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**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 14  
JQ

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Casino Data Systems

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Serial No. 74/654,722

inv. CB7-3197

Bernhard Kreten for applicant

David H. Stine, Trademark Examining Attorney, Law Office 103  
(Michael Szoke, Acting Managing Attorney).

Before Quinn, Hohein and Hairston, Administrative Trademark  
Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application has been filed by Casino Data Systems to register the mark MAINTENANCE MONITOR for "computer programs, namely software for use in tracking the performance of gaming equipment and gaming personnel in a gaming environment "1

The Trademark Examining Attorney has refused registration under Section 2(e)(1) of the Trademark Act on the ground that applicant's mark, when applied to applicant's goods, is merely descriptive of them.

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

Applicant contends, in urging that the refusal of registration be reversed, that the mark is, at worst, just suggestive of only one characteristic of the product. Applicant further argues that the mark as a whole is not descriptive, and that neither applicant nor anyone else in the gaming industry uses the term "maintenance monitor" in a descriptive manner.

The Examining Attorney counters by arguing that the mark is merely descriptive of the salient feature or basic purpose of the goods, that is, to monitor the maintenance needs of gaming machines and to monitor the maintenance operations performed on the machines by casino maintenance personnel. The Examining Attorney has relied upon a dictionary listing of the word "monitor,"<sup>2</sup> as well as applicant's product literature, to establish that his position is correct.

It is well settled that a term is considered to be merely descriptive of goods, within the meaning of Section 2

<sup>1</sup> Application Serial No. 74/654,722, filed March 30, 1995, alleging dates of first use of September 26, 1994.

<sup>2</sup> Although the dictionary definition was untimely submitted with the Examining Attorney's brief (see Trademark Rule 2.142(d)), we grant the request to take judicial notice of the definition *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co.*, 213 USPQ 594 (TTAB 1982), *aff'd*, 701 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

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(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 idea 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 "monitor," as defined in The American Heritage Dictionary (2d college ed. 1982), means "a device used to record or control a process or activity, to keep track of by or as if by an electronic device; to scrutinize or check systematically with a view to collecting certain specified categories of data "

The record includes a promotional page describing applicant's product as follows:

Supervising and managing gaming device maintenance is made easy with the Maintenance Monitor™ program. Gaming device tilt codes, along with failure codes entered through the game's keypad, provide detailed transactions indicating maintenance is required. Once the failure is corrected, a repair code is

then keyed into the system, thus closing the original problem. Automatic printing of work orders can be triggered based on individual maintenance code thresholds. Custom report generators enable management to analyze gaming device and personnel performance based on time-stamps associated with each transaction.

The application file also includes literature about applicant's product. Applicant's new product release document indicates that the product "is designed to assist slot technicians in maintaining and tracking the performance of . . . gaming equipment." The document goes on to state that the goods will generate problem and repair messages automatically, that the messages are "monitored" and that technicians can be notified automatically of the need for service on a specific machine. After the problem is repaired, the technician can enter a code which clears the outstanding repair request. The product release literature further states that the goods, in conjunction with recommended hardware items, can be used to "monitor maintenance problems and repairs and to route maintenance tickets " In conjunction with optional card readers and job-specific electronically readable cards, the goods will also permit casino management to "monitor employee [maintenance] activity on the gaming floor."

After consideration of the record, we find that the applied-for mark is merely descriptive of the primary

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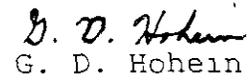
function of applicant's software, that is, monitoring the maintenance of gaming equipment and maintenance personnel for such equipment. Although the identification of goods is couched in terms of "tracking the performance," the materials of record make it clear that applicant's software serves to monitor the maintenance of gaming equipment and gaming personnel. When purchasers in the gaming industry encounter applicant's mark MAINTENANCE MONITOR, especially as used in the context of the documents referenced above, which indicate that applicant's software is used for "supervising and managing gaming device maintenance" and to "monitor maintenance problems," we have no doubt that the mark immediately conveys to them information about the primary feature or function of applicant's software, namely, that the software monitors maintenance of gaming equipment and gaming personnel

Accordingly, applicant's mark, when applied to applicant's goods, is merely descriptive of them. In re Time Solutions Inc., 33 USPQ2d 1156 (TTAB 1994) [mark YOUR HEALTH INSURANCE MANAGER for software programs for personal record keeping and processing of medical records, health insurance and claims is merely descriptive thereof since it immediately conveys information about a significant feature or function of such goods].

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Decision: The refusal to register is affirmed.

  
T. J. Quinn

  
G. D. Hoehn



P. T. Hairston  
Administrative Trademark  
Judges, Trademark Trial  
and Appeal Board

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