

THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board  
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In re SeaOne Maritime Corporation  
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Serial No. 78484627  
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Kenneth S. Roberts and Mark J. Shean of Orrick, Herrington & Sutcliffe LLP for SeaOne Maritime Corporation.

John S. Yard, Trademark Examining Attorney, Law Office 115  
(Tomas V. Vlcek, Managing Attorney).  
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Before Hairston, Zervas and Walsh, Administrative Trademark  
Judges.

Opinion by Hairston, Administrative Trademark Judge:

An application has been filed by SeaOne Maritime  
Corporation to register the mark COMPRESSED GAS LIQUID for  
goods and services ultimately identified as follows:

Mixture of natural gas and liquid solvent in  
International Class 4;

Supplying [a] mixture of natural gas and liquid  
solvent in International Class 39; and

Production services producing [a] mixture of natural gas and liquid solvent in International Class 40.<sup>1</sup>

The trademark examining attorney has refused registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that applicant's mark, when applied to applicant's goods and services, is merely descriptive of them.

When the refusal was made final, applicant appealed. Applicant and the examining attorney have filed briefs. We affirm the refusal.

The examining attorney argues, at p. 2 of his Final Office Action, that: "The applicant's goods and/or services are literally compressed gases in a liquid or fluid form and/or the making or supplying thereof. As such the mark COMPRESSED GAS LIQUID is descriptive of the applicant's goods and/or services." In support of the refusal, the examining attorney made of record the following definitions from the website <http://www.rhymezone.com>:

**compressed gas:** gas at a high pressure that can be used as a propellant

**liquid:** a substance in the fluid state of matter having no fixed shape, but a fixed volume

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<sup>1</sup> Application Serial No. 78484627, filed on September 16, 2004, which is based on a bona fide intention to use the mark in commerce.

In addition, the examining attorney submitted three Internet printouts. Two of the printouts discuss the storage and handling of compressed natural gas in cylinders. (<http://www.ehs.uci.edu>) and (<http://www.northwestern.edu>). The third printout contains a discussion of "liquefied compressed gases," and the examining attorney points to the following information, in particular:

What Is a Liquefied Compressed Gas?

A liquefied compressed gas can be defined as a gas that becomes a liquid at ambient temperature when compressed in a container. Liquefied compressed gases can also be defined as those gases which become liquids to a very large extent in containers at ordinary temperatures and pressures ranging from 25 psig to 2,500 psig. (<http://www.airgas.com>)

In urging reversal of the refusal to register, applicant argues that the mark COMPRESSED GAS LIQUID does not have any meaning in the relevant industry, but rather is a phrase coined by applicant to identify its proprietary formulation of gases and solvent, and services relating thereto. Applicant acknowledges that the individual terms "compressed gas" and "liquid" have specific meanings in the relevant industry. However, applicant argues that the composite mark COMPRESSED GAS LIQUID has no specific meaning in the relevant industry and is not merely descriptive of its goods and services. By juxtaposing the

words GAS and LIQUID, in particular, applicant maintains that the composite mark COMPRESSED GAS LIQUID creates a unique commercial impression which does not immediately identify the characteristics of its goods and services. According to applicant, a purchaser must exercise some level of imagination or thought to ascertain the nature of its goods and services.

Applicant submitted the results of a "Google" search for the term "compressed gas liquid." The search results show numerous uses of the individual terms "compressed gas" and "liquid" in connection with natural gas, but not the composite term "compressed gas liquid" in connection with such goods. Further, applicant submitted two Internet printouts from the homepage of the California Energy Commission (<http://www.airgas.com>) which show that "compressed natural gas" and "liquefied natural gas" are alternative forms of natural gas used in vehicles. Applicant argues that this evidence supports its position that "compressed natural gas" and "liquefied (or liquid) natural gas" are the terms commonly used to refer to forms of natural gas.

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 goods and/or services in connection with which it is used, or intended to be used. 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 (CCPA 1978). It is not necessary for a term to describe all of the properties or characteristics of the goods and/or services in order for it be considered merely descriptive of them; rather, it is sufficient if the term describes any significant attribute or idea about them. 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 and/or services for which registration is sought, the context in which the mark is used or is intended to be used, and the impact that it is likely to make on the average purchaser of such goods and/or services. In re Bright-Crest, Ltd. 204 USPQ 591 (TTAB 1979); and In re Recovery, 196 USPQ 830 (TTAB 1977).

We find that the term COMPRESSED GAS LIQUID is merely descriptive of applicant's mixture of natural gas and liquid solvent in that it immediately conveys, without the need for speculation or imagination, that such mixture is compressed gas in liquid form, i.e., COMPRESSED GAS LIQUID. Applicant acknowledges that the terms "compressed gas" and

"liquid" have specific meanings in the relevant industry. Indeed, "compressed gas" is defined as gas at a high pressure, and the record shows that natural gas is "compressed" for storage and distribution. Further, applicant's goods are identified as a mixture consisting of, in part, "liquid solvent," and the examining attorney's evidence demonstrates that "liquefied compressed gas" is a "gas that becomes liquid at ambient temperature when compressed in a container." Purchasers and prospective purchasers of applicant's goods in the relevant industry, would immediately understand from the term COMPRESSED GAS LIQUID that applicant's mixture of natural gas and liquid solvent is compressed gas in liquid form. While "liquefied (or liquid) compressed gas" may well be the more "normal" order of the words, we find that COMPRESSED GAS LIQUID conveys the same descriptive meaning. In other words, juxtaposing the words GAS and LIQUID does not result in a mark which is so incongruous or unusual as to possess no definitive meaning or significance other than that of an identifying mark for applicant's goods.

Further, we find that the term COMPRESSED GAS LIQUID is equally descriptive of applicant's services of supplying and producing a mixture of natural gas and liquid solvent. It directly describes, when used in connection with such

services, that the significant characteristic or subject matter thereof is compressed gas in liquid form.

Insofar as applicant contends that the term COMPRESSED GAS LIQUID refers to its proprietary formulation of gases and solvent, the fact that applicant is or intends to be the first and/or only entity to use such term is not dispositive, where as here, the term projects only a merely descriptive significance in the context of applicant's goods and services. See *In re MBAssociates*, 180 USPQ 338 (TTAB 1973). Similarly, it is not necessary that a designation be in common usage in the particular industry in order for it to be merely descriptive. See *In re National Shooting Sports Foundation, Inc.*, 219 USPQ 1018 (TTAB 1983). Thus, the absence on this record of any third-party uses of the specific term COMPRESSED GAS LIQUID does not mean that applicant is entitled to registration of the term.

In sum, we find that the term COMPRESSED GAS LIQUID is merely descriptive of applicant's goods and services.

**Decision:** The refusal to register under Section 2(e)(1) is affirmed as to the goods and services in Classes 4, 39, and 40.