

This Opinion is Not a
Precedent of the TTAB

Mailed: February 13, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Critical Response Group, Inc.
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Serial No. 97609317
—

Robert W. Clarida of Reitler Kailas & Rosenblatt LLP,
for Critical Response Group, Inc.

Ross Kirchgasser, Trademark Examining Attorney, Law Office 101,
Zachary Sparer, Managing Attorney.

—
Before Lykos, Adlin and Cohen,
Administrative Trademark Judges.

Opinion by Lykos, Administrative Trademark Judge:

Critical Response Group, Inc. (“Applicant”) seeks to register the mark
MICRO GRID SQUARE LABEL in standard characters on the Principal Register for,

Downloadable geospatially accurate graphics, maps and
site plans used to coordinate security personnel and first
responders; Printable geospatially accurate graphics, maps
and site plans used to coordinate security personnel and
first responders in International Class 9; and

Printed geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders in International Class 16.¹

The Trademark Examining Attorney refused registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that the mark is merely descriptive of Applicant's goods in both International Classes 9 and 16. Pursuant to Trademark Rule 2.32(a)(6), 37 C.F.R. § 2.32(a)(6), the Examining Attorney also refused registration of the International Class 9 goods because Applicant failed to comply with the requirement to provide an acceptable identification for the items listed as "Printable geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders."

The refusals were made final. Applicant filed a notice of appeal which is now briefed.

I. Evidentiary Issue

Applicant throughout its brief refers to another registration it owns, Supplemental Registration No. 7483488 for the mark MICRO, for the following "virtually identical goods":²

Downloadable geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders; Downloadable printable geospatially accurate

¹ Application Serial No. 97609317, filed September 27, 2022, under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), alleging a bona fide intent to use the mark in commerce.

Page references to the application record are to the online database of the USPTO's Trademark Status & Document Retrieval ("TSDR") system in .pdf format. References to the briefs on appeal are to the Board's TTABVUE online docket system. See *New Era Cap Co. v. Pro Era, LLC*, 2020 USPQ2d 10596, at *2 n.1 (TTAB 2020); *Turbin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014).

² Applicant's Brief, 4 TTABVUE 4.

graphics, maps and site plans used to coordinate security personnel and first responders (International Class 9); and

printed geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders (International Class 16).

It explains that because the registration issued following commencement of the appeal, the registration is not in the record.³

The Board does not consider evidence not properly made of record, *see* Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d), with the caveat that evidence submitted after an appeal may be considered by the Board if the nonoffering party does not object to the new evidence and discusses the new evidence or otherwise affirmatively treats it as being of record. *See In re Int'l Watchman, Inc.*, 2021 USPQ2d 1171, at *29 n.49 (TTAB 2021) (Board treated applicant's prior registration as if of record because the examining attorney and applicant referred to it in briefing the appeal); *see also* TBMP § 1207.03. In his brief, the Examining Attorney responded to Applicant's arguments surrounding Registration No. 7483488.⁴ We therefore consider the registration as if it were of record. *See id.*

³ The appeal commenced on July 10, 2024 and the registration issued on August 20, 2024, prior to the filing of Applicant's brief on September 9, 2024. The better practice would have been for Applicant to have filed a request for remand to make the registration of record prior to filing its appeal brief. *See* Trademark Rule 2.142(d)(1), 37 C.F.R. § 2.142(d)(1) ("In an appeal from a refusal to register, if the appellant or the examining attorney desires to introduce additional evidence after an appeal is filed, the appellant or the examining attorney should submit a request to the Board to suspend the appeal and to remand the application for further examination."); *see also* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE ("TBMP") §§ 1207.01 and 1209.04 (2024).

⁴ Examining Attorney's Brief, 6 TTABVUE 4.

II. Identification of Goods Requirement

“It is within the discretion of the PTO to require that one’s goods be identified with particularity.” *In re Water Gremlin Co.*, 635 F.2d 841, 208 USPQ 89, 91 (CCPA 1980). Trademark Rule 2.32(a)(6), 37 C.F.R. § 2.32(a)(6), provides that an application must include a “list of the particular goods or services on or in connection with which the applicant uses or intends to use the mark.” “The identification of goods and/or services must be specific, definite, clear, accurate, and concise.” *In re Carlton Cellars, LLC*, 2020 USPQ2d 10150, at *3 (TTAB 2020) (citing *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 1 USPQ2d 1296 (TTAB 1986), *rev’d on other grounds*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987)); *see also In re tapio GmbH*, 2020 USPQ2d 11387, at *6 (TTAB 2020) (quoting *In re Cordua Rests., Inc.*, 823 F.3d 594, 118 USPQ2d 1632, 1639 (Fed. Cir. 2016)). “[The] applicant must identify the goods and services specifically to provide public notice and to enable the USPTO to classify the goods and services properly and to reach informed judgments concerning likelihood of confusion under 15 U.S.C. §1052(d).” *In re SICPA Holding SA*, 2021 USPQ2d 613, at *4 (TTAB 2021) (quoting *In re Fiat Grp. Mktg. & Corp. Commc’ns S.p.A.*, 109 USPQ2d 1593, 1597 (TTAB 2014)).

In the Final Office Action, the Examining Attorney found that the word “printable” in “printable geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders” renders the identification of goods in International Class 9 indefinite because it does not specify the form of the goods

and could identify goods in more than one international class.⁵ See, e.g., *In re Faucher Indus.*, 107 USPQ2d 1355, 1358 (TTAB 2013) (finding “scope of the term ‘chronographs’ is ambiguous for registration purposes, for it includes both watches and time recording devices”). The Examining Attorney explained that printed maps fall in International Class 16 whereas downloadable printable maps in digital form are in International Class 9.⁶ To resolve this issue, the Examining Attorney suggested amending to “Downloadable printable geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders” in International Class 9.⁷ Surprisingly, Applicant did not adopt the Examining Attorney’s suggestion or avail itself of the opportunity to file a request for reconsideration or remand. The Board is puzzled by Applicant’s inaction, given that its previously registered mark MICRO incorporates the exact same identification suggested by the Examining Attorney.

The filing of a notice of appeal has the effect of appealing all refusals or requirements made final. *In re Citibank, N.A.*, 225 USPQ 612, 613 (TTAB 1985). Applicant only argued the merits of the Section 2(e)(1) refusal in its appeal brief and did not acknowledge, much less address, the requirement to provide a definite identification of goods in International Class 9. The Board has the discretion to “treat the failure as the equivalent of not filing a brief on that issue and dismiss the appeal,

⁵ January 10, 2024 Final Office Action at TSDR 5-6.

⁶ January 10, 2024 Final Office Action at TSDR 5-6.

⁷ January 10, 2024 Final Office Action at TSDR 6.

or to consider any challenge to that requirement or refusal waived and affirm.” *In re Rainier Enters., LLC*, 2019 USPQ2d 463361, at *5 (TTAB 2019). Under these circumstances, we deem Applicant’s appeal of the requirement to provide a definite identification of goods in International Class 9 as waived, and affirm the Examining Attorney’s refusal under Trademark Rule 2.32(a)(2). *See In re Harley and Jones*, 119 USPQ2d 1755, 1757 (TTAB 2016) (refusing registration based on failure to address or argue in its appeal brief any of the examining attorney’s refusals or requirements).

III. Mere Descriptiveness Refusal⁸

In the absence of acquired distinctiveness, Section 2(e)(1) of the Trademark Act prohibits registration of a mark on the Principal Register that, when used in connection with an applicant’s goods or services, is merely descriptive of them. “A term is merely descriptive 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)); *see also In re TriVita, Inc.*, 783 F.3d 872, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015). By contrast, a mark is suggestive if it “requires imagination, thought, and perception to arrive at the qualities or characteristics of the [goods or services].” *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009, 1009 (Fed. Cir. 1987).

⁸ Applicant’s appeal of the mere descriptiveness refusal involves two separate classes of goods meaning that the Examining Attorney must demonstrate mere descriptiveness with respect to each. *See In re OSF Healthcare Sys.*, 2023 USPQ2d 1089, at *3 (TTAB 2023).

The determination of whether a mark is merely descriptive must be made in relation to the goods or services for which registration is sought, not in the abstract. *Chamber of Commerce*, 102 USPQ2d at 1219; *Bayer*, 82 USPQ2d at 1831. This requires consideration of the context in which the mark is used or intended to be used in connection with those goods or services, and the possible significance that the mark would have to the average purchaser of the goods or services in the marketplace. *Chamber of Commerce*, 102 USPQ2d at 1219; *Bayer*, 82 USPQ2d at 1831; *In re Omaha Nat'l Corp.*, 819 F.2d 1117, 2 USPQ2d 1859, 1861 (Fed. Cir. 1987). The question is not whether someone presented only with the mark could guess the goods or services listed in the identification; rather, it is whether someone who knows what the goods or services are will understand the mark to convey information about them. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (quoting *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002)).

“A mark may be merely descriptive even if it does not describe the ‘full scope and extent’ of the applicant’s goods or services.” *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)). It is not necessary that a term describe all of the purposes, functions, characteristics, or features of a product or service to be considered merely descriptive; it is enough if the term describes one significant function, attribute, or property. *Chamber of Commerce*, 102 USPQ2d at 1219 (citing *Dial-A-Mattress*, 57 USPQ2d at 1812).

Evidence that a term is merely descriptive to the relevant purchasing public “may be obtained from any competent source, such as dictionaries, newspapers, or surveys,” *Bayer*, 82 USPQ2d at 1831, as well as “labels, packages, or in advertising material directed to the goods.” *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978). It may also be obtained from websites and publications. *See In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1710 (Fed. Cir. 2017); *In re Nett Designs Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1565 (Fed. Cir. 2001).

“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 Zuma Array Ltd.*, 2022 USPQ2d 736, at *6 (TTAB 2022) (quoting *In re Omniome, Inc.*, 2020 USPQ2d 3222, at *4 (TTAB 2019)). “[T]he PTO must . . . determine whether the mark as a whole, i.e., the combination of the individual parts, conveys any distinctive source-identifying impression contrary to the descriptiveness of the individual parts.” *Oppedahl & Larson*, 71 USPQ2d at 1372 (citing *In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382, 384 (CCPA 1968)); *accord Zuma Array*, 2022 USPQ2d 736, at *6; *In re Fallon*, 2020 USPQ2d 11249, at *7 (TTAB 2020); *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1513 (TTAB 2016)). “If each component retains its descriptive significance in relation to the [goods or services], the combination results in a composite that is itself merely descriptive.” *Zuma Array*, 2022 USPQ2d 736, at *6 (quoting *Fallon*, 2020 USPQ2d 11249, at *7). Only where the combination of descriptive terms creates a unitary mark, or a mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods or services is the mark

registrable as suggestive. *See Oppedahl & Larson*, 71 USPQ2d at 1372 (citing *In re Nat'l Data Corp.*, 753 F.2d 1056, 224 USPQ 749, 750-51 (Fed. Cir. 1985)); *Compare In re Tennis in the Round Inc.*, 199 USPQ 496, 498 (TTAB 1978) (TENNIS IN THE ROUND held not merely descriptive for providing tennis facilities, the Board finding that the association of applicant's marks with the phrase "theater-in-the-round" created an incongruity because applicant's tennis facilities are not at all analogous to those used in a "theater-in-the-round") *with In re Mecca Grade Growers, LLC*, 125 USPQ2d 1950, 1955 (TTAB 2018) (MECHANICALLY FLOOR-MALTED merely descriptive of malt for brewing and distilling and processing of agricultural grain).

Applicant contends that its mark is suggestive because the juxtaposition of the words MICRO GRID SQUARE LABEL requires the consumer to engage in some degree of imagination, thought, or perception to discern its meaning. Applicant maintains that because its mark does not "directly inform a prospective purchaser of a quality or characteristic of the goods – namely maps – offered by Applicant, but merely refers to labels,"⁹ it is not merely descriptive. Applicant acknowledges that "[s]ome of the labels on Appellant's maps are small in size, and are placed in grid squares on the maps," but asserts that "those are characteristics of the labels, not of the maps."¹⁰ Applicant also argues that "because [its previously registered mark] MICRO is not merely descriptive for the goods, it cannot logically follow that the

⁹ Applicant's Brief, 4 TTABVUE 6.

¹⁰ Applicant's Brief, 4 TTABVUE 6.

Appellant's mark MICRO GRID SQUARE LABEL, considered in its entirety, is merely descriptive when used in connection with the same goods."¹¹

Applicant's arguments are unconvincing. Applicant's previously registered mark MICRO is registered on the Supplemental Register. Registration on the Supplemental Register is a concession that the mark is not inherently distinctive. *See In re Clorox Co.*, 578 F.2d 305, 198 USPQ 337, 340 (CCPA 1978); *In re Highlights for Children, Inc.*, 118 USPQ2d 1268, 1272-73 (TTAB 2016) (citing *In re Future Ads LLC*, 103 USPQ2d 1571, 1574 (TTAB 2012)). Applicant's prior registration not only undercuts its position but supports the Examining Attorney's position that "micro" is merely descriptive.

Turning now to the evidence before us, the Examining Attorney's evidence demonstrates that each term comprising Applicant's mark MICRO GRID SQUARE LABEL has a well-recognized meaning in relation to Applicant's International Class 9 and 16 goods. THE MERRIAM WEBSTER DICTIONARY defines "micro" as "very small."¹² Beyond this commonly known meaning, "micro" in the context of geospatial mapping refers to "a small scale GIS [Geographic Information Systems] implementation" or GIS map of a smaller-scale geographic area, serving "smaller scale entities like industrial parks, economic development agencies, malls and school campuses."¹³ The

¹¹ Applicant's Brief, 4 TTABVUE 6.

¹² The Merriam Webster Dictionary, <https://www.merriamwebster.com/dictionary/micro> submitted with June 1, 2023 Office Action at TSDR 7.

¹³ Geo Jobe, "What is a Micro GIS?" posted by Jeff Lawrence on July 31, 2019 submitted with January 10, 2024 Final Office Action at TSDR 13. *See also* CreativeMinds "Micro GIS FAQ" submitted with June 1, 2023 Office Action at TSDR 12.

“convergence of photogrammetry software development, sensor technology, and the explosion of small unmanned aircraft systems (sUAS) has created an affordable photo capture” meaning that it is no longer cost prohibitive to have companies geospatially map features such as “building footprints, curbs, edges of pavements, culverts, headwalls...”¹⁴ Such technological advances in accuracy have applications in a myriad of fields, including the coordination of security personnel and first responders.

With regard to the next two words in Applicant’s mark, in everyday parlance, “grid” is defined as “a network of uniformly spaced horizontal and perpendicular lines (as for locating points on a map),”¹⁵ and a “square” is defined as “a rectangle with all four sides equal.”¹⁶ A grid comprised of squares may be overlaid on a map to identify specific reference points.¹⁷ “Grid square” is a term of art in mapping to denote a square shaped cell within a gridded map.¹⁸ Below is an example of a grid square map of the United States:¹⁹

¹⁴ Geo Jobe, “What is a Micro GIS?” posted by Jeff Lawrence on July 31, 2019 submitted with January 10, 2024 Final Office Action at TSDR 13-14.

¹⁵ The Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/grid> submitted with June 1, 2023 Office action at TSDR 9. *See also* ArcMap “What are grids and graticules?” submitted with January 10, 2024 Final Office Action at TSDR 22.

¹⁶ The Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/square> submitted with June 1, 2023 Office Action at TSDR 12.

¹⁷ The Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/square> submitted with June 1, 2023 Office Action at TSDR 12.

¹⁸ DuPage Amateur Radio Club submitted with January 10, 2024 Final Action at TSDR 26. *See also* IWA Publishing “Mapping Runoff by the Grid Square Technique” and ScienceDirect “Application of the grid square technique to mapping of evapotranspiration” submitted with January 10, 2024 Final Office Action at TSDR 31.

¹⁹ DuPage Amateur Radio Club submitted with January 10, 2024 Final Action at TSDR 26.

DuPage Amateur Radio Club

Clicking anywhere in the above banner on any page will always return you to the Home Page

Friday, January 05, 2024

Grid Square Map

U.S. Grid Square Map

For a downloadable and printable copy, click the map.

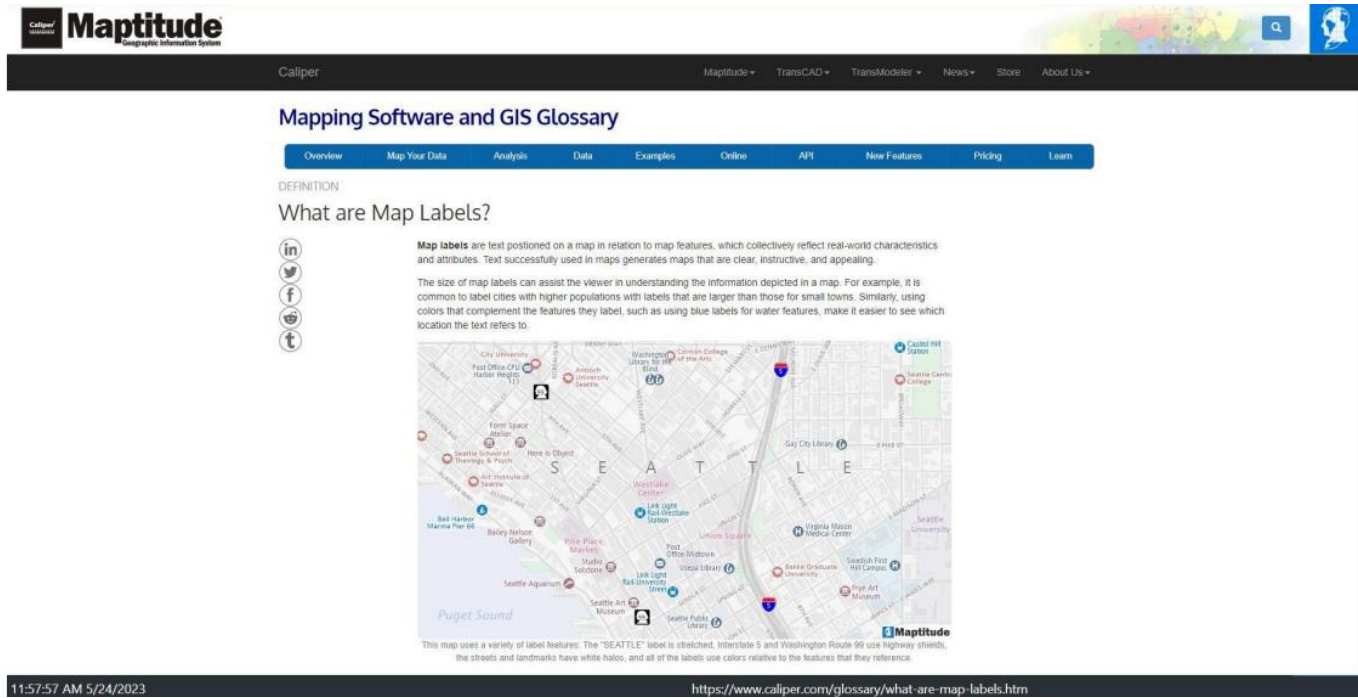
Please Note: The following links will take you away from the DARC website.

Amateur Radio Maidenhead Grid Square Locator Map by K2DSL

The final word in Applicant’s mark, “label,” is a technical term to designate “text positioned on a map in relation to map features, which collectively reflect real-world characteristics and attribute.”²⁰ “Map labels help to identify features, establish a visual hierarchy of important features, and focus the map user’s attention on the

²⁰ Maptitude “Mapping System and GIS Glossary” from www.caliper.com submitted with June 1, 2023 Office Action at TSDR 14-15.

purpose of the map.”²¹ For example, in the map below, a label with a sailboat icon shows the location of a marina and harbor:²²



Taken together, Applicant’s mark MICRO GRID SQUARE LABEL immediately conveys features and characteristics of Applicant’s downloadable and printed geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders in International Classes 9 and 16. As aptly put by the Examining Attorney:

[T]he wording MICRO GRID SQUARE LABEL directly conveys to consumers that Applicant’s smaller-scale maps, graphics, and site plans feature numerical or textual

²¹ Esri “Label the map” submitted with January 10, 2024 Final Office Action at TSDR 37.

²² Maptitude “Mapping System and GIS Glossary” from www.caliper.com submitted with June 1, 2023 TSDR 14. and Springer Link submitted with June 1, 2023 Office Action at TSDR 14-15, and evidence from ArcGIS Pro, Avenza Systems, Google Maps, and Mapline submitted with January 10, 2024 Final Office Action at TSDR 37-42.

information within gridded overlays that can be used to identify and reference specific squares therein.²³

Excerpts from Applicant’s website show that Applicant uses advanced technology to geospatially map smaller-scale (i.e. “micro”) properties and buildings on a “grid square” with “labels” in order to assist security personnel and first responders.²⁴ Applicant’s downloadable and printed “geospatially accurate graphics, maps and site plans” have the capability to display on a grid square “each floor of a structure” with “floor plans and building access points” as well as the surrounding exterior.²⁵ Applicant’s “graphics, maps and site plans” include “everything that a first responder needs to know to coordinate emergency response within a structure” including “room labels, hallway names, external door/stairwell numbers and key utility locations.”²⁶ Applicant touts that its “clear labeling” and “grid coordinate map overlays make it easy for teams to communicate with a common spatial understanding.”²⁷ As a result of these features, Applicant’s Class 9 and 16 goods “enhance response time and improve command control during an incident through common language and unified

²³ Examining Attorney’s Brief, 6 TTAVUE 3.

²⁴ Screenshots from Critical Response Group website, <https://www.crgplans.com/collaborative> response graphics submitted with June 1, 2023 Office Action at TSDR 8.

²⁵ Screenshots from Critical Response Group website, <https://www.crgplans.com/collaborative> response graphics submitted with June 1, 2023 Office Action at TSDR 8.

²⁶ Screenshots from Critical Response Group website, <https://www.crgplans.com/collaborative> response graphics submitted with June 1, 2023 Office Action at TSDR 8.

²⁷ Screenshots from Critical Response Group website, <https://www.crgplans.com/collaborative> response graphics submitted with June 1, 2023 Office Action at TSDR 13.

points of reference between internal teams and response units.”²⁸ Below are printouts from Applicant’s website illustrating these features.²⁹



²⁸ Screenshots from Critical Response Group website, <https://www.crgplans.com/collaborative-response-graphics> submitted with the June 1, 2023 Office Action at TSDR 10.

²⁹ Screenshots from Critical Response Group website, <https://www.crgplans.com/collaborative-response-graphics> submitted with the June 1, 2023 Office Action at TSDR 8, 10 and 13.




through any smart device.

- 1 **Grid & Template**
- 2 Key Landmarks & Critical Features (AED, Gas, etc)
- 3 Site Specific Labels and Nomenclature
- 4 Highlighted Hallways, Stairwells, Doors, Exits
- 5 GeoRelevant Integrated Floorplans
- 6 Best Available Aerial Imagery

23

<https://www.crgplans.com/collaborative-response-graphics/#tab-1684180661821-9>



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Collaborative Response Graphics®

Simple visual communication and collaboration tools, useable under stress, to coordinate emergency response both outside and inside a building. CRGs enhance response time and improve command and control during an incident through common language and unified points of reference between internal teams and response units.



LAYER BREAKDOWN

Creating a Unified Map, Inside and Out

CRGs combine a gridded reference system, high-resolution imagery, floor plans, and critical features within a building and surrounding exterior areas to create a communication tool that is usable in a crisis and accessible by first responders

Based on this evidence, we find that the combination of the four words MICRO GRID SQUARE LABEL has no unique or incongruous meaning in relation to Applicant's Class 9 and 16 goods. Rather, each individual word of Applicant's mark retains its descriptive meaning, making the mark merely descriptive. *See, e.g., DuoProSS Meditech Corp.*, 103 USPQ2d at 1758 (holding SNAP SIMPLY SAFER merely descriptive for various medical devices, such as hypodermic, aspiration, and injection needles and syringes); *Fallon*, 2020 USPQ2d 11249, at *12 (holding THERMAL MATRIX merely descriptive of a heat-responsive, malleable liner that is an integral component of an oral dental appliance). Consumers will readily understand that Applicant's downloadable and printed geospatially accurate graphics, maps and site plans display features to enhance the ability of security personnel and first responders to quickly respond to a crisis with precision for smaller-scale structures and their adjacent exteriors.

Applicant urges the Board to draw a negative inference based on the lack of third-party use of the compound term MICRO GRID SQUARE LABEL in connection with downloadable and printed geospatially accurate graphics, maps and site plans used to coordinate security personnel and first responders in International Classes 9 and 16. Vocabulary in technological fields evolves rapidly. *See In re Styleclick.com Inc.*, 57 USPQ2d 1445, 1448 (TTAB 2000) (noting "a year or two is an eternity in 'Internet time,' given the rapid advancement of the Internet into every facet of daily life"). The evidence discussed above shows the transformation in geospatial mapping to accommodate smaller-scale structures and geographic areas. The fact that Applicant

may be the first or only user of MICRO GRID SQUARE LABEL does not render the term distinctive when, as here, it has been shown to be merely descriptive of the identified goods. *See Fat Boys*, 118 USPQ2d at 1514; *see also KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc.*, 543 U.S. 111, 72 USPQ2d 1833, 1838 (2004) (trademark law does not countenance someone obtaining “a complete monopoly on use of a descriptive term simply by grabbing it first”); *Clairol, Inc. v. Roux Distrib. Co.*, 280 F.2d 863, 126 USPQ2d 397, 398 (CCPA 1960) (even novel ways of referring to the goods may nonetheless be descriptive). As explained in the seminal case of *In re Abcor Dev. Corp.*, 200 USPQ at 217 :

The major reasons for not protecting such marks are: (1) to prevent the owner of a mark from inhibiting competition in the sale of particular goods; and (2) to maintain freedom of the public to use the language involved, thus avoiding the possibility of harassing infringement suits by the registrant against others who use the mark when advertising or describing their own products.

The evidence of record supports a finding that the combination MICRO GRID SQUARE LABEL, when considered as a whole, immediately conveys, without conjecture or speculation or any multi-step reasoning, features and characteristics of Applicant’s International Class 9 and 16 goods.

Decision: The requirement to provide a definite identification of goods in International Class 9 is affirmed; the mere descriptiveness refusal as applied to International Classes 9 and 16 is also affirmed.