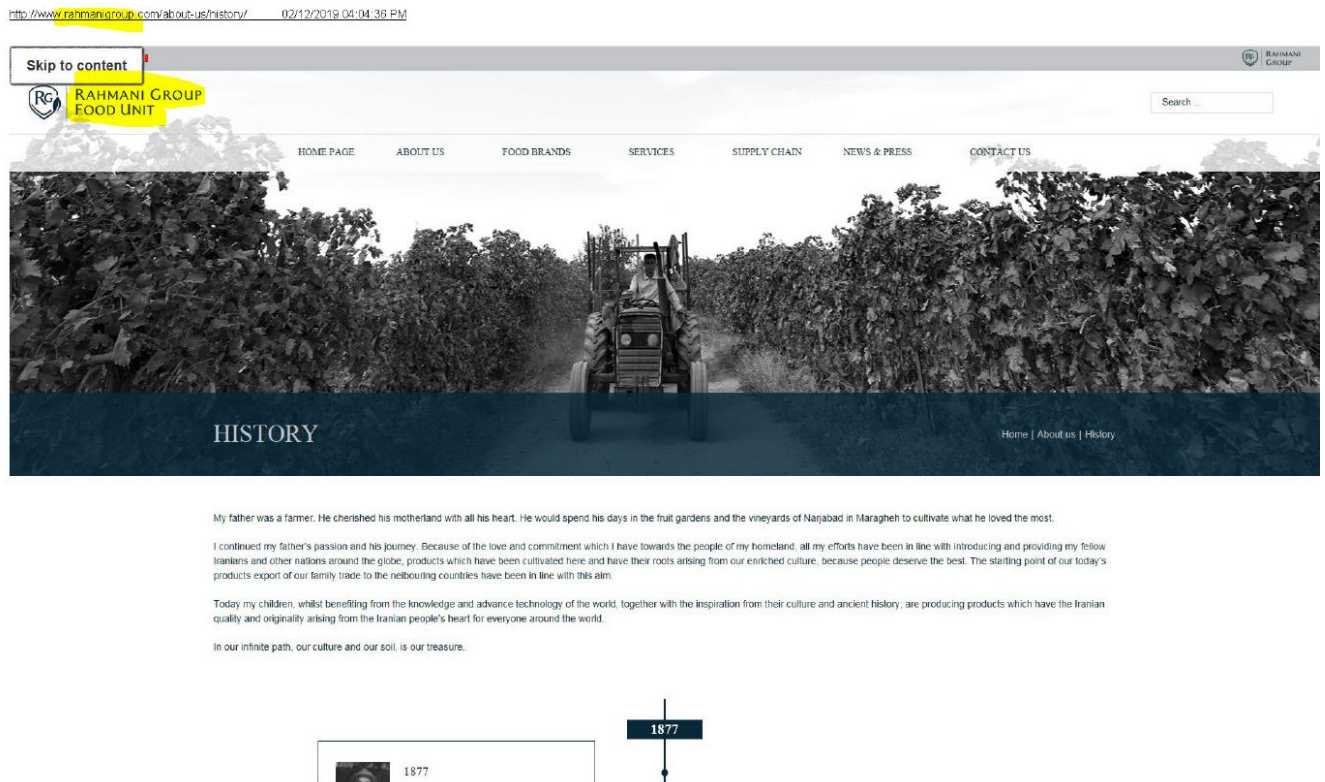
Opinion by Adlin, Administrative Trademark Judge:

Applicant Rahmani Group S.p.A. requests an extension of protection of International Registration No. 1446850 for the proposed mark RAHMANI, in standard characters, for an exceedingly wide variety of food and beverage products in International Classes 29 and 30.¹ The Examining Attorney refused registration under Section 2(e)(4) of the Trademark Act, 15 U.S.C. § 1052(e)(4), on the ground that Applicant's proposed mark is primarily merely a surname. After the refusal became final, Applicant appealed and Applicant and the Examining Attorney filed briefs.

¹ Application Serial No. 79250686, filed September 25, 2018, under Section 66(a) of the Trademark Act, 15 U.S.C. § 1141f(a).

I. The Record

The Examining Attorney relies on Applicant's website, which indicates that Applicant is a multi-generational family business which operates under the family's surname RAHMANI, with Rahmani Group Food Unit being an apparent subsidiary or affiliate of Applicant Rahmani Group:



February 12, 2019 Office Action TSDR 64. She also relies on “negative” gazetteer and dictionary evidence showing that “rahmani” has no English language meaning or geographic significance. *Id.* at 36, 37. Google search results and a New York Times article reveal that Roya Rahmani is Afghanistan’s Ambassador to the United States. August 20, 2019 Office Action TSDR 64-65, 67-69.

Finally, the Examining Attorney relies on a LexisNexis public records search apparently covering just the United States which lists 1,408 people with the surname

Rahmani. February 12, 2019 Office Action TSDR 12-34. Another LexisNexis public records search apparently covering just the United States lists 26,398 people with the surname “Rahman,” and a Wikipedia entry for “Rahman” indicates that it is an “Arabic male name,” and “[w]ith nisba (Arabic onomastic), the name becomes Rahmani, means ‘descendant of the gracious one’ and is used as a surname.” *Id.* at 38-61. A third LexisNexis public records search apparently covering just the United States lists 8,095 people with the last name “Rehman.” August 20, 2019 Office Action TSDR 12-35.²

For its part, Applicant relies on evidence that “rahmani” means “Godlike” or “Godlikenesses” in Urdu. July 29, 2019 Office Action response TSDR 25, 29. Applicant also relies on an article which indicates that from 2010-2014 the number of Urdu speakers in the United States increased 23 percent, but the article does not indicate how many Americans speak Urdu. *Id.* at 19.

II. Analysis

Marks which are “primarily merely a surname” may not be registered on the Principal Register unless they have acquired distinctiveness. 15 U.S.C. §§ 1052(e) and (f); *In re Etablissements Darty et Fils*, 759 F.2d 15, 225 USPQ 652, 653 (Fed. Cir. 1985). “A term is primarily merely a surname if, when viewed in relation to the goods or services for which registration is sought, its primary significance to the purchasing

² Evidence from the site “forebears.io” reveals a number of additional surnames which look and sound similar to “Rahmani,” but for the most part this evidence does not relate to the United States. August 20, 2019 Office Action TSDR 36-63. Similarly, we have not relied on search results or articles which do not clearly reveal public perception of “rahmani” in the United States.

public is that of a surname.” *Azeka Bldg. Corp. v. Azeka*, 122 USPQ2d 1477, 1480 (TTAB 2017). This is a question of fact, on which the Office bears the burden of proof. It can be resolved only on a case-by-case basis. *Darty*, 225 USPQ at 653; *In re Eximus Coffee, LLC*, 120 USPQ2d 1276, 1278 (TTAB 2016). Here, the record includes evidence typical of many surname cases: whether anyone affiliated with Applicant is named RAHMANI; whether the term has any non-surname meaning; whether the term is rarely used and encountered as a surname; and whether RAHMANI has the structure and pronunciation of a surname. *See, e.g., Azeka Bldg.*, 122 USPQ2d at 1480-81; *In re Eximus Coffee*, 120 USPQ2d at 1278. Based on this evidence, we find that the Examining Attorney has made a prima facie showing that the proposed mark is primarily merely a surname, which Applicant has not rebutted.

A. Applicant Was Founded By and Remains Connected to a Rahmani

There is no dispute that Applicant was founded and is currently operated by members of the RAHMANI family. In fact, Applicant’s website proudly details its history, and touts its connections to the RAHMANI family. February 12, 2019 Office Action TSDR 64. This evidence supports a finding that RAHMANI will be perceived as a surname. *See Darty*, 225 USPQ at 653 (finding that DARTY is primarily merely a surname in part because it “is not only the surname of the principal of the business, but also is used in the company name in a manner which reveals its surname significance ...”); *In re Integrated Embedded*, 120 USPQ2d 1504, 1506 (TTAB 2016) (affirming surname refusal based on analogous evidence); *In re Weiss Watch Co., Inc.*, 123 USPQ2d 1200, 1203 (TTAB 2017) (“Applicant’s promotion of its founder’s

connection to the company and its goods is persuasive of consumer perception of WEISS as a surname.”).

B. Rahmani Has No English Meaning Other Than As a Surname

Consumers are also likely to believe that RAHMANI is a surname because the “negative” dictionary and gazetteer evidence of record reveals that the term has no English non-surname meaning. On the other hand, the Wikipedia entry reveals that RAHMANI is a surname and the record reveals that a number of people in the United States have that surname. *In re Eximus Coffee*, 120 USPQ2d at 1280 (“The evidence that ALDECOA has no other recognized meaning further supports the Examining Attorney’s case that its primary significance is as a surname.”); *In re Binion*, 93 USPQ2d 1531, 1537 (TTAB 2009) (finding that BINION is primarily merely a surname in part based on dictionary evidence “showing the absence of an entry for ‘Binion’”).³

³ We are not persuaded by the evidence that Rahmani means “Godlike” or “Godlikenesses” in Urdu, because there is no evidence regarding how many Urdu speakers live in the United States. Furthermore, there is no evidence or reason to believe that Urdu speakers would associate a term meaning “Godlike” with Applicant’s identified food and beverage products. *Darty*, 225 USPQ at 653 (“Here there is no relationship between the word ‘dart’ and repair, maintenance, and distributorship services, which would lead one to think of that word from the use of DARTY as the mark for such services.”); *Mitchell Miller, PC v. Miller*, 105 USPQ2d 1615, 1621 (2013) (“The mere existence of other non-surname meanings of the mark does not preclude a finding that the mark is primarily merely a surname. Rather, we consider both whether, and if so, the degree to which, the public would associate any established meaning with the goods or services in the application.”).

C. Rahmani is a Rare Surname

Applicant strenuously argues and the evidence makes clear that RAHMANI is rarely used as a surname in the United States.⁴ That does not mean it is not primarily merely a surname, however. *In re Beds & Bars Ltd.*, 122 USPQ2d 1546, 1551 (TTAB 2017) (“Even a rare surname may be held primarily merely a surname if its primary significance to purchasers is that of a surname.”); *In re Eximus Coffee*, 120 USPQ2d at 1281 (“Section 2(e)(4) makes no distinction between rare and commonplace surnames ... and even a rare surname is unregistrable if its primary significance to purchasers is a surname.”) (numerous citations omitted). In fact, where, as here, a surname is rarely used but has no other meaning, and is the name of someone affiliated with an applicant, it is often found to be primarily merely a surname. Thus, this evidence, standing alone (as it does), is insufficient to defeat the Examining Attorney’s prima facie case.

Furthermore, the record establishes that Roya Rahmani is somewhat prominent as Afghanistan’s Ambassador to the United States, to the point that the New York Times published a fairly extensive article focusing on her personally and her involvement in peace talks with the Taliban.⁵ Thus, while RAHMANI is a rare

⁴ Applicant claims to have “briefly reviewed the first 400 records” in the LexisNexis public records search results, and claims that 6.25% are duplicates. It speculates that there are in fact “approximately 1300 separate listings in the entire United States,” rather than the 1,408 listed in the search results. 4 TTABVue 6. While we disagree with Applicant’s counting method (if we understand it correctly), we assume that there are duplicates and, for purposes of this decision only, accept Applicant’s speculation that there are approximately 1,300 separate listings in the United States.

⁵ Applicant speculates, without supporting evidence, that “most articles are not normally read when they appear in a paper or other publications,” and argues that “there can be no

surname in the United States, we can safely assume that in addition to those who have encountered one of the American Rahmanis, many have also been exposed to Ambassador Rahmani's surname.

D. Rahmani's Structure and Pronunciation is Somewhat Similar to Other Surnames' Structure and Pronunciation

This is a "highly subjective" inquiry and rarely if ever carries the day in surname cases. Nonetheless, the Examining Attorney has established that "Rahman," which differs from Applicant's name only by deleting the letter "i" at the end of RAHMANI, is not an uncommon surname in the United States. Moreover, the Wikipedia entry indicates that "Rahman" has a linguistic connection to "Rahmani." February 12, 2019 Office Action TSDR 38-61. There are also a number of Americans named "Rehman," another surname which is also fairly similar to RAHMANI. August 20, 2019 Office Action TSDR 12-35. While this evidence is far from overwhelming, it weighs slightly in favor of finding that RAHMANI is primarily merely a surname. Indeed, there is no evidence or basis upon which to believe that RAHMANI would be perceived as "an initialism or acronym ... and [it] does not have the appearance of having been coined by combining a root element that has a readily understood meaning in its own right with either a prefix or a suffix." *In re Gregory*, 70 USPQ2d 1792, 1796 (TTAB 2004).

presumption that any of the cited articles were read by a statistically significant number of persons in US." 4 TTABVUE 8. We disagree. There would be no reason for a publication, whether for profit or nonprofit, to report, write and distribute articles that are not read, and if a New York Times article about someone in the United States having the surname in question is not probative evidence of public perception, it is hard to imagine what types of evidence would be probative.

III. Conclusion

The record leaves no doubt that RAHMANI is primarily merely a surname. Indeed, RAHMANI is Applicant's name, the name of its founder, and the name of others affiliated with the company; and RAHMANI has no non-surname English language meaning, nor any non-surname meaning in another language which United States consumers have been shown to recognize. While the name is certainly rare, we have affirmed refusals of surnames which are much rarer than RAHMANI. *See e.g. In re Adlon Brand GmbH & Co. KG*, 120 USPQ2d 1717, 1720-21 (TTAB 2016) (finding ADLON primarily merely a surname despite evidence that only 75 United States individuals have that name, pointing out that the "strictly numerical approach to a surname analysis has been squarely rejected"); *see also In re Eximus Coffee*, 120 USPQ2d at 1282 ("The statute does not exempt wholesale from this prohibition those surnames shared only by a few, or provide that the purpose of the prohibition is to protect others' rights to use their surnames except for those with uncommon surnames."); *In re Beds & Bars.*, 122 USPQ2d at 1551 (refusing registration even though "according to the Lexis/Nexis evidence supplied by the Examining Attorney, only five people in the U.S. are named BELUSHI, establishing that it is an exceedingly rare surname").⁶

⁶ Applicant's heavy reliance on the majority and concurring opinions in *In re Joint-Stock Co. "Baik"*, 84 USPQ2d 1921 (TTAB 2007) is misplaced, for many of the reasons explained in *In re tapio GmbH*, 2020 USPQ2d 11387 *10-11 (TTAB 2020).

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Decision: The refusal to register Applicant's mark under Section 2(e)(4) of the Act is affirmed.