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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Megic Corporation

Serial No. 78476212

Stephen B. Ackerman of Saile Ackerman LLC for Megic Corporation.

Elizabeth J. Winter, Trademark Examining Attorney, Law Office 113 (Odette Bonnet, Managing Attorney).

Before Hairston, Grendel and Drost, Administrative Trademark Judges.

Opinion by Grendel, Administrative Trademark Judge:

Applicant seeks registration on the Principal Register of the mark **POST-PASSIVATION** (in standard character form) for goods identified in the application as "integrated circuits."¹

¹ Serial No. 78476212, filed on August 31, 2004. The application is based on applicant's asserted bona fide intention to use the mark in commerce. Trademark Act Section 1(b), 15 U.S.C. §1051(b).

At issue in this appeal are the Trademark Examining Attorney's refusals to register applicant's mark on two grounds. First, she contends that the mark is merely descriptive and thus unregistrable pursuant to Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1). Second, she has refused registration on the basis of applicant's asserted failure to fully comply with her request for information pursuant to Trademark Rule 2.61(b), 37 C.F.R. §2.61(b).

Applicant and the Trademark Examining Attorney have filed main appeal briefs. We affirm the refusal to register.

A term is deemed to be merely descriptive of goods or services, within the meaning of Trademark Act Section 2(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. *See, e.g., In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987), and *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). A term need not immediately convey an idea of each and every specific feature of the applicant's goods or services in order to be considered merely descriptive; it is enough that the term describes one significant attribute, function or property of the goods or

services. See *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

Whether a term is merely descriptive is determined not in the abstract, but in relation to the goods or services for which registration is sought, the context in which it is being used on or in connection with those goods or services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use. That a term may have other meanings in different contexts is not controlling. *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). Moreover, it is settled that "[t]he question is not whether someone presented with only the mark could guess what the goods or services are. Rather, the question is whether someone who knows what the goods or services are will understand the mark to convey information about them." *In re Tower Tech Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002). See also *In re Patent & Trademark Services Inc.*, 49 USPQ2d 1537 (TTAB 1998); *In re Home Builders Association of Greenville*, 18 USPQ2d 1313 (TTAB 1990); and *In re American Greetings Corporation*, 226 USPQ 365 (TTAB 1985).

It is clear from the evidence made of record by the Trademark Examining Attorney that POST-PASSIVATION is merely descriptive of applicant's "integrated circuits."

As the dictionary evidence submitted by applicant itself shows, "post-" is defined as a prefix meaning "after; later." (The American Heritage Dictionary of the English Language (4th ed. 2000)). We note that Webster's Ninth New Collegiate Dictionary (1990) defines "passivation" as the noun version of the verb "passivate," which itself is defined as "to protect (as a solid-state device) against contamination by coating or surface treatment." Similarly, the website of DIE Products Consortium (<http://www.dieproduct.com>) includes a glossary which gives the following definition of "passivation": "insulating layer directly over a circuit or circuit element to protect the surface from contaminants, moisture or particles."

The evidence of record also includes numerous instances of descriptive use of "post-passivation" and/or "post passivation" in the relevant industry. Examples of these descriptive uses are as follows (emphasis added).

- The website of The Surface Mount Technology Association (<http://www.smta.org>) identifies a paper presented at a conference, entitled "**Post-Passivation** Layers: Device Enhancement at the Wafer Level." The text includes the statement that "The application and complexity

of this '**post-passivation** layer' wafer processing in the back end will increase...".

- The website FreshPatents.com

(<http://www.freshpatents.com>) displays a patent application entitled "Method for reducing defects in **post passivation** interconnect process," which includes the following in its text: "The present invention relates generally to integrated circuits, and more particularly to a method for reducing defects in a **post passivation** interconnect process."

- The website freepatentsonline

(<http://www.freepatentsonline.com>) displays Patent No. 6399997, owned by applicant, entitled "High performance system-on-chip using **post passivation** process and glass substrates."

- The website ChipScale Review (July 2004)

(<http://www.chipscalereview.com>) displays an article in which the following text appears: "Additional wafer processing in back-end assembly has been practiced for years, on a limited scale, to enhance device functionality. The application and complexity of this '**post-passivation** layer' (PPL) wafer processing at the backend will increase as innovative technical solutions are required to enable future high-performance devices. ... A PPL is defined as

any layer or structure above the final passivation of a chip that adds functionality to the semiconductor device." An accompanying diagram of a "Chip Interconnect" includes the wording "**Post Passivation** Layers" as one element of the chip.

- Another article from the ChipScale Review website (July 2004) includes the following text under the heading "Value Added with **Post Passivation**": "Amkor's Berry suggests thinking farther outside the box beyond just bumping. 'Just send processed, ready-for-bumping wafers (a.k.a. **post passivation**) and let the vendors apply UBM, RDL and bumps before thinning, then they can thin them as needed."

- The website of Reed Electronics Group (<http://www.reed-electronics.com>) includes the following text under the heading "PPL processing": A **post-passivation** layer (PPL) is defined as any layer or structure above the final passivation of a chip that adds functionality to the semiconductor device." Under the heading "Process results," the following text appears: As discussed previously, there is a growing demand for **post-passivation** lithography to enhance the device functionality. One of the key challenges in successful

post-passivation lithography is the ability to expose high-aspect-ratio structures without affecting process yields.”

- A NEXIS article from Test and Measurement World of June 1, 2005 includes the following text: “August’s Roy noted a growing interest in placing **post-passivation** layers (PPLs) on top of wafers.”

- A NEXIS article from US Fed News of March 16, 2005 discussing U.S. Patent No. 6,684,565 includes the following text: “Vincent Hool of Fremont, Calif., and Jon Long of Livermore, Calif., have developed a method of **post-passivation** thick metal pre-routing for flip chip packaging. According to the U.S. Patent & Trademark Office: “The semiconductor package comprises an IC chip and a substrate, wherein part of the substrate routing such as substrate level trace routing is placed on the IC chip using **post-passivation** thick metal process at wafer level.”

Based on this evidence, including applicant’s own descriptive usage in its patent, we find that POST-PASSIVATION is merely descriptive as applied to applicant’s “integrated circuits.” Applicant argues to the contrary that the word “post” has numerous other meanings which, when combined with the word “passivation,” are incongruous and have nothing to do with applicant’s goods. This argument is unpersuasive because, as noted above, the mere

descriptiveness of the mark must be determined in reference to the identified goods, not in the abstract. That a term may have other meanings in different contexts is not controlling. *In re Bright-Crest, Ltd., supra.*

In this case, the evidence is clear that "post-passivation"² merely describes a feature or characteristic of applicant's goods, i.e., that applicant's integrated circuits are or would be subjected to or constructed using a post-passivation process and that they feature a post-passivation layer. In view thereof, we find that the Trademark Examining Attorney's Section 2(e)(1) refusal is proper.

Decision: The Section 2(e)(1) refusal is affirmed.³

² The evidence also clearly shows that "post passivation," i.e., without the hyphen, is commonly used to describe this feature of the goods, and that it therefore is as merely descriptive as the hyphenated "post-passivation."

³ In view of our affirmance of the Section 2(e)(1) refusal, we need not and do not reach the additional refusal based on applicant's asserted failure to comply with the Trademark Examining Attorney's requirement for submission of information under Trademark Rule 2.61(b).