

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF  
THE TTAB

Mailed: July 13, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Casino Data Systems

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Serial No. 76155361

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Bernhard Kreten for Casino Data Systems.

Angela M. Micheli, Trademark Examining Attorney, Law Office  
108 (David E. Shallant, Managing Attorney).

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Before Hanak, Walters and Chapman, Administrative Trademark  
Judges.

Opinion by Hanak, Administrative Trademark Judge:

Casino Data Systems (applicant) seeks to register in  
typed drawing form DOUBLE ACEY DEUCEY for "gaming machines  
and computer software therefor." The intent-to-use  
application was filed on October 26, 2000.

Citing Section 2(e)(1) of the Trademark Act, the  
Examining Attorney has refused registration on the basis  
that applicant's mark is merely descriptive of applicant's

goods. 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 Section 2(e)(1) of the Trademark Act if it immediately conveys information about a significant quality or characteristic of the relevant goods or services. 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, 819 (Fed. Cir. 1986). Moreover, a mark need only describe one significant quality of characteristic of the relevant goods or services in order to be held merely descriptive. In re Gyulay, 3 USPQ2d at 1010.

Of course, it need hardly be said that the descriptiveness of a mark is not judged in the abstract, but rather is judged in connection with the goods or services with which the mark is used. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978). As a further elaboration on this proposition, the mere descriptiveness of a mark is not judged from the standpoint of all consumers, but rather is judged from the standpoint of the relevant purchasing public of the goods or services for which registration is sought. Magic Wand

Inc. v. RDB Inc., 940 F.2d 638, 19 USPQ 1551, 1552-53 (Fed. Cir. 1991) ("The precedents of this court both before and after the 1984 Act have consistently applied the traditional purchaser understanding test. For example, this court has stated that whether a term is entitled to trademark status turns on how the mark is understood by the purchasing public.") (emphasis added); In re Montrachet S.A. 878 F.2d 375, 11 USPQ2d 1393, 1394 (Fed. Cir. 1989) ("Whether a term is entitled to trademark status turns on how the mark is understood by the purchasing public.") (emphasis added).

The Examining Attorney has made of record dictionary definitions from the Backgammon Glossary for the terms "acey deucey" and "double." The term "acey deucey" is defined as follows: "A variant of backgammon popularized in the Navy." The term "double" is defined as follows: "The process of turning the cube in backgammon. Each double multiplies the preceding stakes by two."

Based on the foregoing, we find that the ACEY DEUCEY portion of applicant's mark is at least highly descriptive, if not generic, for a type of gaming machine. Moreover, the term "double" in applicant's mark merely describes a feature of "acey deucey," which is a variation of

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backgammon. Accordingly, we find that applicant's mark is, at a minimum, merely descriptive of applicant's goods.

Decision: The refusal to register is affirmed.