

THIS DISPOSITION  
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Hearing:  
March 12, 2002

**Mailed: June 20, 2002**  
Paper No. 15  
CEW

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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In re RENCO Encoders Inc.  
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Serial No. 75/586,074  
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David Toren and Shifra N. Malina of Brown & Wood for  
RENCO Encoders Inc.

M. Catherine Faint, Trademark Examining Attorney, Law  
Office 103 (Michael Hamilton, Managing Attorney).<sup>1</sup>  
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Before Seeherman, Walters and Holtzman, Administrative  
Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

RENCO Encoders Inc. has filed an application to  
register the mark SUPERSENSOR for "longitudinal and angle  
measuring apparatus, namely, linear, rotary and angle

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<sup>1</sup> Trademark Examining Attorney Boris Umansky appeared and argued this  
case at the hearing.

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encoders; electrical controllers for the aforementioned goods."<sup>2</sup>

The Trademark Examining Attorney has issued a final refusal to register, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive of its goods.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, and an oral hearing was held. We affirm the refusal to register.

The Examining Attorney contends that applicant's encoders are, or contain, sensors, as applicant's brochure indicates. She submits a definition of "encoder" as "1. any program, circuit or algorithm which encodes ... 2. a sensor or transducer for converting rotary motion or position to a series of electronic pulses"<sup>3</sup>; and excerpts of articles from the Lexis/Nexis database which indicate that encoders for various uses contain sensors.

The Examining Attorney contends, further, that, in the context of applicant's mark, "super" is simply a

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<sup>2</sup> Serial No. 75/586,074, in International Class 9, filed November 10, 1998, based on an allegation of a bona fide intention to use the mark in commerce.

<sup>3</sup> *Free Online Dictionary of Computing*, [www.foldoc.com](http://www.foldoc.com), September 13, 1999.

laudatory term indicating superior quality or grade<sup>4</sup>; that applicant's own literature indicates that its Modular 2.1 inch encoder is "highly reliable," and designed for "maximum performance"; and that the relevant consumer will "believe that applicant's SUPERSENSOR performs these functions with an even greater reliability and accuracy, and thus applicant's SENSORS are superior." She adds that "the composite merely combines the laudatory expression with the name of the goods to form an expression that is understood as merely descriptive of those goods."

Applicant contends that the term "supersensor" does not appear in any dictionary; that there are numerous meanings for the term "super" and, therefore, the term "supersensor" is an arbitrary term with "no accepted meaning in English." Applicant contends that the two terms, "super" and "sensor," are a "unique combination."

Both applicant and the Examining Attorney submitted copies of third-party registrations, many for two-word telescoped marks beginning with "super,"<sup>5</sup> which is not

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<sup>4</sup> As per the definition of the term contained in *American Heritage Dictionary of the English Language*, Third Ed., 1992, submitted by the Examining Attorney.

<sup>5</sup> Where a mark consists of two words telescoped into a single term, the term is considered unitary so that disclaimer of one part of the term is

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disclaimed, and many for marks consisting of two words beginning with "super," which is disclaimed. However, third-party registrations are not determinative of the question of registrability of applicant's mark. It is well settled that each case must be taken on its own facts. *In re Pennzoil Products Co.*, 20 USPQ2d 1753, 1758 (TTAB 1991); and *In re Inter-State Oil Co., Inc.*, 219 USPQ 1229, 1231 (TTAB 1983). Further, "third-party registrations simply are not conclusive on the question of descriptiveness, and a mark which is merely descriptive cannot be made registrable merely because other similar marks appear on the register." *See, In re Scholastic Testing Service, Inc.*, 196 USPQ 517, 519 (TTAB 1977).

The test for determining whether a mark is merely descriptive is whether it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). It is not necessary, in order to find a

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not required by the PTO. Thus, these third-party registrations are of little probative value in this case.

mark merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977).

Applicant does not disagree that encoders contain "sensors" and that these sensors are a major component of an encoder. We agree with applicant, supported by the dictionary definitions of record, that "super" is a term with numerous and very different meanings. However, as noted herein, we must consider the mark in the context of the goods. We agree with the Examining Attorney that the likely connotation of "super," in this context, is "an article or product of superior size, quality or grade." As an adjective modifying "sensor" it is likely to be understood as a laudatory term extolling the superiority of the sensors contained in applicant's encoders. Applicant draws the conclusion, without any explanation,

that the combination of the two terms, "super" and "sensor," creates a unique trademark. We see no basis for applicant's unsupported statement. Similarly, we see no basis for applicant's unsupported statement that the telescoping of the two words creates a uniquely different impression from the individual words.

Thus, we conclude that, when applied to applicant's goods, the term SUPERSENSOR immediately describes, without conjecture or speculation, a significant feature or function of applicant's goods, namely that applicant's encoders contain sensors of superior quality, performance or duration. Nothing requires the exercise of imagination, cogitation, mental processing or gathering of further information in order for purchasers of and prospective customers for applicant's goods to readily perceive the merely descriptive significance of the term SUPERSENSOR as it pertains to applicant's goods.

*Decision:* The refusal under Section 2(e)(1) of the Act is affirmed.