

6/6/02

THIS DECISION IS NOT
CITABLE AS PRECEDENT
OF THE TTAB

Paper No. 17
JQ

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Atmel Corporation

Serial No. 75/649,068

Request for Reconsideration

Thomas Schneck of Law Offices of Thomas Schneck for applicant.

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

Before Quinn, Walters and Chapman, Administrative Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

The Board, in a decision dated March 8, 2002, affirmed the Section 2(e)(1) refusal based on mere descriptiveness. More specifically, the Board found that the mark SMARTRF, as applied to "semiconductor devices, computer programs to develop software applications using semiconductor devices, and software for evaluating semiconductor devices," merely describes radio frequency semiconductor devices

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incorporating and involving smart technology, and computer programs dealing with the same type of semiconductor devices.

Applicant has filed a request for reconsideration, arguing that the Board's decision is in error "because semiconductors do not necessarily or inherently incorporate or involve smart technology." Applicant goes on to state that a semiconductor device does not necessarily include a microprocessor and therefore does not necessarily incorporate 'smart' technology." (request for reconsideration, p. 2) Potential consumers of applicant's goods, according to applicant, would know that not all semiconductors have microprocessors. Applicant contends that the term "smart" has a variety of meanings and that the combination of "smart" and "RF" (concededly an abbreviation of "radio frequency") results in a bizarre or incongruous meaning of the mark as a whole. Lastly, applicant's dismisses the NEXIS evidence submitted by the Examining Attorney.

The issue of mere descriptiveness is decided on the basis of the goods as set forth in the application. In re Allen Electric and Equipment Co., 458 F.2d 1404, 173 USPQ 689, (CCPA 1972) [SCANNER for antennas is merely descriptive--while applicant contends that the specimen

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shows that the mark is not in fact applied to scanning antennas, trademark cases must be decided on the basis of the identification of goods as set forth in the application--the term "antennas" is broad enough to encompass scanning antennas]; and In re Vehicle Information Network Inc., 32 USPQ2d 1542 (TTAB 1994). There are no pertinent limitations in the identification of goods in the present application, and, as shown by the record, the term "smart" has been used to describe certain computer programs and electronic devices. Being broadly identified, we must assume, for purposes of our legal analysis, that applicant's goods involve smart technology. As such, the mark SMARTRF is merely descriptive as applied to radio frequency semiconductor devices involving smart technology and computer programs dealing with the same type of semiconductor devices.

In sum, we do not find any of applicant's arguments to be persuasive of a different result, but rather conclude that the record supports affirmance of the refusal to register.

The request for reconsideration is denied, and the Board's decision dated March 8, 2002 stands.