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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85792870

MARK: QUARRIER



CORRESPONDENT ADDRESS:

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1600 JACKSON ST STE 350

GOLDEN, CO 80401-1994

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

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APPLICANT: Golden Software, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

80027.0006

CORRESPONDENT E-MAIL ADDRESS:

jsheridan@sheridanlaw.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 9/1/2015

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The Trademark Act Section 2(e)(1) refusal made final in the Office action dated April 29, 2015 is maintained and continue to be final. See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved the outstanding issue, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The applicant is seeking to register the mark QUARRIER for "computer aided manufacturing (CAM) software for production planning and inventory management for the aggregate industry, namely, CAM software for production scheduling and equipment optimization."

The applicant argues that "QUARRIER is susceptible to multiple connotations, or requires imagination, cogitation, or gathering of further information in order for the relevant public to perceive any significance of the term as it related to a significant aspect of applicant's product or services." The applicant argues that the previously submitted dictionary evidence, as well as a dictionary excerpt submitted with the request for reconsideration, illustrates that a "quarrier" is a "man who works in a quarry." The applicant concludes that QUARRIER is a term "denoting people (rather than software) and it relates to a breaker, ledgeman, a cutter and a stone cutter." The applicant further argues that "quarries relates to quarry and quarry relates to prey, the aim of an attack, a pit or stone, pit, and extracting something such as stones from or as if from a quarry." As a result, the applicant contends that due to the multiple definitions, the mark is suggestive and the refusal should be withdrawn. Finally, the applicant contends that a "dictionary definition is never conclusive on the issue of descriptiveness since it gives undue value to the perceptions of the lexicographer" and in support of this notion the applicant relies on the definitions "which do not support the claim that the mark is primarily descriptive."

The examining attorney remains unpersuaded by these arguments. The definition of term "quarrier" may have lesser significance to include a relation to "prey" or "the aim of an attack" but these definitions bear no significance in relation to the goods at issue. Determining the descriptiveness of a mark is done in relation to an applicant's goods, the context in which the mark is being used, and the possible significance the mark would have to the average purchaser because of the manner of its use or intended use. See *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (citing *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963-64, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); TMEP §1209.01(b). Descriptiveness of a mark is not considered in the abstract. *In re Bayer Aktiengesellschaft*, 488 F.3d at 963-64, 82 USPQ2d at 1831. The applicant's software is for use in the aggregate industry. Therefore, descriptiveness must be determined in relation to this context. Accordingly, the average purchaser is a person in the aggregate industry. This class of consumers will not misinterpret the mark to refer to prey or the aim of an attack. As shown in the previously submitted

evidence, aggregates are mined from quarries. The first portion of the applicant's mark, "QUARR" immediately gives information about the mark, namely, that it refers to a quarry, the place from which aggregates are mined. The addition of the suffix, "-ier" then gives further information relating to the meaning of the mark as this suffix is used to form personal nouns which denote an occupation or interest. *See the attached definitions.* This leads to the result that one who works in the aggregate industry would take the mark as a whole to refer to someone who works in a quarry, or a quarrier. The mark need not denote the software itself. The mark is descriptive because it refers to the users of the software. A mark that describes an intended user or group of users of a product or service is merely descriptive. *E.g., In re Planalytics, Inc.*, 70 USPQ2d 1453 (TTAB 2004) (holding GASBUYER merely descriptive of intended user of risk management services in the field of pricing and purchasing natural gas); *In re Camel Mfg. Co.*, 222 USPQ 1031 (TTAB 1984) (holding MOUNTAIN CAMPER merely descriptive of intended users of retail and mail order services in the field of outdoor equipment and apparel); *see* TMEP §1209.03(i). In this case, the dictionary evidence is sufficient to support the refusal.

The applicant is reminded that the application can be registered on the Supplemental Register upon the filing of an acceptable amendment to allege use meeting the requirements of 37 C.F.R. §2.76 has been timely filed. 37 C.F.R. §2.47(d); TMEP §§816.02, 1102.03. If applicant files an acceptable allegation of use and also amends to the Supplemental Register, the effective filing date of the application will be the date on which applicant met the minimum filing requirements of 37 C.F.R. §2.76(c) for the amendment to allege use. 37 C.F.R. §2.75(b); TMEP §§816.02, 1102.03. In addition, the undersigned trademark examining attorney will conduct a new search of the USPTO records for conflicting marks based on the later application filing date. TMEP §§206.01, 1102.03.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final refusal, and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Mary E. Crawford/

Trademark Attorney

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HOME > US ENGLISH > -IER

-ier

Syllabification: -ier
Pronunciation:



Definition of *-ier* in English:
suffix

Forming personal nouns denoting an occupation or interest:

- 1 Pronounced with stress on the preceding element:
'glazier
[Middle English; variant of *-er*']
- 2 Pronounced with stress on the final element:
'brigadier
'cashier
[From French *-ier*, from Latin *-arius*]

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 = trending



'In to' versus 'into'



Definition of **-ier** in:

- [British & World English dictionary](#)

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Different to?



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'AN HISTORIC EVENT'
'A HISTORIC EVENT'

Video: 'a historic event' or 'an historic event'?

TEST YOURSELF

'Coarse' or 'Course'?

1) Which of the following is correct?

- Use a coarse mesh wire strainer

~ strainer
 Use a coarse mesh wire strainer

Next | Score: 0/0

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WORD OF THE DAY
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Find out what it means

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Definitions of -ier

-ier

► **Definitions**

suffix forming nouns

a variant of [-eer](#) ⇒ brigadier

► **Word Origin**

from Old English *-ere* *-er* or (in some words) from Old French *-ier*, from Latin *-arius* *-ary*

-eer or -ier

► **Definitions**

suffix

- (forming nouns) indicating a person who is concerned with or who does something specified ⇒ auctioneer, engineer, profiteer, mutineer
- (forming verbs) to be concerned with something specified ⇒ electioneer

Word Frequency No usage level data available



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Emojis

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Word Origin
from Old French *-ier*, from Latin *-arius* *-ary*



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