Mailed: March 31, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Mingis Capital Partners, LLC

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Application Serial No. 88700244

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Mark Terry of Mark Terry PA, for Mingis Capital Partners, LLC.

Kim Saito, Trademark Examining Attorney, Law Office 124,
    Lydia Belzer, Managing Attorney.

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Before Zervas, Shaw, and Dunn,
        Administrative Trademark Judges.

Opinion by Dunn, Administrative Trademark Judge:

Mingis Capital Partners, LLC ("Applicant") seeks registration on the Principal

Register of the proposed mark CRM PROS for:

Business management consulting in the field of managing business processes, in International Class 35.[1]

The application includes the statements "The mark consists of the letters CRM in orange stylized font, followed by the word PROS in grey stylized font." and "The color(s) orange and gray are claimed as a feature of the mark."

The Examining Attorney refused registration of Applicant's proposed mark under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), as merely descriptive of the identified services.[2] When the refusal was made final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal resumed. We affirm the refusal to register.

I.   Refusal that Mark is Merely Descriptive

A term is "merely descriptive" within the meaning of Section 2(e)(1) if it "immediately conveys knowledge of a quality, feature, function, or characteristic of the goods or services with which it is used." *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (*quoting In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)). Descriptiveness must be assessed "in relation to the particular goods [or services] for which registration is sought, the

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[1] Application Serial No. 88700244 filed November 20, 2019, under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based upon Applicant's allegation of a bona fide intention to use the mark in commerce.

References to the application are to the downloadable .pdf version of documents available from the TSDR (Trademark Status and Document Retrieval) database. The TTABVUE citations refer to the Board's electronic docket, with the first number referring to the docket entry and the second number, if applicable, referring to the page within the entry.

[2] The Examining Attorney also refused registration based on Applicant's failure to provide required information, but this refusal later was withdrawn.

context in which it is being used, 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 or intended use." *In re Bayer AG*, 82 USPQ2d at 1831. We find that the average consumer of Applicant's services is a business or individuals interested in starting or improving a business.

"Where a mark consists of multiple words, the mere combination of descriptive words does not necessarily create a non-descriptive word or phrase." *In re Omniome, Inc.*, 2020 USPQ2d 3222, at *4 (TTAB 2019) (affirming descriptiveness refusal to register SEQUENCING BY BINDING for reagents for analysis of biological analytes, research laboratory analyzers for analysis of biological analytes, and devices for analysis of biological analytes, and for services involving analysis of biological analytes). "A mark comprising a combination of merely descriptive components is registrable only if the combination of terms creates a unitary mark with a non-descriptive meaning, or if the composite has a bizarre or incongruous meaning as applied to the goods or services." *Id.* Terms that identify the source or provider of a product or service may be merely descriptive. *In re Chamber of Commerce of the U.S.*, 102 USPQ2d at 1220 (NATIONAL CHAMBER held descriptive of "traditional chambers of commerce activities" of "promoting the interests of businessmen and businesswomen"). Evidence that a term is merely descriptive to the relevant purchasing public may be obtained from any competent source. *In re N.C. Lottery*, 123 USPQ2d at 1710; *In re Nett Designs*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001).

Because Applicant's brief does not contend that they modify the commercial impression created by the literal portion, we briefly address the color and stylization of Applicant's proposed mark **CRM PROS**. We find that the colors orange and gray, and the block lettering, are not exceptional or eye-catching choices of color or font. As used with the term CRM PROS, we find the color and stylization in Applicant's mark does not create a commercial impression apart from the literal term. *See In re Cordua Rests., Inc.*, 823 F.3d 594, 118 USPQ2d 1632, 1639 (Fed. Cir. 2016) ("While Cordua now describes the stylized form of CHURRASCOS as 'highly stylized,' 'using a unique and arbitrary font,' … Cordua did not argue before the Board and does not argue now that this stylization creates a separate impression … The stylized nature of the mark cannot save it from ineligibility as generic"); *In re Sadoru Grp., Ltd.*, 105 USPQ2d 1484, 1486-88 (TTAB 2012) ("Further, although the tops of the letters 'dip' to give the upper portion of the mark [SADORU] a slightly concave shape, the depression is so minimal that it is not likely to make a significant impression on consumers."). For the purpose of this determination, if the term CRM PROS is merely descriptive of the services, then **CRM PROS** is as well.

Turning to the literal element of the mark, the record shows that the acronym CRM stands for "customer relationship management" and describes "the principles, practices and guidelines that an organization follows when interacting with its customers."[3] The term PROS is the plural form of PRO, a noun (informal) defined as

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[3] March 9, 2020 Office Action TSDR 6, quoting Investopedia. Corroborating definition at the Business Dictionary, March 9, 2020 Office Action TSDR 11.

"a professional, esp. in sport."[4] Based on these definitions, we find that the relevant purchaser of Applicant's "business management consulting in the field of managing business processes" will perceive the mark CRM PROS as "customer relationship management professionals."[5] *BAF Indus. v. Pro Specialties, Inc*., 206 USPQ 166, 175 (TTAB 1980) ("In the instant case, there can be no doubt but that the word 'PRO' is a recognized abbreviation for the word 'professional'; that both parties have aided this association by utilizing the word 'professional' in connection with the products and/or mark; and that the word 'PRO' has a laudatory connotation as applied to most products and services indicating that they are utilized by professionals or are of professional quality.").

Applicant contends that the relevant consumer will not perceive CRM as the acronym for "customer relationship management" because the term has not been recognized by the Oxford English Dictionary, and because CRM has alternate meanings as the acronym for "cardiac rhythm management," "certified reference material," and "certified records manager."[6] We disagree; the mere descriptiveness of a term is not assessed in a vacuum but in connection with the recitation of services listed in the application. *See In re Bayer AG*, 82 USPQ2d at 1831. *See also In re RiseSmart Inc*., 104 USPQ2d 1931, 1933 (TTAB 2012) ("In addition, to the extent applicant is arguing that TALENT has different meanings, the fact that a term may

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[4] March 9, 2020 Office Action TSDR 14, citing Lexico.com.

[5] 8 TTABVUE 4-5.

[6] 6 TTABVUE 5-67, citing May 10, 2021 Office Action TSDR 15-78.

have different meanings in other contexts is not controlling on the question of descriptiveness."). Here, the record shows that the term "business process," the subject of Applicant's business management consultation services, is defined as "a wide range of structured, often chained, activities or tasks conducted by people or equipment to produce a specific service or product for a particular user or consumer."[7] We find that this definition is broad enough to include customer relationship management, or CRM.

Moreover, the record shows the close relationship between managing business processes and CRM (emphasis added):

> Encyclopedia of Management/Customer Relationship Management
>> **Customer Relationship Management (CRM)** is a combination of organizational strategy, information systems, and technology that is focused on providing better customer service. … An integrated business model that ties together technology, information systems, and **business processes** along the entire value chain of an organization is critical to the success of **CRM**.[8]

> Hiring ERP and **CRM** Professionals: The Four Knowledge-Domains To Look For In Any Candidate, December 1, 2017
>> Over the past 2 decades, DyNexus Recruiting has recruited, placed and hired hundreds of ERP and **CRM** consultants for VARs, ISVs and ERP & **CRM** end-user companies. In evaluating candidates for most ERP/**CRM** positions, there are four areas of knowledge to be considered: (1) **Business Processes**, (2) Industry, (3) Application, and (4) Specific Software Package.[9]

> **BPM and CRM** Better Together, August 24, 2015
>> Integrating **BPM and CRM** can help companies make customer-facing processes more efficient and gain added insight about their customers. **CRM** is all about managing sales and marketing interactions with

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[7] July 9, 2021 Office Action TSDR 4, citing Techopedia.

[8] November 8, 2020 Office Action TSDR 14.

[9] *Id*. at 7-8.

customers and potential customers. **Business process management (BPM)** is about optimizing workflows and business processes. So what have they got to do with each other? "Without **BPM**, your **CRM** is just an expensive Rolodex." said Alan Trefte, CEO at Pegasystems. If that's the case, sales people are unlikely to be appreciative of new **CRM** systems. In some cases, **CRM** systems make **business processes** simpler for management but burden sales teams with additional steps that slow them down.[10]

ERP /**CRM** Professionals, December 3, 2008
   ERP (Enterprise Resource Planning) and **CRM** (Customer Relations Management) professionals have different job titles but the same job description. ERP is geared towards control of business resources for better customer assistance while **CRM** deals with the customers directly. … There are two types of professionals in ERP - an ERP professional who has a degree in computer and an ERP professional who has *a* business degree. Either way, their expertise comes from the fact that they have great analytical skills especially In understanding a particular business. A business graduate already has knowledge in **business process** but should have the ability to port that knowledge into different ERP applications. On the other hand, computer professionals who already have familiarity with different ERP applications should know how to port their knowledge of the application to specific **business processes**.[11]

Critical Reasons Your Business Needs BPM with CRM
   As a business leader, it is becoming increasingly critical that you consider the benefits of combining **customer relationship management (CRM)** with **business process management (BPM).** Many companies have some form of **customer relationship management** and in fact a large percentage are on their third or fourth version of **CRM**. Many of these same companies also have or are considering **business process management (BPM)** software, typically to improve the customer service experience and boost business efficiency.[12]

The record also includes media reports and examples of third-party use obtained

from the Lexis/Nexis database (and excerpted below) which corroborate the definition

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[10] *Id*. at 12.

[11] *Id*. at 4-5.

[12] *Id*..

of CRM and PROS, and demonstrate that the term "CRM PROS" is readily recognized

as describing customer relationship management services by CRM professionals

(**emphasis** added):

> Supply Chain Management Vs. Customer Relationship Management, August
> 26, 2020
>> CRM-SCM integration also allows information to flow between the two
>> departments. Accurate analysis and interpretation allows the supply chain
>> management team to improve the production schedules, reduce costs,
>> eliminate bottlenecks and plan for future work. **Customer relationship
>> management professionals** also need access to data regarding spare
>> parts availability to support consumers.[13]

> Will AI Make Account-Based Marketing Obsolete? November 2017
>> The corollary that other speakers picked up was that AI will eventually be
>> better than humans at marketing and creating a positive customer
>> experience; some seemed to indicate that current machine learning and
>> automation tech is already better than human marketing and **CRM
>> professionals.**[14]

> Closing The Customer Loyalty Loop, March 1, 2017
>> Businesses must think about retaining customers long before they acquire
>> them. Many **CRM professionals** would agree that hanging on to
>> customers is every bit as important as-if not more important than-acquiring
>> new ones.[15]

> Happy Anniversary CRM Magazine, and a Fond Farewell, December 1, 2016
>> Actually, I'm quite bullish about the future of the CRM industry. As the
>> cloud, analytics, omnichannel, IoT, systems of engagement, and other
>> technologies evolve, a lot of opportunities will continue to emerge for **CRM
>> professionals**.[16]

> Personal Value Will Measure CRM Success in 2016, January 1, 2016
>> With significant changes in the user's personal adaptation of their CRM
>> solution, there won't be much rest in the year ahead for **CRM
>> professionals**. Instead rather, there will be a fresh crop of new

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[13] *Id*. at 10-11.

[14] March 9, 2020 Office Action TSDR 25.

[15] *Id*. at 26.

[16] *Id*. at 21.

opportunities to consider. Keeping user experience, personal value of the solution, and the pace in which the digital age contributes to in mind will keep **CRM professionals** at the forefront in 2016.

Matt Keenan is group vice president of CRM products at Aptean, looking at a set of strategies for building life-long relationships with customers. Keenan is a 20+ year veteran with deep experience in all facets of CRM including sales, service, marketing and social CRM.[17]

Are You Correctly Measuring Customer Satisfaction? October 2014
Unfortunately, bad customer service stories are more common than we'd like to think. Every once in a while, a bad customer service story goes viral, forcing **CRM professionals** to take a closer look at how they support customers.[18]

BPMonline CRM Is Reviewed by Technology Evaluation Centers (TEC), August 5, 2013
BPMonline is a global provider of the first-class Customer Relationship Management (CRM) and Business Process Management (BPM) solutions. The award-winning BPMonline CRM application brings easy and affordable process management tools to **CRM professionals**. Powerful and easy to use, the solution provides deep user-friendly customization at an incredibly inexpensive price point.[19]

Take a Healthy Approach to Social Media, June 1, 2012
Social media is emerging as a viable forum for sales, marketing, and customer service professionals to connect with customers. But be careful not to treat it as "just another service channel." I've already heard too many **CRM professionals** describe social media this way.[20]

CRM in 'Pursuit of Shared Goals,' October 2011
Once in a while, it's helpful to see how other **CRM professionals** spend their days, to get an up-close look at what's important to them, the projects they're working on, their interactions with colleagues, and their customer engagement strategies. So, when American Express offered CRM magazine

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[17] *Id.* at 30.

[18] *Id.* at 24.

[19] *Id.* at 31.

[20] *Id.* at 38.

the opportunity to shadow one of its customer service executives for an entire day, we jumped at the chance.[21]

CCR sold but will stay in Tarboro, November 6, 2009 Friday
Crossmarket solution providers like Microsoft, Oracle, salesforce.com. and SAP offer solutions that can be used on handhelds as part of their CRM offerings. Yet Band says sales and IT leaders still are still perplexed by the complexities of the vastly different mobile sales options and architectures. "**CRM professionals** will be particularly challenged to make the right CRM solution investment and/or application upgrade decisions during a period when every budget dollar will be closely scrutinized," explains Band.[22]

CRM dials into the Iphone, September 2008
Not to be left behind, Salesforce.com announced that its Salesforce CRM applications and the company's Force.com platform are available on Apple's App Store as Salesforce Mobile for iPhone. As the demand among iPhone-using **CRM professionals** heats up, the competition among CRM vendors to accommodate that demand will surely lead to further application development.[23]

The research industry is at a point at which it can go in many different directions, January 2008
In discussions with online software vendors, Struss learned that 8,000-10,000 customers had bought copies of one firm's survey software. The company he was referring to did not typically sell to marketing researchers. Instead, it sold to information technology and **customer relationship management (CRM) professionals** who embedded surveys in their firms' information systems or on their Web sites.[24]

Zero Tolerance, October 1, 2005
"Nobody cares about the poor Customer Service Person," Kass wrote. 'Who stands up for them when they're yelled at, when they're told that their mother was a hamster and their father smelled of elderberries?" He's got a point. Some customers are monstrous. And everybody has a breaking point. But **CRM professionals** can't draw much comfort from that lonely voice.[25]

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[21] *Id*. at 34.

[22] *Id*. at 33.

[23] *Id*. at 27.

[24] *Id*. at 39.

[25] *Id*. at 40.

CRM Retailer Gives Results in Real-Time, February 2005
> With kdb, CRM-Profiler users get results in a few seconds. CRM-Profiler takes customer and transaction data from any source, reads it into the high-performance kdb database from Kx Systems, and performs fast time-ordered analysis on the data. Designed for marketing and **CRM professionals**, CRM-Profiler is accessible from a web browser. [26]

Foreshore: A vision of CRM outsourcing, July 1, 2003
> Originally operating as a management consultant for large call centers, he was then involved in the early adoption of CRM applications and business telecommunications, developing and operating customized programs for government, health care and call center markets. Earley subsequently joined an international consulting firm where he has filled many roles including director of the National CRM Practice and is the moderator of the Any Answers discussion forum (www.crm-forumcom/anyanswers), a source of information written by **CRM professionals** for **CRM professionals**.[27]

Positive connections; Glenn Burns oversees Precision Response Corp.'s Pittsburgh-area office --where supporting businesses is the top priority, February 26, 2003
> Headquartered in Plantation, Fla, PRC has more than 20 years of experience in the customer service industry and currently employs more than 9,000 **CRM professionals**. As a division of USA Network lnc.'s Interactive Group, PRC offers a fully integrated mix of traditional call center and e-commerce customer care technologies and services. PRC partners with large corporations and high-growth Internet-focused companies, including American Express, AT&T, British Airways, priceline.com and DIRECTV, to help better develop pre- and post-sales customer relationships.[28]

Because CRM is closely related to businesses processes, and Applicant offers business process management services, CRM PROS will immediately inform those seeking professionals in CRM about the nature of Applicant's services. *See In Re Nat'l Assoc. of Veterinary Technicians in Am., Inc.,* 2019 USPQ2d 269108, *5 (TTAB 2019)

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[26] *Id*. at 36.

[27] *Id*. at 29.

[28] *Id*. at 37.

("Overall, the evidence shows that to consumers of veterinary medicine services, VETERINARY TECHNICIAN SPECIALIST immediately conveys knowledge of a significant feature of the services, namely, that they are provided by a veterinary technician who specializes in a type of veterinary medicine."). We acknowledge Applicant's argument that it offers services which do not involve customer relationship management.[29] It is not required that the term CRM PROS describes all of Applicant's services to be found merely descriptive. "[A] mark may be merely descriptive even if it does not describe the 'full scope and extent' of the applicant's goods or services." *See In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (*quoting In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)).

Finally, Applicant makes the arguments that there is no competitive need for the term CRM PROS to remain available to others, and that, while the individual terms CRM and PROS are unregistrable, their combination creates a unitary and registrable mark.[30] Applicant offers no support for either argument, and we find both flatly contradicted by the significant evidence that the terms CRM PROS or the equivalent CRM PROFESSIONALS are already in wide use. *See Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 127 USPQ2d 1797, 1799 (Fed. Cir. 2018) (*citing Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 76 USPQ2d 1616, 1622 (Fed. Cir. 2005) ("Attorney argument is no substitute for evidence.")).

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[29] 6 TTABVUE 4.

[30] *Id.* at 7-9.

In sum, we find that the proposed mark **CRM PROS** conveys an immediate idea that the provider of Applicant's services are CRM PROS, and so the proposed mark **CRM PROS** is merely descriptive of Applicant's "business management consulting in the field of managing business processes."

Decision: We affirm the refusal to register the proposed mark **CRM PROS** on the ground that it is merely descriptive of Applicant's services under Trademark Act Section 2(e)(1).