

THIS DISPOSITION IS NOT CITABLE  
AS PRECEDENT OF THE TTAB 1/23/98  
U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **Unisys Corporation**

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Serial No. 74/**708,824**

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**Thomas J. Scott** for Unisys Corporation.

**Josette M. Beverly**, Trademark Examining Attorney, Law Office  
102 (**Myra Kurzbard**, Managing Attorney).

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Before **Hohein**, **Hairston** and **Walters**, Administrative  
Trademark Judges.

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

This is an appeal from the Trademark Examining  
Attorney's final refusal to register the mark SERVER/CLIENT  
for "computer software, namely a series of object-oriented  
software development programs used to build programs, run  
and manage networks" and "printed publications, namely  
programmer, operator, installation and maintenance manuals

for use with object-oriented software development tools used to build programs, run and manage networks."<sup>1</sup>

Registration has been finally refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that the mark merely describes applicant's goods.

Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

In support of the refusal to register, the Examining Attorney has submitted dictionary definitions of the terms "**server**" and "**client**." The Computer Dictionary (2d ed. 1994) defines "**server**" as:

On a local area network, a computer running administrative software that controls access to all or part of the network and its resources (such as disk drives and printers). A computer acting as a server makes resources available to computers acting as workstations on the network.

"**Client**" is defined therein as:

In object-oriented programming, a member of a class (group) that uses the services of another class to which it is not related. . . . On a local area network, a computer that accesses shared network resources provided by another computer (called a server).

In addition, the Examining Attorney submitted a number of excerpts from the NEXIS data base in which the terms "**server**" and "**client**" are used. The following are representative examples:

**Server** and **client** software comes on two disks,

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<sup>1</sup> Application Serial No. 74/708,824 filed July 31, 1995, alleging a bona fide intention to use the mark in commerce.

and you install Imagery HSM at a Microsoft Windows client.

(LAN Times, March 4, 1996);

CD Net 2.0 for Windows NT, due this month, costs \$995 per **server**. **Client** software starts at \$795 for 25 users.

(InfoWorld, February 12, 1996);

The world's first free-of-charge secure **server/client** software is available from INTERWEB INC which incorporates SSL protocol and is complete with the Netscape Commerce Server. . .

(Telecomworldwire, February 6, 1996);

Its [USOFT] first act was to buy TopSystems, establishing itself as the **Server/Client** Software Company with a unique Rapid Application Development environment built around a dynamic central repository.

(M2 Communications, January 31, 1996);

Progressive Networks Inc. writes **server/client** software to make the World Wide Web sing—or at least talk.

(CommunicationsWeek, January 8, 1996); and

This product represents a major opportunity for resellers, not just with the installation and configuration of **server** and **client** software, but with training and the likelihood of moving into advanced tools for sales forces that are constantly on the road.

(Computer Reseller News, December 4, 1995).

Applicant, in urging reversal of the refusal to register, does not dispute that the individual terms, server and client, and the combined term client server, are recognized terms in the computer industry.<sup>2</sup> However,

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<sup>2</sup> In the Computer Dictionary, the term "client server architecture" is defined as: An arrangement used on local area

applicant contends that the term SERVER/CLIENT is ingenious as used in connection with its goods; that the term SERVER/CLIENT is not listed in dictionaries and is not a recognized term in the industry; and that applicant was the first to use the term SERVER/CLIENT. Finally, as evidence that the term SERVER/CLIENT is associated with applicant, applicant points to the following excerpt from an evaluation of applicant's computer software published by The ButlerBloor Organisation:

USoft calls itself the server/client company. This is well thought out. It makes the reader stop and think. Most particularly, it reflects the emphasis on the server. Unlike some so-called competitive products, which are really client development tools and actually do very little at the server level, USoft is server-centric.

A mark is considered to be merely descriptive of goods or services, under Section 2(e)(1) of the Trademark Act, if it immediately describes an ingredient, quality,

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networks that makes use of "distributed intelligence" to treat both the server and the individual workstations as intelligent, programmable devices, thus exploiting the full computing power of each. This is done by splitting the processing of an application between two distinct components: a "front-end" client and a "back-end" server. The client component, itself a complete, stand-alone personal computer (vs. the "dumb" terminal found in older architecture such as the time-sharing mainframe), offers the user its full range of power and features for running applications. The server component, which can be another personal computer, a mini-computer, or a mainframe, enhances the client component by providing the traditional strengths offered by minicomputers and mainframes in a time-sharing environment: data management, information sharing between clients, and sophisticated network administration and security features.

characteristic or feature thereof or if it directly conveys information regarding the nature, function, purpose or use of the goods or services. See *In re Abcor Development Corp.*, 588 F. 2d 811, 200 USPQ 215 (CCPA 1978). Moreover, “[a]bsent any incongruity or other distinctive aspect, a combination of terms each of which is descriptive of a characteristic or feature of a product or service is also merely descriptive.” *In re Serv-A-Portion, Inc.*, 1 USPQ2d 1915, 1916 (TTAB 1986).

In this case, each of the words comprising the term SERVER/CLIENT describes a component of applicant’s computer software, and we find nothing incongruous or distinctive about the combination. Inasmuch as applicant admits that the focus of its computer software is on the server, rather than the client, there is nothing ingenuous about the juxtaposition of the terms server and client. Moreover, the inclusion of the slash mark between the words does not make them registrable. See *Johnson Controls, Inc. v. Concorde Battery Corporation*, 228 USPQ 39 (TTAB 1985).

As to applicant’s remaining arguments, the fact that the term SERVER/CLIENT is not found in dictionaries is not controlling on the question of registrability. See *In re Medical Plastics, Inc.*, 192 USPQ 237 (TTAB 1976)). Also, the fact that applicant may have been the first to use the term SERVER/CLIENT in connection with computer programs and

manuals does not alter the descriptive significance of the term and bestow trademark rights therein upon applicant. See *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

Here, the term SERVER/CLIENT immediately conveys to the relevant consumers that applicant's computer software consists of server and client components and that its manuals are for use with such components. We note that in two of the NEXIS excerpts the term SERVER/CLIENT is used as the name of a type of computer software. No amount of imagination or speculation is necessary for customers and prospective purchasers to readily perceive the descriptive significance of the term SERVER/CLIENT as applied to applicant's computer software and manuals.

Decision: The refusal to register is affirmed.

G. D. Hohein

P. T. Hairston

C. E. Walters  
Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board

Ser No. 74/708,824