

3/8/02

**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 15  
JQ

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re Atmel Corporation

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Serial No. 75/649,068

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Thomas Schneck of Law Offices of Thomas Schneck for  
applicant.

Florentina Blandu, Trademark Examining Attorney, Law Office  
112 (Janice O'Lear, Managing Attorney).

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Before Quinn, Walters and Chapman, Administrative Trademark  
Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application has been filed to register the mark  
SMARTRF for "semiconductor devices, computer programs to  
develop software applications using semiconductor devices,  
and software for evaluating semiconductor devices."<sup>1</sup>

The Trademark Examining Attorney has refused  
registration under Section 2(e)(1) of the Trademark Act on

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<sup>1</sup> Application Serial No. 75/649,068, filed February 26, 1999,  
based on an allegation of a bona fide intention to use the mark  
in commerce.

the ground that applicant's mark, when applied to applicant's identified goods, is merely descriptive thereof.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney filed briefs. Applicant originally requested an oral hearing, but subsequently withdrew the request.

Applicant argues that the applied-for mark, when considered in its entirety, is incongruous in that while "smart" can mean "bright, sharp or intelligent," a radio frequency (applicant concedes that "RF" is an abbreviation for "radio frequency") cannot be described in such a manner. Further, while the term "smart" can describe certain programs, machinery or hardware, a radio frequency is none of these things. Applicant also contends that the term "smart" has a variety of meanings and is, therefore, ambiguous. In urging that the refusal be reversed, applicant submitted dictionary definitions of "smart," "radio frequency" and "semiconductor device," and a copy of one third-party registration.

The Examining Attorney maintains that applicant's mark describes radio frequency semiconductors and computer programs incorporating smart technology. As opposed to being an ambiguous term, the Examining Attorney asserts

that "smart" has a commonly understood meaning as applied to semiconductors and computer programs. In support of the refusal, the Examining Attorney submitted dictionary definitions of "RF" and "smart," excerpts of applicant's Internet web page and articles retrieved from the NEXIS database, and third-party "SMART" registrations showing a disclaimer or registration on the Supplemental Register.

It is well settled that a term is considered to be merely descriptive of goods, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality, characteristic or feature thereof or if it directly conveys information regarding the nature, function, purpose, use or intended use of the goods. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). It is not necessary that a term describe all of the properties or functions of the goods in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or feature about them. Moreover, whether a term is merely descriptive is determined not in the abstract but in relation to the goods for which registration is sought. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

The letters "RF" comprise an abbreviation of the term "radio frequency," and applicant conceded this point during

the prosecution of the application. A review of applicant's Internet web page indicates that applicant designs, manufactures and markets "RF semiconductors" and advanced semiconductors, including "RF integrated circuits."

The term "smart" has a variety of meanings, but we must consider the meaning of the term as applied to applicant's goods, in this case semiconductor devices and computer programs. The term "smart" is defined as "[d]esignating a program that performs correctly in a wide variety of complicated circumstances without having to be explicitly instructed by the user." Dictionary of Computer Words (1995). We take judicial notice of another definition of "smart:" "Equipped with, using, or containing electronic control devices, as,...microprocessors." Random House Webster's Unabridged Dictionary (2<sup>nd</sup> ed. 1998).

The record shows a variety of uses of "smart" in connection with electronic devices, including the following: (1) "[g]iven the integration of on-chip biasing and temperature compensation, these smart RF silicon transistors eliminate much detailed circuit design" (*Microwave Journal*, June 1, 1999); (2) "[h]aving focused on the development and sales of contactless smart card

products and services since its inception in 1991, Racom is now re-focusing its business to become a leading supplier of 'Smart RF' technologies to the semiconductor marketplace" (*Business Wire*, January 6, 1999); (3) "advanced radio frequency and smart-card microprocessor technology" (*Wireless Today*, March 13, 2000); (4) "smart cards soon will be available for use with contactless chip cards that communicate with terminals via radio frequency" (*Card Fax*, April 12, 2000); (5) "a manufacturer of wireless smart cards and other ultraminiature radio frequency (RF) applications" (*Electronic News*, March 6, 2000); and (6) "[t]he USPS will use radio frequency identification smart labels to sort your mail" (*ADC News and Solutions*, February 29, 2000).<sup>2</sup>

Based on the evidence of record, we find that the term SMARTRF immediately describes, without conjecture or speculation, a significant feature of applicant's semiconductor devices, namely that the radio frequency semiconductor devices incorporate or involve smart technology. Likewise, applicant's computer programs deal

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<sup>2</sup> Two of the other NEXIS articles bear headlines of "Alliance promotes smart RF-ID card" and "Security settles on smart RF." Although these articles appeared in electronic publications, the texts of the articles are missing from the NEXIS printouts. We are unable, therefore, to adequately assess these uses in the context of the type of goods involved herein.

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with the same type of semiconductor devices. Nothing requires the exercise of imagination or mental processing in order for purchasers of applicant's goods to readily perceive the merely descriptive significance of the term SMARTRF as it pertains to applicant's goods. There is nothing incongruous about the combination of these two clearly descriptive terms. In re Cryomedical Sciences, Inc., 32 USPQ2d 1377 (TTAB 1994). The third-party registration submitted by applicant of INTELLIGENT RF ("RF" disclaimed) is not persuasive of a different result herein.

Decision: The refusal to register is affirmed.