

From: Sobral, Christina

Sent: 5/4/2015 11:32:57 AM

To: TTAB E filing

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Subject: U.S. TRADEMARK APPLICATION NO. 86096820 - ENDICIA I-STAMPS - N/A - Request for  
Reconsideration Denied - Return to TTAB

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Attachment Information:

Count: 5

Files: wiki-1.jpg, wiki-2.jpg, wiki-3.jpg, I virtual salt.jpg, 86096820.doc

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

**U.S. APPLICATION SERIAL NO.** 86096820

**MARK:** ENDICIA I-STAMPS



**CORRESPONDENT ADDRESS:**

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**GENERAL TRADEMARK INFORMATION:**

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

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**APPLICANT:** PSI SYSTEMS, INC.

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

N/A

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**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 5/4/2015

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 following requirement made final in the Office action dated September 15, 2014 is maintained and continue to be final: disclaimer of "I-STAMPS". See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) 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.

### **Requirement to Disclaim "I-STAMP"**

Applicant must disclaim the wording "I-STAMP" because it merely describes an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods, and thus is an unregistrable component of the mark. See 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); TMEP §§1213, 1213.03(a).

According to the attached and previously attached evidence, the letter "i" or "I" used as a prefix would be understood by the purchasing public to refer to the Internet when used in relation to Internet-related products or services. Specifically, the evidence consists of definition from the Computer Desktop Encyclopedia, Wikipedia, Acronym Finder, and Virtual Salt which shows "I" is a prefix for internet.

When a mark consists of this prefix coupled with a descriptive word or term for Internet-related goods, then the entire mark may be considered merely descriptive. See *In re Zanova, Inc.*, 59 USPQ2d 1300, 1304 (TTAB 2000) (holding ITOOL merely descriptive of computer software for use in creating web pages, and custom designing websites for others); TMEP §1209.03(d).

The applicant argues that the prefix "I" has several definitions. This argument is not persuasive. Descriptiveness is considered in relation to the relevant goods. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012). "That a term may have other meanings in different contexts is not controlling." *In re Franklin Cnty. Historical Soc'y*, 104 USPQ2d 1085, 1087 (TTAB 2012) (citing *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979)); TMEP §1209.03(e).

Further, applicant's argument that the term INTERNET is not mention in the identification of goods and thus is not descriptive of the goods is not persuasive. Applicant's software presumably uses the

internet to get access to the postage so that it can be printed on to the applicant's labels. Further, the applicant's electronic label printing machines presumably connect to the internet to print the postage.

The term STAMP is defined as "A small piece of gummed paper sold by a government for attachment to an article that is to be mailed; a postage stamp" (see previously attached). The term POSTAGE is defined as "an amount of stamps; the stamps attached to a letter or package" (see attached). Accordingly, the term STAMP and postage are used interchangeably. The applicant goods are used to print STAMPS OR POSTAGE.

The applicant's goods include software used to presumably print INTERNET postage STAMPS or I-STAMPS, electronic label printing maker used to print INTERNET STAMPS or postage or I-STAMPS, and specialized labels and sheets of labels on which a user can print INTERNET STAMPS or I-STAMPS. See attached evidence from the United States Postal Service showing third parties, including applicant, that are authorized to print postage or STAMPS and labels for mailing letters and packages.

Additionally, the applicant argues that the wording I-STAMP will require a multistage reasoning process to determine the attributes or characteristics of Applicant's product. This argument is not persuasive. "Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985). The question is not whether someone presented only with the mark could guess what the goods and/or services are, but "whether someone who knows what the goods and/or services are will understand the mark to convey information about them." *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (quoting *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002)); *In re Franklin Cnty. Historical Soc'y*, 104 USPQ2d 1085, 1087 (TTAB 2012).

Finally, the applicant has attached third party registration to show that marks including the prefix "I" have been registered for computer software and internet goods and services. This argument is not persuasive. Prior decisions and actions of other trademark examining attorneys in registering other marks have little evidentiary value and are not binding upon the USPTO or the Trademark Trial and Appeal Board. TMEP §1207.01(d)(vi); see *In re Midwest Gaming & Entm't LLC*, 106 USPQ2d 1163, 1165 n.3 (TTAB 2013) (citing *In re Nett Designs, Inc.*, 236 F.3d 1339, 1342, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001)). Each case is decided on its own facts, and each mark stands on its own merits. See *AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); *In re Binion*, 93 USPQ2d 1531, 1536 (TTAB 2009). Even, if the prior decisions of previous examining attorneys were persuasive the commercial impressions of the marks in the third party registrations either on the

Supplemental Register (see ISCAN, IPROTECTOR, ISHOP GREEN) or the marks a require a multistage reasoning process to determine the attributes or characteristics of goods.

An applicant may not claim exclusive rights to terms that others may need to use to describe their goods and/or services in the marketplace. See *Dena Corp. v. Belvedere Int'l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. See *Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. See *In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant should submit the following standardized format for a disclaimer:

**No claim is made to the exclusive right to use “I-STAMP” apart from the mark as shown.**

TMEP §1213.08(a)(i); see *In re Owatonna Tool Co.*, 231 USPQ 493, 494 (Comm’r Pats. 1983).

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

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 requirement(s) and/or refusal(s), 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).

/Christina Sobral/

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## Internet-related prefixes

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This article **needs additional citations for verification**. Please help *improve this article* by adding citations to reliable sources. Unsourced material may be challenged and removed. *(April 2008)*

**Internet-related prefixes** such as *e-*, *i-*, *cyber-*, *info-*, *techno-* and *net-* are added to a wide range of existing words to describe new, *Internet-* or *computer-*related flavors of existing concepts, often electronic products and services that already have a non-electronic counterpart. The adjective *virtual* is often used in a similar manner.<sup>[1][2]</sup>

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## Cyber-, e-, i, and virtual [edit]

### "Cyber-" [edit]

*Cyber-* is derived from "cybernetic," which comes from the Greek word κυβερνητικός meaning *skilled in steering or governing*. It is used in the terms *cyberspace*, *cyberpunk*, *cybergoth*, *cyberlaw*, *cybercrime*, *cyberwarfare*, *cyberterrorism*, *cybersex*, and *cyberbullying*, among others.

### "E-" [edit]

*E-*, standing for *electronic*, is used in the terms *e-mail*, *e-commerce*, *e-business*, *e-banking* and *e-book*.<sup>[1][3]</sup>

L-, standing for electronic, is used in the terms *e-mail*, *e-commerce*, *e-business*, *e-training* and *e-book*.

#### "I" [edit]

The *i* prefix was used as early as 1994 by *iVillage*, an internet community site by and for women.<sup>[4]</sup> More recent examples include the BBC's *iPlayer*, and Google's former *iGoogle* service. It has even been used by companies not in the IT sector for their websites, such as *Coca-Cola*'s now-defunct *icoke.com*.

*Apple Inc.* is especially connected to the *i* prefix. They first employed it for the *iMac* line of computers starting in 1998,<sup>[5]</sup> and have since used it in many of their other product names, including *iPod*, *iPhone*, *iTunes*, *iCloud*, *iMessage*, and others. They have said it stands for "Internet".<sup>[6]</sup>

#### "Virtual" [edit]

The word *virtual* is used in a similar way to the prefixes above, but it is an adjective instead of a prefix. For example, it is used in the terms *virtual reality*, *virtual world*, and *virtual sex*.

### Linguistic behaviour [edit]

These prefixes are *productive*. Michael Quinion notes that most of these formations are *nonce words* that will never be seen again. He writes that new terms such as "e-health" are unneeded, in this case *telemedicine* already exists to describe the application of telecommunications to medicine. He similarly points out the redundancy of *e-fail*, *e-commerce*, and *e-business*.<sup>[7]</sup> Martin likewise characterizes many of these words as "fad words" and believes many will disappear once the technology that resulted in their coinage becomes better accepted and understood. For example, he writes, "when using computers becomes the standard way to do business, there will be no need to call it 'e-business' — it may be just 'business'."<sup>[7]</sup>

### Spelling controversies [edit]

There is some confusion over whether these prefixes should be *hyphenated* and/or in *upper case*. In the case of *e-mail*, it was originally hyphenated and lowercase in general usage, but the hyphen is no longer common.<sup>[8]</sup>

In 1999, Michael Quinion attributed the forms "email", "E-mail" and "Email" to uncertainty on the parts of newer Internet users.<sup>[9]</sup> In 2003, Ronald Smith *prescribed* that the e- should always be lowercase and hyphenated.<sup>[6]</sup> In 2013, the Associated Press Stylebook removed the hyphen from "e-mail", following the general usage of the word.<sup>[8]</sup>

### History [edit]

The term 'cybernetics' was used in *Norbert Wiener's* book *Cybernetics or Control and Communication in the Animal and the Machine* (MIT Press, 1948). Wiener used the term in reference to the control of complex systems in the animal world and in mechanical networks, in particular self-regulating control systems. By 1960, doctors were performing research into surgically or mechanically augmenting humans or animals to operate machinery in space, leading to the coining of the term "cyborg," for "cybernetic organism."

In 1966, the BBC *Doctor Who* serial *The Tenth Planet* introduced a monster called *cybermen*.

Fred J Cook (Winner of the 1961 Hillman Award) in his 1966 book "The Corrupted Land: The Social Morality of Modern America" introduces his book with "such ideals as free enterprise, 'rugged individualism' and *laissez faire* are anachronisms in this age of CYBERNATION."

By the 1970s, the *Control Data Corporation* (CDC) sold the "Cyber" range of supercomputers, establishing the word *cyber-* as synonymous with computing. Robert Trapp credits *William Gibson* and his novel *Neuromancer* with triggering a "cyber- prefix flood" in the 1980s.<sup>[10]</sup>

McFedries observes that a backlash against the use of e- and cyber- can be traced to the late 1990s, quoting Hale and Scanlon requesting writers in 1999 to "resist the urge to use this vowel-as-cliché" when it comes to e- and calling cyber- "terminally overused."<sup>[21]</sup>

## References [edit]

- ↑ Joseph Straubhaar and Robert LaRose (2004). *Media Now: Understanding Media, Culture, and Technology*. Thomson Learning. p. 6. ISBN 7-302-09576-0.
- ↑ Paul McFedries (2004-07-30). "The (Pre) Fix Is In". *IEEE Spectrum*.
- ↑ Michael Quinion (1999-01-16). "THE E- netcsPREFIX". *World Wide Words*.
- ↑ "The Most Influential Women in Technology 2010 - Tina Sharkey". Fast Company. Retrieved 11 December 2013.
- ↑ Vaughn, Paul, "The Mac Guy: Potential buyer wants big sound, and he can have it". April 21, 2007 at *mysanantonio.com*.
- ↑ Manjoo, Farhad, "Grads Want to Study on EMacs, Too.". April 30, 2002, *wired.com*.
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- ↑ Ronald D. Smith (2003). *Becoming a Public Relations Writer: A Writing Process Workbook for the Profession*. Lawrence Erlbaum Associates. p. 402. ISBN 0-8058-4260-8.
- ↑ Robert Trapp (February 1998). "Preface". *14th European Meeting on Cybernetics and Systems Research (EMCSR98)*, April 14 — 17, 1998 at the University of Vienna. Austrian Society for Cybernetic Studies. ISBN 3 85206 139 3.
- ↑ Constance Hale and Jessie Scanlon (1999). *Wired Style: Principles of English Usage in the Digital Age*. New York: Broadway Books.

## Further reading [edit]

- Deborah Schaffer (2001). "The story of e-". *English Today* (Cambridge University Press) **17** (4): 22–26. doi:10.1017/S0266078401004035. — Schaffer discusses e-, i- and several others.
- Geoffrey Nunberg (2001). "How The Web Was Won". *The Way We Talk Now: Commentaries on Language and Culture*. Houghton Mifflin Reference Books. pp. 187–188. ISBN 0-618-11603-6.

## External links [edit]

- Internet-related prefixes – TheFreeDictionary.com



Categories: Prefixes

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