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**THIS DISPOSITION  
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Paper No.

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11/21/00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

In re **Madge Networks NV**

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Serial No. 75/395,116

**Michael J. Hughes of Hickman, Stephens, Coleman & Hughes, LLP**  
for **Madge Networks NV**.

**Mark Sparacino**, Trademark Examining Attorney, Law Office 103  
(**Michael Szoke**, Managing Attorney).

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Before **Hanak**, **Hohein** and **Wendel**, Administrative Trademark  
Judges.

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

Madge Networks NV (applicant) seeks to register GroupSwitch  
(stylized) for "computer hardware and software for use in  
computer network control, and computer and digital networking."  
The intent-to-use application was filed on November 24, 1997.

The Examining Attorney has refused registration on the  
basis that applicant's mark, as applied to applicant's goods, is

merely descriptive pursuant to Section 2(e)(1) of the Trademark Act.

When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

A mark is merely descriptive pursuant to Trademark Act Section 2(e)(1) if it describes an ingredient, quality, characteristic, function or purpose of the relevant goods. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986). Whether a mark is merely descriptive is determined in relation to the identified goods, not in the abstract. *In re Omaha National Corp.*, 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987); *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978).

We find that applicant's mark, GroupSwitch, is a merely descriptive term in relation to computer hardware and software for use in computer network control, and computer and digital networking. The Examining Attorney's evidence from the NEXIS database demonstrates that the term "group switch" is widely used in a descriptive manner.

With [applicant] Madge Networks' **group switches**, your network can soak in wire speeds. Government Computer News, July 15, 1996.

One issue raised by the LANNET deal is whether adding a low-end Ethernet **group switch** to a product line will be a money-making investment. Low-end **group switches** rapidly are becoming a commodity. Broadband Networking News, July 21, 1998.

Silva said Cabletron needs a cost-effective 10/100M bit/sec wiring **group switch**, and she compared NetVantage products to Cisco Systems Inc.'s Catalyst 2900 and Bay Networks Inc.'s 350T. Network World, April 13, 1998.

Customers can use the **group switch** to create Fast Ethernet backbone or link 10M/100 bit/sec Ethernet networks with ATM backbone or WAN connections. Network World, August 11, 1997.

The individual wiring closets in buildings are fitted with Catalyst 5000 workgroup switches. These switches are populated with 48-port **group-switch** cards that provide four groups of 12 shared ports per card. Networking Computing, May 15, 1997.

VCOM controls four independent functions with individual and **group switch** addressing and downloadable switch programming at any address level. Electric Light and Power, April 1994.

The Meridian 1's aging Loop/**group-switch** network architecture also must be upgraded. Business Communications Review, January 1994.

The MD 110 PBX consists of a **group switch** and Line Interface Modules distributed throughout a building or campus. Internetweek, November 2, 1992.

As previously noted, a mark's descriptiveness is determined in relation to the identified goods, not in the abstract. The above NEXIS stories show that the relevant purchasing public would recognize "group switch" as describing a specific type of switch for computer network control. The mark GroupSwitch describes a type of computer hardware and software for use in computer network control.

Finally, applicant argues that its stylized mark, GroupSwitch, taken as a whole, is distinctive of applicant's product. If a term is merely descriptive, a different spelling or presentation of the term is also merely descriptive if purchasers would perceive the different spelling or presentation as essentially the equivalent of the descriptive term. 2 J.

McCarthy, McCarthy on Trademarks and Unfair Competition, Section 11:30 at page 11-56 (4<sup>th</sup> ed. 1999) and cases cited therein. The fact that applicant has written its mark as one word instead of two words and capitalized the "S" does not lend any real distinctiveness to the mark since purchasers would perceive GroupSwitch as the equivalent of group switch or group-switch.

Decision: The refusal to register is affirmed.

E. W. Hanak

G. D. Hohein

H. R. Wendel  
Administrative Trademark  
Judges, Trademark Trial  
and Appeal Board