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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Polymer Flip Chip Corporation

Serial No. 75/819,459

John F. McKenna of Cesari and McKenna for applicant.

Jennifer Stiver Chicoski, Trademark Examining Attorney, Law Office 115 (Tomas V. Vlcek, Managing Attorney).

Before Quinn, Chapman and Holtzman, Administrative Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application has been filed by Polymer Flip Chip Corporation to register the mark FLIP TAG for "radio frequency identification (RFID) tags and smart cards embedded with a microchip."¹

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

applicant's mark, if applied to applicant's goods, would be merely descriptive of them.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney submitted briefs. An oral hearing was not requested.

Applicant, while conceding that its RFID tags "happen to incorporate a flip chip" (brief, p. 3), argues that the mark sought to be registered is "FLIP TAG," not "FLIP CHIP TAG" (brief, p. 4). Applicant contends that the term "flip" by itself is meaningless in the smart card and tag trade, and that mental gymnastics are required to conclude that applicant's tags incorporate a flip chip. In support of its position, applicant submitted dictionary definitions of certain terms, including "flip chip." Applicant offered other remarks to illustrate the nature of its goods as follows (brief, p. 3):

RFID tags have many uses. For example, they can be programmed to open locked doors; they can be attached to articles (e.g. computers) to sound an alarm when the articles pass a transceiver located at the exitway of a building to prevent a theft. When attached to automobiles, the tags can be interrogated when the cars pass a toll plaza for toll collection purposes.

¹ Application Serial No. 75/819,459, filed October 12, 1999, alleging a bona fide intention to use the mark in commerce.

The Examining Attorney maintains that flip chip technology is used by applicant and others in the RFID tag and smart card industry, and that purchasers in the trade are likely to immediately recognize that the term FLIP TAG refers to RFID tags incorporating flip chips. The Examining Attorney asserts that there is nothing incongruous about applicant's mark. In support of the refusal, the Examining Attorney submitted dictionary definitions, excerpts from the websites of applicant and others in the RDIF tag trade, and excerpts retrieved from printed publications showing uses of flip chip technology by others in the trade.

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 or 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 term "flip chip" is defined as follows: "a tiny semiconductor die having terminations all on one side in the form of solder pads or bump contacts; after the surface of the chip has been passivated or otherwise treated, it is flipped over for attaching to a matching substrate."

McGraw-Hill Dictionary of Scientific and Technical Terms (1974). The NEXIS evidence attests to the tremendous growth in flip chip consumption for various reasons, among them being the small size, efficiency, reliability and low cost of manufacture of these chips. Solid State Technology (June 1, 1999). This evidence, along with the printouts from various websites of record, shows that others in the trade have incorporated flip chip technology in their products: "Products as diverse as Intel's Pentium II microprocessor with more than 2100 bumps and Philips' Mifare RFID tag chip with two bumps went flip chip last year." Id.

Applicant concedes, and the evidence shows, that applicant's RFID tags incorporate flip chips. Although the record does not include any uses of the term "flip" per se, the term describes the type of chip in applicant's tag.

The type of chip is a significant feature of the tags. The matter sought to be registered is merely a shortened form of "flip chip tag" which immediately describes, without conjecture or speculation, a significant feature of the goods, namely that the tags incorporate flip chips or flip chip technology. Thus, no imagination would be necessary for the relevant purchasers in the RFID tag trade to perceive precisely the merely descriptive significance of the term FLIP TAG as it relates to an important feature of the goods. See: In re Abcor Development Corp., supra at 219 [Rich, J., concurring: "The name [of the product] is 'Gas Monitoring Badge.' This may be regarded as the *full* name. However, the users of language have a universal habit of shortening full names--from haste or laziness or just economy of words. Examples are: automobile to auto, telephone to phone, necktie to tie, gasoline service station to gas station. I regard it as *inevitable* that a gas monitoring badge will be called a gas badge as the name of the goods to the same extent as gas monitoring badge is the name..."] (emphasis in original).

The fact that applicant could be the first and/or only entity to use the term FLIP TAG for RDIF tags incorporating flip chip technology is not dispositive where, as here, the term unquestionably conveys a merely descriptive

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connotation. In re Polo International Inc., 51 USPQ2d 1061, 1063 (TTAB 1999). We find that others in the trade would have a competitive need to use this term. See: 2 J.T. McCarthy, McCarthy on Trademarks and Unfair Competition, § 11:18 (4th ed. 2001).

Decision: The refusal to register is affirmed.