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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 Poly-clip System Corp.

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Application Serial No. 78724442

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Raiford A. Blackstone, Jr. of Trexler, Bushnell, Giangiorgi,  
Blackstone & Marr, Ltd., for Poly-clip System Corp.

Michael P. Keating, Examining Attorney, Law Office 101,  
(Ronald R. Sussman, Managing Attorney).

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**Before Zervas, Mermelstein, and Ritchie de Larena,  
Administrative Trademark Judges.**

**Opinion by Mermelstein, Administrative Trademark Judge:**

Applicant seeks registration of the mark HYBRID SYSTEM  
(in standard characters) for "food preparation apparatus,  
namely, automated sausage stuffers, automated sausage  
machines" in International Class 7.<sup>1</sup> Registration has been  
finally refused under Trademark Act § 2(e)(1); 15 U.S.C.  
§ 1052(e)(1), on the ground that the proposed mark is merely  
descriptive of the identified goods.

We affirm.

**I. Facts**

In his first Office Action, the examining attorney

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<sup>1</sup> Application filed September 30, 2005, based on a *bona fide*

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required applicant to submit information about the identified goods pursuant to Trademark Rule 2.61(b), "to determine whether all or part of the mark is merely descriptive as applied to the goods." Applicant responded, providing a clear description of the goods:

Sausage is commonly encased in a casing prior to processing. Usually, a pasty sausage product, such as ground meat and spices, is pumped (or "stuffed") into a tubular casing. The filled casing is squeezed to form a neck at which two clips are applied. Usually but not always the neck is separated between the clips. The tubular casing can be an edible natural material such as collagen or an inedible material that is removed prior to use. Different types of tubular casing are used for different products. ....

Please note that there are two types of sausage stuffers commonly used. In one type of stuffer, preformed tubular casing is shirred over a tubular filling horn and the pasty sausage product is pumped into that filling horn. The pasty sausage product exits the other end of the filling horn filling the tubular casing. ... The filled tubular casing then proceeds to a clipper which clips the tube to form a sausage. ...

In the other type of stuffer, flat sheets of casing, called "roll stock", are formed into a tubular shape over a filling horn. A device seals the seam formed in the tube, so that a tubular casing is formed over the filling horn. The pasty sausage product is pumped into the filling horn and fills the tubular casing formed from the flat sheets of roll stock. This process has the disadvantage of forming a seam in the

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intent to use the mark in commerce.

casing but has the advantages of economy and streamlined processing.

...

Applicant has a bona fide intent to use a machine incorporating both types of stuffers. ... Two filling horns will be used. One will be used for tubular casing formed from flat roll stock. The other filling horn will be used for shirred tubular casing. One filling horn is used to connect the stuffer ... to a clipper.... When the user wishes to switch to a different type of casing, the first filling horn can be rotated out of the way and the other filling horn rotated in to connect the stuffer to the clipper.

The customers are sausage manufacturers or other manufacturers of products that are extruded into a preformed tubular film or a film made from flat roll stock, such as vegetarian sausages and cheeses.

The system is hybrid in the sense that it can utilize both flat roll stock film and pre-formed tubular casing. The term "hybrid" has no other significance in relation to the goods or in the industry. The goods are part of a "system" in the sense that a stuffer and a clipper form a "system". But the goods described in the application are the stuffer having two filling horns.

Response, Oct. 4, 2006.<sup>2</sup>

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<sup>2</sup> Applicant also provided information regarding two related machines, applicant's ICA 8700 Automatic Double Clipper and its TSA 120/200 Automatic Sealing Machines. Other than these submissions, applicant did not provide any other evidence during examination.

## II. Applicable Law

A term is merely descriptive if it immediately conveys knowledge of a significant quality, characteristic, function, feature or purpose of the goods with which it is used. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987). Whether a particular term is merely descriptive is determined in relation to the products for which registration is sought and the context in which the term is used, not in the abstract or on the basis of guesswork. *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); *In re Remacle*, 66 USPQ2d 1222, 1224 (TTAB 2002). In other words, the issue is whether someone who knows what the products are will understand the mark to convey information about them. *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1316-1317 (TTAB 2002); *In re Patent & Trademark Serv. Inc.*, 49 USPQ2d 1537, 1539 (TTAB 1998); *In re Home Builders Ass'n of Greenville*, 18 USPQ2d 1313, 1317 (TTAB 1990); *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

"On the other hand, if one must exercise mature thought or follow a multi-stage reasoning process in order to determine what product or service characteristics the term indicates, the term is suggestive rather than merely descriptive." *In re Tennis in the Round, Inc.*, 199 USPQ 496, 497 (TTAB 1978); see also *In re Shutts*, 217 USPQ 363, 364-365 (TTAB 1983); *In re Universal Water Sys., Inc.*, 209

USPQ 165, 166 (TTAB 1980). Even where individual terms are descriptive, combining them may evoke a new and unique commercial impression. If each component retains its merely descriptive significance in relation to the goods, without the combination of terms creating a unique or incongruous meaning, then the resulting combination is also merely descriptive. *In re Tower Tech.*, 64 USPQ2d at 1317-1318.

**III. Descriptiveness under Trademark Act § 2(e)(1)**

According to the Examining Attorney, "the mark is a combination of descriptive terms in that the goods are single sausage stuffing machines that perform the functions of two different machines. ... Here, the record conclusively establishes the mere descriptiveness of the terms HYBRID and SYSTEM in relation to the goods for which registration is sought, and the combination of those terms fails to create a separate non-descriptive meaning. Ex. Att. Br. at 5.

The Examining Attorney submitted a number of dictionary definitions in support of his refusal to register, including the following:

**hybrid**

...

**2a.** Something of mixed origin or composition.

**b.** Something such as a computer or power plant, having two kinds of components that produce the same or similar result.

THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4<sup>th</sup> ed. 2000) online edition [www.bartleby.com](http://www.bartleby.com) (Oct. 25, 2006).

**hybrid**

...

**3a:** something heterogeneous in origin or composition: COMPOSITE <*hybrids* of complementary DNA and RNA strands><a *hybrid* of medieval and Renaissance styles> **b:** something (as a power plant, vehicle, or electronic circuit) that has two different types of components performing essentially the same function.

MERRIAM-WEBSTER ONLINE [www.bartleby.com](http://www.bartleby.com) (Oct. 25, 2006).

**hybrid**

noun

...

**3. result of mixing elements:** something made up of a mixture of different aspects or components

adjective

...

**2. containing mixed elements:** made up of different aspects or components

- *a hybrid literary form*

MSN Encarta Dictionary (online edition <http://encarta.msn.com> (Oct. 25, 2006).

**sys·tem**

-noun

**1.** an assemblage or combination of things or parts forming a complex or unitary whole: a *mountain system*; a *railroad system*.

DICTIONARY.COM UNABRIDGED (v 1.0.1) ([http://dictionary-reference.com](http://dictionary.reference.com) Oct. 25, 2006).

**sys·tem**

*n.*

**1.** A group of interacting, interrelated, or interdependent elements forming a complex whole.

**2.** A functionally related group of elements, especially:

...

**d.** A group of interacting mechanical or electrical components.

THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4<sup>th</sup> ed. 2000) online edition <http://dictionary.reference.com> (Oct. 25, 2006).

**system**

n 2: instrumentality that combines interrelated interacting artifacts designed to work as a coherent entity; "he bought a new stereo system"; "the system consists of a motor and a small computer"

WORDNET 2.0 <http://dictionary.reference.com> (Oct. 25, 2006).

Applicant nonetheless argues that HYBRID SYSTEM is suggestive of the identified goods:

There is absolutely no information conveyed in the mark as to what type or types of sausage-stuffing mechanism[] is used by the apparatus, ... how the apparatus operates, or what kinds of sausages the apparatus produces. A user, even a sophisticated user, must make a mental leap of imagination to determine why Applicant's apparatus is "hybrid".

App. Br. at 7. Despite the significance of the words to applicant's goods, applicant argues that

a user still must use imagination, thought or perception to conclude that the goods use two different types of sausage-stuffing mechanisms. The simple label of a sausage machine as having a mixture of two or more things or as produced by combining elements from different sources does not convey any information about Applicant's goods. Knowing that the sausage machine is "hybrid" still does not tell the consumer how the machine operates or what kind of sausage it makes. Rather, numerous questions would arise in the mind of the consumer before the user could determine what two or more things

are combined or mixed in Applicant's apparatus[.]

App. Br. at 7-8.

We agree with the examining attorney. The fact that the words HYBRID SYSTEM alone do not immediately convey to a potential purchaser a full understanding of exactly what the device is, how it operates, or precisely what kind of product it makes does not prevent those words from being held descriptive.<sup>3</sup> The question is whether the mark immediately conveys knowledge of some significant quality, characteristic, function, feature or purpose of the goods with which it is used. *Gyulay*, 3 USPQ2d at 1009. It is not necessary that a term describe all of the functions or characteristics of the goods in order to be merely descriptive. *In re H.U.D.D.L.E.*, 216 USPQ 358, 358-59 (TTAB 1982).

Moreover, the words claimed to be descriptive must be examined with reference to the identified goods, and not in the abstract. *See, e.g., In re Fitch IBCA Inc.*, 64 USPQ2d 1058, 1060 (TTAB 2002) ("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 or services for which registration is sought,

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<sup>3</sup> Applicant supposes that "[a] customer, looking at Applicant's apparatus and seeing the proposed mark, will not immediately conclude 'Oh, this apparatus must use both preformed tubular casing and flat sheets of casing!", and concludes therefore that

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the context in which the mark is used or intended to be used, and the impact that it is likely to make on the average purchaser of such goods or services"). In other words, knowing what the goods are, does the mark convey significant information about them?

Applicant's proposed mark is HYBRID SYSTEM, and is intended to be used on a machine which combines the function of two different types of sausage-stuffing machines. This machine is clearly a "hybrid," in that it has "two different types of components performing essentially the same function." MERRIAM-WEBSTER ONLINE, *supra*.<sup>4</sup> Likewise, the goods constitute a "system" in that it comprises a "functionally related group of elements," and in particular, "a group of interacting mechanical or electrical components." THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, *supra*. In applicant's own words, "[t]he system is hybrid in the sense that it can utilize both flat roll stock film and pre-formed tubular casing." Response, Oct. 4, 2006.

Finally, there is nothing about the combination of the terms "hybrid" and "system" in applicant's mark which gives it a meaning other than that of its constituent parts.

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the mark is only suggestive. Reply Br. at 3.

<sup>4</sup> We note applicant's argument that its use of "hybrid" does not fit this definition because the components do not "perform[] essentially the same function." We disagree. Both components of applicant's goods form sausage. The fact that the components do it somewhat differently (with somewhat different results) is precisely what makes such a device a "hybrid." If the two

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There is no incongruity or different meaning when these merely descriptive terms are combined to form the composite mark at issue here. We have no doubt that a prospective purchaser of applicant's goods would immediately, and forthwith, understand that such goods are a hybrid system, *i.e.*, that they consist of a combination of similar components which produce sausage in two different ways.

**IV. Conclusion**

After careful consideration, we find that applicant's mark, HYBRID SYSTEM, is merely descriptive of applicant's goods, and that registration is accordingly barred under Trademark Act § 2(e)(1).

**Decision:** The refusal to register is affirmed.

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components did the same thing in the same way one of them would simply be a spare part.