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Mailed: July 10, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Institute for Data Research

Serial No. 78382521

Mary Dalton Baril of McGuire Woods for Data Research.

Amos T. Matthews, Trademark Examining Attorney, Law Office
108 (Andrew Lawrence, Managing Attorney).

Before Walters, Bucher and Zervas, Administrative Trademark
Judges.

Opinion by Walters, Administrative Trademark Judge:

Institute for Data Research has filed an application to register on the Principal Register the mark DATA BLUEPRINT in standard character form for "information technology consulting services, namely, data extraction, data migration, data quality analysis, data management mentoring, and data management maturity measurements," in International

Class 35.¹ The application includes a disclaimer of DATA apart from the mark as a whole.

The examining attorney has issued a final refusal to register, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive in connection with its services.

Applicant has appealed. Both applicant and the examining attorney have filed briefs, but an oral hearing was not requested. We reverse the refusal to register.

The examining attorney contends that the mark "immediately and unambiguously conveys the fact that applicant provides detailed plans or methods, through consultation[,] of a company's information technology to create effective solutions to achieve the company's goal" (brief, p. 9); that "applicant's mark describes a feature of the services[;] [a]pplicant's consulting services gather useful information of an organization and devise plans to join such information into an existing system ..." (office action of September 27, 2004); and that it is common phrasing used in applicant's industry to describe such services. In support of his position, the examining attorney submitted definitions of the individual terms from several sources, including from www.answer.com, which

¹ Serial No. 78382521, filed March 11, 2004, based on use of the mark in commerce, alleging first use and use in commerce as of July 1, 2003.

defines "data" as "factual information, especially information organized for analysis or used to reason or make decisions[;] [n]umerical or other information represented in a form suitable for processing by computer" and defines "blueprint" as "a detailed plan of action[;] [a] model or prototype." The examining attorney submitted the results of a Google Internet search of "data blueprint." However, the entries are truncated, the entries refer to applicant, the relevance of the entries to this case is unclear, or the entries are irrelevant. He also submitted excerpts from applicant's website, which include the following statements:

Data Blueprint specializes in systems metadata engineering.

. . .

Our approach to data engineering employs two activities: 1. extracting, understanding, and improving organizational metadata and 2. effectively incorporating the metadata into organizational business and systems engineering efforts.

. . .

Data & Architecture Evolution
Data Blueprint project teams specialize in data engineering analysis and complementary technologies that can combine to produce cost effective results in very short time periods. Data Blueprint project teams have assisted many organizations in integrating their legacy and future data implementations, and helped them to create new data strategies that will allow them to create more efficient architecture and more optimized systems.

The examining attorney also submitted a few excerpts of articles using the term "data blueprint" retrieved from the Lexis/Nexis database. The several excerpts pertaining to

wireless telephone companies, pharmaceutical issues, and computer companies are short and, from the text presented, we are unable to determine their relevance to the services herein. Therefore, this evidence is of limited probative value.

Applicant contends that its mark is not merely descriptive because a multistage reasoning process is required to determine the nature of applicant's services; that the examining attorney has made his determination of descriptiveness in the abstract and based on evidence that is not relevant; that, although the individual words comprising the mark "are commonly accepted words," the mark combines the words in an incongruous manner resulting in a term that does not have a well-established meaning; and that the mark is not used as a descriptive term by others in the field of information technology consulting services.

Applicant states the following (brief, p. 8):

Although applicant's services include working with data, this phenomenon does not result in the identification of all information technology consulting services as "data blueprint." The term "blueprint" is only descriptive with respect to the mechanical and architectural fields, is not inherent to the field of information technology, and has not attained widespread acceptance, all of which is evident by the few and limited uses the examining attorney was able to provide.

Applicant's specimen of use is an excerpt from its website and includes the following statements:

XML - Support for Data Management

. . .
"XML Application integration allows multiple systems to communicate through a common data interface."

. . .
In today's organizational settings, the use of XML is spreading into a number of different areas that previous data management and formatting technologies have not even touched. Particularly exciting is the trend of moving towards storing more unstructured data in XML form. Many organizations are not aware that as much as 60% of their critical data is stored in unstructured formats such as Word, Excel, Power Point, and other formats that cannot be easily searched, indexed, and shared.

. . .
When documents were stored in XML format and are searchable, the potential for useful information exchange within the organization is astounding. Data Blueprint accomplishes this by examining the metadata present in documents and devising strategies to move it into a flexible and extendible XML format that dovetails with any existing enterprise information architecture already in place.

Also in support of its position, applicant submitted documents describing its services with its response of July 19, 2005. The following statement is from applicant's web page entitled "Data Management Assessment":

Data Blueprint has developed a methodology and toolset that allows a quick and accurate assessment of an organization's current maturity level and areas of exposure as part of its ongoing research into the state of practice of data management.

Data Blueprint can provide practice assessments in the areas of: Data Program Coordination; Enterprise Data Integration; Data Stewardship/Quality; Data Development; Data Support Operations.

The test for determining whether a mark is merely descriptive is whether it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). It is not necessary, in order to find that a mark is merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977).

We have before us extensive information from applicant as to the nature of its services. The examining attorney has also clearly done extensive research; however, we agree with applicant that the result falls far short of establishing that the mark DATA BLUEPRINT immediately and without conjecture conveys information as to the nature of

applicant's services or any significant aspect thereof. Extrapolating from the relevant evidence that we do have and considering applicant's mark not in the abstract but in connection with the identified services, we find that several cognitive steps are required from the connotation of "blueprint" in the mark DATA BLUEPRINT to reach a description of applicant's services or a feature of those services. Therefore, we conclude that the examining attorney has not established that the mark is merely descriptive.

Decision: The refusal under Section 2(e)(1) of the Act is reversed.