

This Opinion is Not a  
Precedent of the TTAB

Mailed: March 26, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board

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*In re Tailored Management System, Inc.*

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Serial No. 88857513

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Eric Karich, Esq. for Tailored Management System, Inc.

Kathleen Lorenzo, Trademark Examining Attorney, Law Office 109,  
Michael Kazazian, Managing Attorney.

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Before Wolfson, Adlin and Coggins, Administrative Trademark Judges.

Opinion by Adlin, Administrative Trademark Judge:

Applicant Tailored Management System, Inc. seeks a Principal Register registration for the proposed mark TAILORED MANAGEMENT SYSTEM, in standard characters (MANAGEMENT SERVICES disclaimed<sup>1</sup>), for “providing temporary use of online non-downloadable computer software for insurance claims management for inputting first notice of loss, assigning claim to an adjuster, as well

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<sup>1</sup> Following the initial June 30, 2020 Office Action refusing registration on the ground of descriptiveness, Applicant voluntarily disclaimed MANAGEMENT SERVICES, in an apparent attempt to disclaim MANAGEMENT SYSTEM, the term in the proposed mark. In the final August 13, 2020 Office Action, the Examining Attorney acknowledged the disclaimer, but pointed out the error, stating “applicant’s mark includes the word ‘SYSTEM’ not ‘SERVICES’.”

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as performing billing and production, provide management reports, and tracking accounts receivable, related to the claim,” in International Class 42.<sup>2</sup> The Examining Attorney refused registration on the ground that the proposed mark is merely descriptive of the identified services under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1). After the refusal became final, Applicant appealed and Applicant and the Examining Attorney filed briefs.

## **I. Evidence and Arguments**

The Examining Attorney relies on the following dictionary definitions of the proposed mark’s constituent terms:

**TAILORED**—“custom made”

**MANAGEMENT**—“the act or art of managing: the conducting or supervising of something (such as a business)”

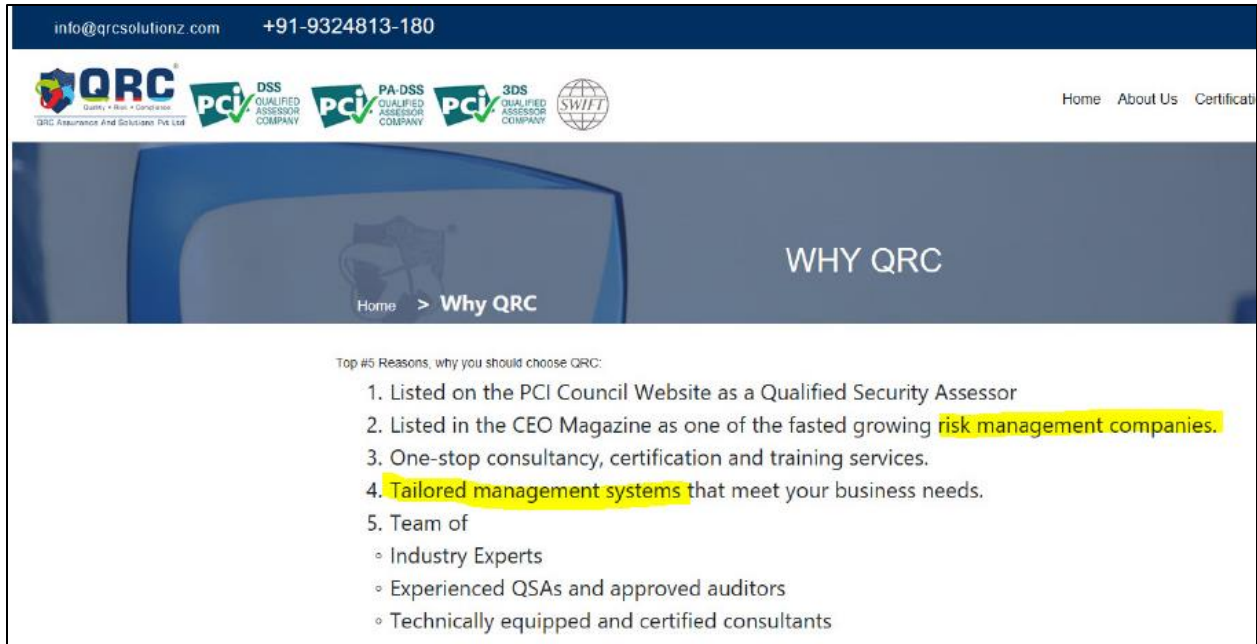
**SYSTEM**—“A network of related computer software, hardware, and data transmission devices.”

June 30, 2020 Office Action TSDR 5-17.

In addition, the Examining Attorney relies on third-party uses of the phrase/proposed mark TAILORED MANAGEMENT SYSTEM. For example, QRC Assurance and Solutions, a risk management company, lists the “Top #5 Reasons why you should choose QRC” on its website, and fourth on the list is “Tailored management systems that meet your business needs”:

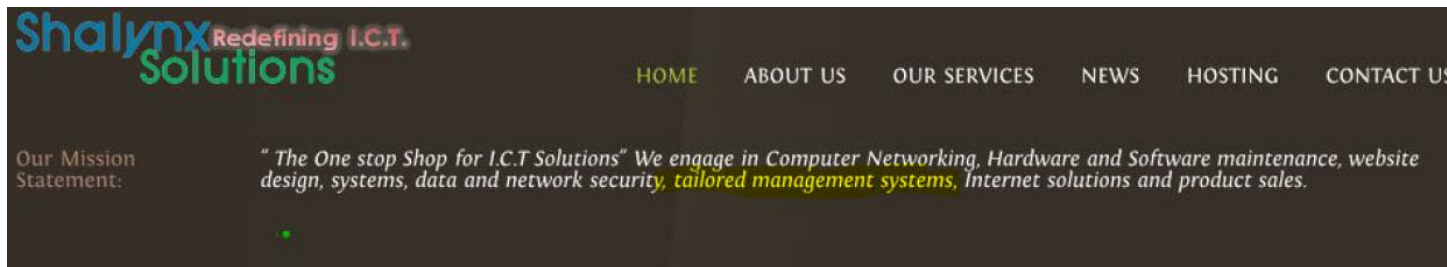
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<sup>2</sup> Application Serial No. 88857513, filed April 2, 2020 under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based on an alleged intent to use the mark in commerce.



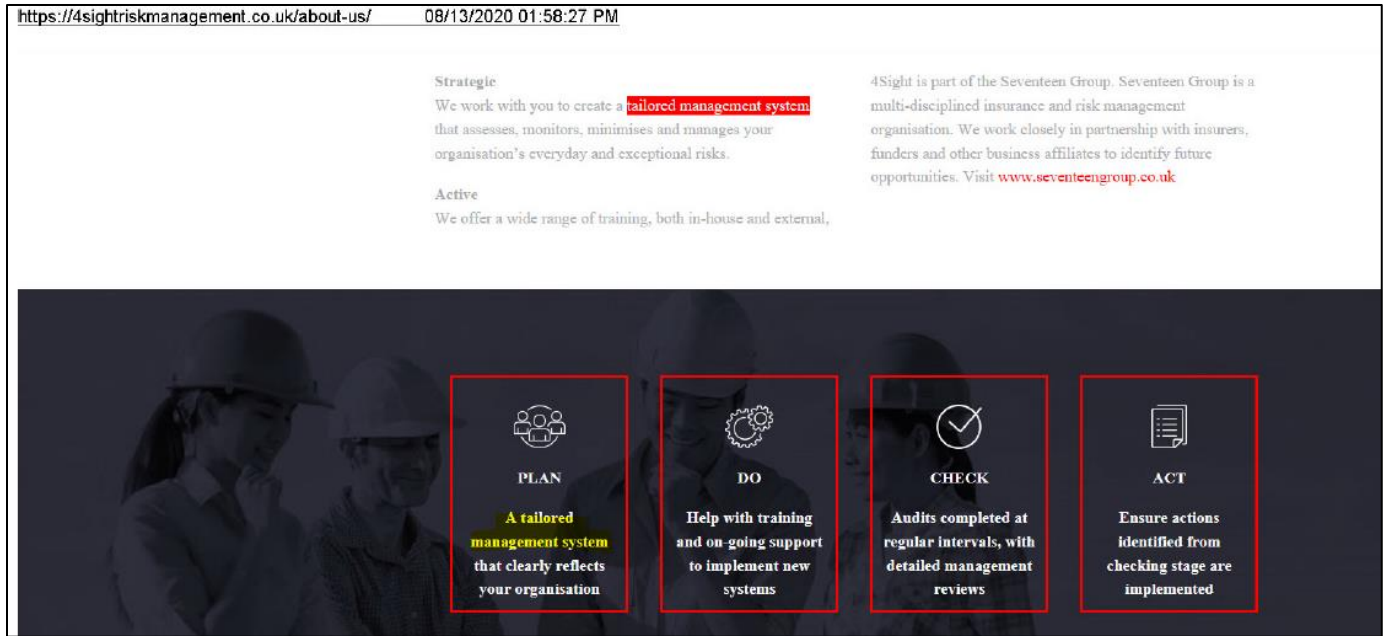
August 13, 2020 Office Action TSDR 15 (emphasis added).

Similarly, Shalynx Solutions’s Mission Statement is as follows: “The One stop Shop for I.C.T. Solutions’ We engage in Computer Networking, Hardware and Software maintenance, website design, systems, data and network security, **tailored management systems**, Internet solutions and product sales”:



*Id.* at 12 (emphasis added).

4Sight, another risk management company, indicates on its website that “[w]e work with you to create a **tailored management system** that ... manages your organisation’s everyday and exceptional risks”:



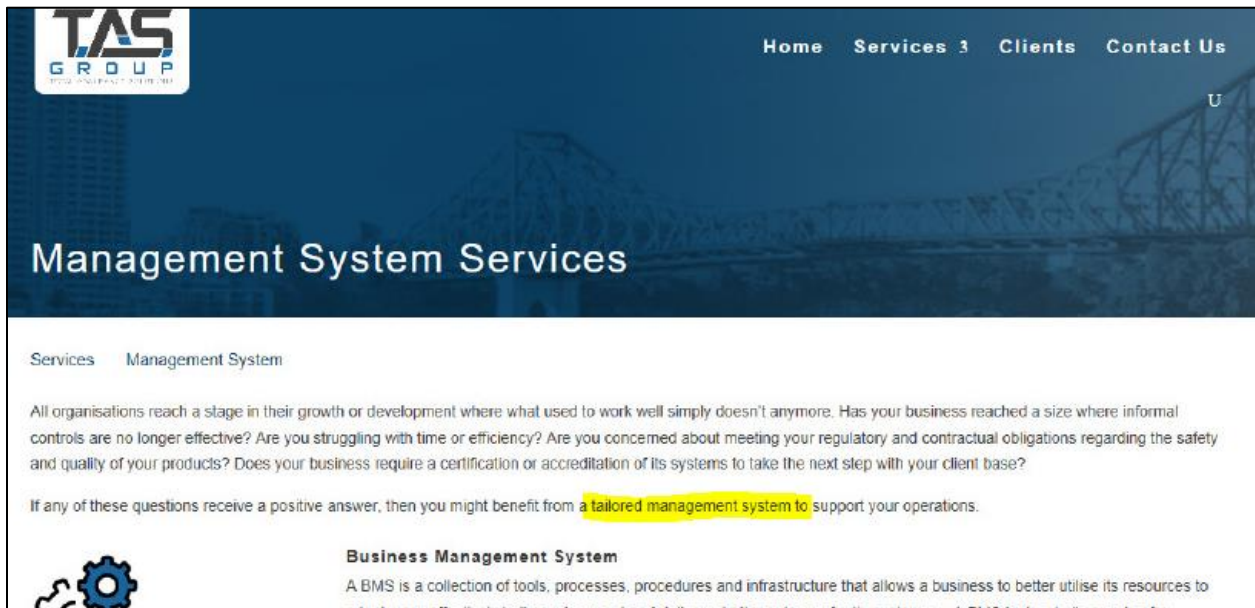
*Id.* at 10 (emphasis added).<sup>3</sup>

Thomas E. Brown Inc., a Pennsylvania auto body repair shop, touts its use of “a **tailored management system** by ABW and (sic) tracks all our K.P.I.’s for us.” *Id.* at 8 (emphasis added).

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<sup>3</sup> While some of these third parties appear to be based in other countries, the record indicates that they each operate in the highly technical fields of information technology and risk management, and at least some of them operate internationally while others tout compliance with international standards. We thus find their uses of “tailored management system” to be relevant here. “Information originating on foreign websites or in foreign news publications that are accessible to the United States public may be relevant to discern United States consumer impression of a proposed mark.” *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1835 (Fed. Cir. 2007). The determination of whether to consider foreign evidence must be made “on a case-by-case basis.” *Id.* Here, given the nature of the services at issue, we follow precedent recognizing that “professionals in medicine, engineering, computers, telecommunications and many other fields are likely to utilize all available resources, regardless of country of origin or medium.” *In re Remacle*, 66 USPQ2d 1222, 1224 n.5 (TTAB 2002); *see also, In re Int’l Business Machs. Corp.*, 81 USPQ2d 1677, 1681 n.7 (TTAB 2006) (“In this case involving computer technology, it is reasonable to consider a relevant article regarding computer hardware from an Internet web site, in English in another country.”).

The “Management System Services” page of T.A.S. Group’s website promotes “a **tailored management system** to support your operations,” which is intended for when “informal controls are no longer effective,” and “regulatory and contractual obligations regarding the safety and quality of your products” and “certification or accreditation” of systems are of concern:



*Id.* at 7 (emphasis added).

Finally, Acclaro Advisory’s Management Systems webpage states that “[m]anagement systems are tools to get the job done, to oversee processes and implement policies that bring goals closer to completion.” It concludes “[c]onsistency of processes, uniformity of protocol, ensuring stakeholders are on the same page, the benefits of a **tailored management system** are many and the time/cost benefits can’t be underestimated.” *Id.* at 5-6 (emphasis added).

Based on this evidence, the Examining Attorney argues that each of the individual terms in the proposed mark retains its dictionary meaning in the composite

TAILORED MANAGEMENT SYSTEM, such that the entire phrase is nothing more than the sum of its constituent parts. Specifically, the composite term immediately and generally describes “computer software and programs that are custom-made or made for a particular purpose.” 6 TTABVUE 6. More specifically, given Applicant’s identification of services in this case, it immediately describes “a network of related online software and transmission components designed specifically for use in the management of insurance claims.” *Id.* at 5-7.

Applicant did not introduce any evidence. It argues, however, that TAILORED MANAGEMENT SYSTEM is suggestive rather than descriptive. Specifically, “the term TAILORED is merely suggestive ... the word TAILORED is not literally a description of the Applicant’s [services], they don’t offer custom software services, but a standardized product. TAILORED suggests that the product will be suited for the customer’s needs, but it is not an actual description of the services.” 4 TTABVUE 3-4.

## II. Analysis

The record leaves no doubt that TAILORED MANAGEMENT SYSTEM is merely descriptive of Applicant’s services because the term “immediately conveys knowledge of a quality, feature, function, or characteristic” of the identified services. *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*, 82 USPQ2d at 1831); *In re Abcor Dev.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). Specifically, according to its identification of services, Applicant provides its customers access to “computer software,” a type of “system,” which is “tailored,” i.e., made for the purpose of (as set forth in the

identification of services): “insurance claims **management**,” including providing “**management** reports” (emphasis added).<sup>4</sup>

In fact, when an applicant identifies its goods or services using a term in the mark, as Applicant has in this case with the term “management,” that may be persuasive evidence of descriptiveness. *In re Taylor & Francis (Publishers) Inc.*, 55 USPQ2d 1213, 1215 (TTAB 2000) (PSYCHOLOGY PRESS & Design found merely descriptive of nonfiction books in the field of psychology, in part because the applicant’s “identification of goods expressly states that the series of non-fiction books upon which applicant uses its mark are ‘in the field of psychology.’ The word PSYCHOLOGY therefore is merely descriptive of the subject matter of applicant’s books, as identified in the application ....”); *In re Johanna Farms, Inc.*, 222 USPQ 607, 609 (TTAB 1984) (“The term ‘yogurt’ is concededly the name of the goods. That fact is uncontrovertible where, as here, the same term has been used in the identification of goods for which registration is sought.”).

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<sup>4</sup> Even if Applicant had introduced evidence in support of its argument that its software system is “a standardized product” rather than “custom software services,” 4 TTABVUE 4, the proposed mark would still be merely descriptive. In the context of Applicant’s identification of services, the term “tailored” refers to the services being suited to a particular purpose, specifically “insurance claims management,” rather than suited to a particular customer. Furthermore, Applicant’s reliance on the non-binding 127 year-old New York state case *Keasbey v. Brooklyn Chem. Works*, 142 N.Y. 467, 37 N.E. 476 (N.Y. 1894) is misplaced. There, the term in question had “never been before used in medical science to designate any other medicine or medicinal preparation,” *id.* at 477, and the term did not “even give any clear general idea as to what [the goods] are,” or have any “known significance in the medical world.” *Id.* at 479. The record in this case, by contrast, shows that the proposed mark consists of well-known terms which third parties have combined into the exact same composite as Applicant – TAILORED MANAGEMENT SYSTEM – to refer to similar or related products and services.

While Applicant does not use the words “tailored” or “system” in its identification of services, these terms are merely descriptive of, respectively, services made for a specific purpose (“insurance claims management,” “management reports” and “tracking accounts receivable”) and the method of providing the services (“non-downloadable computer software”), which are specifically included in the identification.

The third-party descriptive uses of the exact phrase Applicant seeks to register, (“tailored management system”) in connection with computer systems and associated services support the dictionary definitions and further establish that TAILORED MANAGEMENT SYSTEM is merely descriptive. Indeed, these third parties do not use the term to identify Applicant’s services, or any particular goods or services whatsoever, but instead to convey the types of “systems” they are offering. *In re Leonhardt*, 109 USPQ2d 2091, 2095 (TTAB 2008) (relying on third-party uses to find descriptiveness); cf. *In re Nordic Naturals, Inc.*, 755 F.3d 1340, 111 USPQ2d 1495, 1498 (Fed. Cir. 2014) (finding in context of genericness that “numerous [third-party] uses of ‘children’s DHA’ ... supports the Board’s conclusion that the relevant public primarily uses the phrase as it is defined in the dictionary, i.e., to generally describe DHA products formulated for children.”). To the extent that one or more of these third parties may use SYSTEM broadly, to describe tailored methods of management which go beyond just software and related services, the term still encompasses the identified software services.



In fact, the third-parties use “tailored management system” the same way Applicant does – to identify management systems made for a specific purpose. These uses, the dictionary definitions and Applicant’s identification of services all make clear that in Applicant’s proposed mark, each component term, TAILORED, MANAGEMENT and SYSTEM, retains its merely descriptive significance in relation to the services. The composite term TAILORED MANAGEMENT SYSTEM is therefore nothing more than the sum of its parts when used for computer-based management systems for insurance claims. Applicant does not suggest any alternative commercial impression resulting from the combination of these immediately descriptive terms. The composite term TAILORED MANAGEMENT SYSTEM is therefore merely descriptive. *See, e.g., In re Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370 (Fed. Cir. 2004) (PATENTS.COM merely descriptive of computer software for managing a database of records that could include patents, and for tracking the status of the records by means of the Internet); *In re Petroglyph Games, Inc.*, 91 USPQ2d 1332 (TTAB 2009) (BATTLECAM merely descriptive for computer game software); *In re Carlson*, 91 USPQ2d 1198 (TTAB 2009) (URBANHOUSING merely descriptive of real estate brokerage, real estate consultation and real estate listing services); *In re Tower Tech Inc.*, 64 USPQ2d 1314 (TTAB 2002) (SMARTTOWER merely descriptive of commercial and industrial cooling towers); *In re Sun Microsystems Inc.*, 59 USPQ2d 1084 (TTAB 2001) (AGENTBEANS merely descriptive of computer programs for use in developing and deploying application programs).

### **III. Conclusion**

The record leaves no doubt that TAILORED MANAGEMENT SYSTEM is merely descriptive of Applicant's services, which as identified encompass computer systems tailored to managing insurance claims.

**Decision:** The refusal to register Applicant's proposed mark on the Principal Register because it is merely descriptive under Section 2(e)(1) of the Trademark Act is affirmed.