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**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
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Paper No. 9  
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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 Wheeler Manufacturing Co., Inc.

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Serial No. 75/566,038

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George W. Lewis of Jacobson, Price, Holman & Stern, PLLC  
for Wheeler Manufacturing Co., Inc.

William H. Dawe, III, Trademark Examining Attorney<sup>1</sup>, Law  
Office 108 (David Shallant, Managing Attorney).

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Before Wendel, Bottorff and Rogers, Administrative  
Trademark Judges.

Opinion by Rogers, Administrative Trademark Judge:

Wheeler Manufacturing Co., Inc. has filed an  
application to register the term COPPER-PURE as a trademark  
for "jewelry made in whole or in substantial part of  
copper".<sup>2</sup>

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<sup>1</sup> Mr. Dawe assumed responsibility for the appeal, after refusal  
of registration had been made final by Examining Attorney  
Catherine K. Krebs.

<sup>2</sup> Ser. No. 75/566,038, filed on October 7, 1998, which alleges  
applicant has a bona fide intention to use the mark in commerce.

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 COPPER-PURE will be merely descriptive of such goods.

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

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 aspect 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 or is to be used 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).

Applicant acknowledges the dictionary definitions of record for "copper" and "pure," and concedes that these terms individually "may be descriptive." Nonetheless, applicant rejects the Examining Attorney's argument that the particular juxtaposition of the terms does not create a non-descriptive composite and, in doing so, apparently relies in large part on applicant's use of a hyphen, for applicant concedes that the Examining Attorney's argument "might be tenable if the mark were COPPER PURE..."

Applicant also argues that the combination COPPER-PURE is not descriptive "because the individual terms do not exist in the hyphenated mark." Applicant concludes that "COPPER-PURE is arbitrary and fanciful."

We disagree with applicant's assessment. When merely descriptive terms are combined, "the key issue is whether the combination invokes a new and unique commercial

impression." In re Uniroyal, Inc., 215 USPQ 716, 718 (TTAB 1982) ("We find nothing here to indicate that the term "STEELGLAS" means anything to consumers other than a combination of "steel" and "glass".). Accord, In re Copytele Inc., 31 USPQ2d 1540, 1542 (TTAB 1994) ("While applicant is correct that a non-descriptive trademark may be fashioned from the incongruous combination of several words that are, individually, merely descriptive of an applicant's goods, we fail to see anything incongruous in the combination of the words "SCREEN FAX PHONE."). See also, In re Quik-Print Copy Shop, Inc., 205 USPQ 505, 507 (CCPA 1980) (Court rejected appellant's argument that combination of "mundane words" "quick" and "print" created fanciful and distinctive term.").

Applicant's reliance on decisions finding SUGAR & SPICE and SWEETARTS non-descriptive is misplaced. Unlike those marks, applicant's combination of terms results in no incongruity. Also, we agree with the Examining Attorney's conclusion that the transposition of "pure copper" and use of a hyphen between the transposed terms does not aid applicant. See In re Away Chemical Corp., 217 USPQ 275, 276 (TTAB 1982) ("the transposition of 'tablets for pans' to 'pan-tablets'" is insufficient to overcome "basic descriptive cast" of the involved mark); and In re

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Dairimetrics, Ltd., 169 USPQ 572, 573 (TTAB 1971) (ROSE MILK, though not found in any dictionaries, is synonymous in meaning to "recognized descriptive name" "Milk of Roses" for a rose scented cosmetic preparation).

In short, we see nothing in either the combination of the terms "copper" and "pure," or in their ordering in the form COPPER-PURE, that would lead consumers to think of the designation as anything other than an indicator that applicant's goods are completely or substantially pure copper.

Decision: The refusal of registration is affirmed.