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JULY 23, 99

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **Teloquent Communications Corporation**

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Serial No. 75/130,296

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**Timothy A. French and Donna M. Weinstein of Fish & Richardson, P.C.** for **Teloquent Communications Corporation**.

**Barbara Gold Herman**, Trademark Examining Attorney, Law Office 109  
(**Chris Petersen**, Acting Managing Attorney).

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

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

**Teloquent Communications Corporation** has filed an application to register the term "VIDEO CALL CENTER" as a trademark for "telecommunications software for use in video teleconferencing."<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 basis that, when used in connection with applicant's goods, the term "VIDEO CALL CENTER" is merely descriptive of them.

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<sup>1</sup> Ser. No. 75/130,296, filed on July 5, 1996, which alleges a bona fide intention to use such term in commerce.

Applicant has appealed. Briefs have been filed, but an oral hearing was not requested. We affirm the refusal to register.

Applicant argues that "[t]he term VIDEO CALL CENTER does not immediately convey any real information about the goods to which it is [to be] applied." Instead, applicant insists that, "[t]aken at face value, the mark denotes a center from which one can call videos, an incongruous concept." In view thereof, applicant contends that the term "VIDEO CALL CENTER" is suggestive rather than merely descriptive of its goods.

The Examining Attorney, on the other hand, asserts that applicant's argument "is not germane because the mark must be viewed in relation to the identified goods, not in the abstract," and that, when so considered, "[p]urchasers encountering the mark in connection with the applicant's 'telecommunications software for use in video teleconferencing' would conclude that the mark describes a feature or function of the applicant's software ...." In support of her position, the Examining Attorney, in addition to various dictionary definitions of the words, "video," "call" and "center,"<sup>2</sup> relies in particular upon excerpts she made of record from her search of the "NEXIS" database concerning the phrase "video call center".

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<sup>2</sup> For instance, Webster's New World Dictionary (2d coll. ed.) respectively identifies "video" at 1583 as meaning "1. of or used in television 2. designating or of the picture portion of a telecast, as distinguished from the *audio* (or sound) portion 3. designating or of the display of data on a computer terminal"; lists "call" at 201 as signifying, among other things, "8. to communicate with by telephone"; and "center" at 230 as connoting, inter alia, "3. a place at which an activity or complex of activities is carried on ...."

According to the Examining Attorney, "[t]he NEXIS evidence," of which the following (**emphasis added**) are especially pertinent, "shows that the phrase VIDEO CALL CENTER has become a term of art in the telecommunication teleconferencing industry to refer to software systems that provide face-to-face telephonic communications between network users[, ] thereby enabling combined voice and visual communication":

"NetLive's unique **video call center** systems allow businesses to provide customized web content, sales support and product information to customers' desktops." -- Telephone IP News, March 1997;

"Casino customers will be able to link visually to concierges at a **video call center** and [be] able to make dinner reservations, order show tickets or extend hotel stays." -- Interactive Video News, February 17, 1997;

"'There are more and more ways people can reach their suppliers--via phone, E-mail, voice or fax back, **video call center**, and Web call center,' said Jeff Fried, director of product management and founder of Teloquent, in Billerica, Mass." -- PC Week, October 14, 1996;

"'So we've joined forces with Incite to provide our customers with a **video call center** solution using Incite's multimedia product." -- ISDN News, September 24, 1996;

"Teloquent ... and Bell Atlantic have teamed up to create a **video call center**. This means face-to-face agent/customer contact ...." -- Teleconnect, September 1996 (article headlined in part: "A guide to **videoconferencing**");

"[M]any analysts predict **video call centers** will be used for services such as approving automobile loans instantly while customers are at the car dealership ....

....

Bell Atlantic contributes Integrated Services Digital Networking (ISDN) and integration services, while Teloquent provides **video call center** equipment and software. PictureTel lends point-to-point **videoconferencing** expertise." -- Voice Technology & Services News, August 6, 1996;

"The carriers ... are rolling out **video call centers**, Web access and a wide variety of other **call center** services to meet the needs of enterprises ...." -- Electronic Commerce News, August 5, 1996 (article headlined: "**Call Centers** Secret Electronic Commerce Weapon[;] Enterprises Using Centers To Serve and Sell, Anytime, Anywhere");

"[T]he Billerica company will ... deploy **video call center** software systems that will link video-equipped, interactive kiosks with **call centers**." -- Mass High Tech, July 29, 1996 (article headlined: "Teloquent Makes Virtual **Call Centers** A Reality");

"Just as automated teller machines are now open to customers of almost any bank around the country, **video call center** technology is opening up face-to-face **telephonic communication** between consumers and financial services providers anywhere" -- U.S. Banker, April 1996;

"Teloquent Communications Corp. and Bell Atlantic Corp. have formed an alliance to develop a **video call center** application that runs over ISDN lines." -- PC Week, March 25, 1996

"Companies such as Dallas-based InteCom are working to bring **videoconferencing** to **call centers** through the Web.. InteCom was showing its **video call center** at the show, with a live video and voice connection to a customer service representative". -- Voice Technology & Services News, March 19, 1996;

"Banks such as Citibank in New York and Royal Bank in Canada are experimenting with **video call center** kiosks that use proprietary systems they've developed with various technology companies. Intecom, however, is positioning itself as the first **video call-**

**center** vendor." -- InformationWeek, March 18, 1996; and

"Huntington plans one day to have a **video call center** serving the growing number of access banks whose customers interact with centralized banking experts via **video-conference**." -- AT&T Technology, Winter 1995/1996.

It is well settled that a term is considered to be merely descriptive of goods or services, within the meaning of Section 2(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 or services. See 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 or services 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 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. See In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979). Consequently, "[w]hether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." In re American Greetings Corp., 226 USPQ 365, 366 (TTAB 1985). In addition, "when there is evidence that two

or more words have been used together to form a phrase or term that forthwith conveys information regarding the goods or services set forth in the application, it is simply not necessary to engage in an analysis of each of the individual words in an effort to ascertain whether, when used together, said words forthwith convey information concerning the goods or services set forth in the application." In re Shiva Corp., 48 USPQ2d 1957, 1959 (TTAB 1998).

In the present case, it is our view that, when applied to applicant's "telecommunications software for use in video teleconferencing," the term "VIDEO CALL CENTER" immediately describes, without conjecture or speculation, a significant function, purpose or use of applicant's goods, namely, that they provide a business or other enterprise call center with video teleconferencing capacity. The "NEXIS" excerpts furnished by the Examining Attorney clearly and unambiguously demonstrate that the term "video call center" has been frequently used as a term of art in the telecommunications teleconferencing industry to refer to software and associated equipment which allows face-to-face, that, is visual or video, telecommunications between customers or other callers and a call center of a firm. Thus, when considered in the context of applicant's software rather than abstractly "at face value," the term "VIDEO CALL CENTER" is not incongruous; instead, it merely describes precisely what such goods are designed to do.

Accordingly, because the term "VIDEO CALL CENTER" conveys forthwith a significant function, purpose or use of

applicant's "telecommunications software for use in video teleconferencing," it is merely descriptive of such goods within the meaning of the statute. See, e.g., In re Shiva Corp., supra at 1958 [term "TARIFF MANAGEMENT" held merely descriptive of key feature or function of "computer programs to control, reduce and render more efficient wide area network (WAN) usage" by finding lowest tariff or cost for telephone calls]; In re Intelligent Instrumentation Inc., 40 USPQ2d 1792, 1794 (TTAB 1996) [term "VISUAL DESIGNER" held merely descriptive of significant purpose or function of "computer programs for controlling acquisition of data from measurement devices for purposes of analysis, display, testing and automatic control" since such goods permitted new or custom programming applications to be visually designed]; and In re Digital Research Inc., 4 USPQ2d 1242, 1244 (TTAB 1987) [terms "CONCURRENT PC-DOS" and "CONCURRENT DOS" found merely descriptive of computer operating systems in the form of "computer programs recorded on disk"].

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

T. J. Quinn

G. D. Hohein

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