

This Opinion is Not a  
Precedent of the TTAB

Mailed: July 6, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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*In re World Economic Forum*

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Serial No. 79249902

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Randolph E. Digges, III of Rankin, Hill & Clark LLP,  
for World Economic Forum.

Barbara Rutland, Trademark Examining Attorney, Law Office 101,  
Ronald R. Sussman, Managing Attorney.

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Before Mermelstein, Larkin, and English,  
Administrative Trademark Judges.

Opinion by Larkin, Administrative Trademark Judge:

World Economic Forum (“Applicant”) seeks the extension of protection of International Registration No. 1445084 to the United States through registration on the Principal Register of the proposed standard character mark 4IR for the following goods and services (as amended):

- Printed matter, namely, paper signs, books, manuals, curricula, newsletters, informational cards and brochures relating to economic, social and political issues; photographs; printed instructional and teaching material, except apparatus, relating to economic, social and political issues; brochures relating to economic, social and political issues; newspapers; printed publications, namely, magazines, books, hand-outs, manuals, research reports, brochures, informational cards and workbooks relating to

economic, social and political issues; research reports relating to economic, social and political issues, in International Class 16;

- Business consulting, namely, evaluation and compilation of mathematical or statistical data for economic and business purposes; providing information and analysis in the fields of economics and economic policy, namely, analysis of mathematical or statistical data; business networking services aimed at promoting discussion with a view to industrial, regional and global issues and changes; business networking services for professional and economic purposes aimed at promoting discussion with a view to industrial, regional and global issues and changes, in International Class 35;
- Provision of online chat rooms for social networking purposes, particularly for public-private cooperation and social, political, business and academic leader cooperation; telecommunication access, particularly in the fields of interactive communication networks, provision of access to an Internet platform; chat room services for social networking purposes, in International Class 38; and
- Education services, namely, providing classes, seminars, workshops and forums relating to economic, social and political issues; training services relating to economic, social and political issues; entertainment services, namely, conducting parties, cocktail receptions, film exhibitions and events to facilitate the discussion of economic, social and political issues; educational services, namely, organization and conducting of colloquiums, conferences, congresses, seminars, symposiums and training workshops relating to economic, social and political issues; entertainment and educational services in the nature of competitions in the field of education; organization of exhibitions for cultural or educational purposes; organization of events for cultural purposes; publication of books; providing on-line publications in the nature of e-books and journals relating to economic, social and political issues; publication of texts other than advertising texts, in International Class 41.<sup>1</sup>

The Trademark 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), on the ground that the proposed mark is merely descriptive of the goods and services

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<sup>1</sup> Application Serial No. 79249902 was filed on October 3, 2018 under Section 66(a) of the Trademark Act, 15 U.S.C. § 1141f, based on International Registration No. 1445084.

identified in the application because it abbreviates the merely descriptive phrase “Fourth Industrial Revolution.” When the Examining Attorney made the refusal final, Applicant appealed and requested reconsideration, which was denied. The case is fully briefed.<sup>2</sup> We affirm the refusal to register.

### **I. Record on Appeal<sup>3</sup>**

The record on appeal includes the following:

- A Wikipedia entry entitled “Fourth Industrial Revolution,” made of record by the Examining Attorney;<sup>4</sup>
- Internet webpages containing third-party articles discussing the “Fourth Industrial Revolution,” made of record by the Examining Attorney;<sup>5</sup>
- Reviews of the book *The Fourth Industrial Revolution* by Klaus Schwab, Applicant’s founder and Executive Chairman, made of record by the Examining Attorney;<sup>6</sup>

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<sup>2</sup> Citations in this opinion to the briefs refer to TTABVUE, the Board’s online docketing system. *Turdin v. Tribolite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014). Specifically, the number preceding TTABVUE corresponds to the docket entry number, and any numbers following TTABVUE refer to the page number(s) of the docket entry where the cited materials appear.

<sup>3</sup> Citations in this opinion to the application record, including the request for reconsideration and its denial, are to pages in the Trademark Status & Document Retrieval (“TSDR”) database of the United States Patent and Trademark Office (“USPTO”).

<sup>4</sup> February 4, 2019 Office Action at TSDR 2-4.

<sup>5</sup> *Id.* at TSDR 5-41.

<sup>6</sup> May 7, 2019 Final Office Action at TSDR 2-4.

- Pages from Applicant’s website at weforum.org containing materials discussing the “Fourth Industrial Revolution,” made of record by the Examining Attorney;<sup>7</sup> and
- A Wikipedia entry entitled “Heat wave” and electronic records regarding registrations of the marks HEATWAVE and HEAT WAVE, made of record by Applicant.<sup>8</sup>

## II. Mere Descriptiveness Refusal

### A. Applicable Law

Section 2(e)(1) of the Trademark Act prohibits registration on the Principal Register of “a mark which, (1) when used on or in connection with the goods of the applicant is merely descriptive . . . of them,” unless the mark has acquired distinctiveness under Section 2(f) of the Act, 15 U.S.C. § 1052(f).<sup>9</sup> “A mark is ‘merely descriptive’ within the meaning of Section 2(e)(1) ‘if it immediately conveys information concerning a feature, quality, or characteristic of the goods or services for which registration is sought.’” *In re Omniome, Inc.*, 2020 USPQ2d 3222, \*3 (TTAB 2020) (quoting *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1709 (Fed. Cir. 2017)). “A mark need not recite each feature of the relevant goods or services in detail to be descriptive, it need only describe a single feature or attribute.” *Id.* (quoting *In*

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<sup>7</sup> *Id.* at TSDR 5-30.

<sup>8</sup> November 7, 2019 Request for Reconsideration at TSDR 2-17.

<sup>9</sup> Applicant does not claim that if 4IR is found to be merely descriptive, it is registrable because it has acquired distinctiveness. *Cf. In re Thomas Nelson, Inc.*, 97 USPQ2d 1712, 1713 (TTAB 2011) (applicant argued in the alternative that the applied-for initialism mark had acquired distinctiveness if it were found to be merely descriptive).

*re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012)). “Moreover, a mark need not be merely descriptive of all recited goods or services in an application. A descriptiveness refusal is proper if the mark is descriptive of any of the [goods or] [services] for which registration is sought.” *Chamber of Commerce*, 102 USPQ2d at 1219 (quoting *In re Stereotaxis Inc.*, 429 F.3d 1039, 77 USPQ2d 1087, 1089 (Fed. Cir. 2005)).

Whether a mark is merely descriptive is “evaluated ‘in relation to the particular goods [and services] for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods [and services] because of the manner of its use or intended use,’” *id.* (quoting *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)), and “not in the abstract or on the basis of guesswork.” *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1513 (TTAB 2016) (citing *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978)). We ask “whether someone who knows what the goods and services are will understand the mark to convey information about them.” *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1374 (Fed. Cir. 2018) (quoting *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (internal quotation omitted)). A mark is suggestive rather than merely descriptive if it requires imagination, thought, and perception on the part of someone who knows what the goods and services are to reach a conclusion about their nature from the mark. *See, e.g., Fat Boys*, 118 USPQ2d at 1515.

“Evidence of the public’s understanding of [a] term . . . may be obtained from any competent source, such as purchaser testimony, consumer surveys, listings in dictionaries, trade journals, newspapers[,] and other publications.” *Real Foods*, 128 USPQ2d at 1374 (quoting *Royal Crown Co. v. Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041, 1046 (Fed. Cir. 2018)). “These sources may include [w]ebsites, publications and use ‘in labels, packages, or in advertising material directed to the goods [and services].’” *N.C. Lottery*, 123 USPQ2d at 1710 (quoting *Abcor Dev.*, 200 USPQ at 218). “Evidence that a term is merely descriptive may come from an applicant’s own usage other than that found on its labels, packaging or advertising materials.” *Omnioime*, 2020 USPQ2d 3222 at \*4.

Where, as here, a proposed mark is refused registration as merely descriptive because it is claimed to be an abbreviation of a merely descriptive phrase, we apply a three-part analysis:

1. Is the proposed mark an abbreviation of the phrase?;
2. Is the phrase merely descriptive of the identified goods and services?; and
3. Is a relevant consumer viewing the proposed mark in connection with the identified goods and services likely to recognize it as an abbreviation of the merely descriptive phrase?

*Thomas Nelson*, 97 USPQ2d at 1716 (affirming refusal to register NKJV in standard characters for “bibles” because it was a recognized initialism for the merely descriptive phrase “New King James Version”). Accordingly, to show that 4IR is merely descriptive of at least one good or service in each class in the application, the

Examining Attorney must show that (1) 4IR is an abbreviation of the phrase “Fourth Industrial Revolution;” (2) the phrase “Fourth Industrial Revolution” is merely descriptive of at least one good or service in each class in the application; and (3) a relevant consumer viewing 4IR in the context of the referenced goods and services would recognize it as an abbreviation of “Fourth Industrial Revolution.”

## **B. Analysis of Refusal**

Applicant concedes in its reply brief that the “majority of the Examining Attorney’s Appeal Brief argues points that are not in dispute.” 10 TTABVUE 3. As discussed below, there is no dispute that the Examining Attorney has carried her burden on the first prong of the *Thomas Nelson* test and little dispute that she has done so on the third prong. Applicant primarily challenges her showing on the second prong.

### **1. Is 4IR an Abbreviation of “Fourth Industrial Revolution”?**

Applicant’s proposed mark 4IR “is admittedly an acronym for the phrase the ‘Fourth Industrial Revolution.’” 7 TTABVUE 14. It is “undisputed that the acronym ‘4IR’ is sometimes used by Applicant and by others in a descriptive manner, namely to describe the ‘Fourth Industrial Revolution.’” 10 TTABVUE 4. Applicant similarly does not dispute that it “has published many articles on the ‘Fourth Industrial Revolution’ . . . many of which appear in the evidence submitted by the Examining Attorney,” and that “[o]ther people have commented on the ‘Fourth Industrial Revolution’ and at times have used the abbreviation or acronym ‘4IR’ in doing so.” 7 TTABVUE 10. We display below the pertinent portions of some of Applicant’s articles,

which show Applicant's use of the proposed mark 4IR to abbreviate "Fourth Industrial Revolution":



The screenshot shows the top navigation bar of the World Economic Forum website with links for Agenda, Initiatives, Reports, Events, and a language dropdown set to English. The main heading is "Fourth Industrial Revolution for the Earth" in large, bold black font. Below the heading is a blue-toned image of the Earth with a network of glowing lines and nodes. To the right of the image is a "Related Links" section with five links: "Harnessing the 4IR for the Earth", "Harnessing the 4IR for Oceans", "Harnessing the 4IR for Sustainable Emerging Cities", "Harnessing the Fourth Industrial Revolution for Life on Land", and "Harnessing Artificial Intelligence for the Earth". Below the image is a text box stating: "This project is part of the World Economic Forum's **Shaping the Future of Environment and Natural Resource Security** System Initiative". At the bottom right of the page, under a "Partners" section, is the "World Economic Forum".

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With support from the MAVA Foundation, PwC and Stanford University, this project seeks to harness that potential by mapping 4IR solutions against the most pressing environmental challenges, identifying and addressing related governance issues, and identifying and mobilising the critical ingredients that will enable 4IR solutions to scale.

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<sup>10</sup> May 7, 2019 Final Office Action at TSDR 5 (weforum.com).

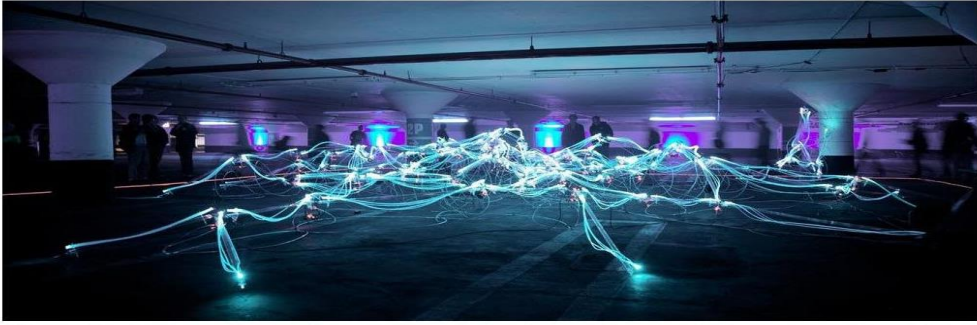
<sup>11</sup> *Id.* at TSDR 6.



WORLD ECONOMIC FORUM | Agenda | Initiatives | Reports | Events | English | TopLink | Search

Global Agenda | Cybersecurity | Artificial Intelligence and Robotics

## 3 ways firms can master the digital challenges of the 4IR



Cybersecurity, automation and speed of decision-making are key considerations for company owners. Image: Unsplash

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WORLD ECONOMIC FORUM | Agenda | Initiatives | Reports | Events | English | TopLink | Search

Global Agenda | Fourth Industrial Revolution | Advanced Manufacturing and Production | Artificial Intelligence and Robotics

## 4 myths about manufacturing in the Fourth Industrial Revolution



Prices of robots are falling Image: REUTERS/Stringer

04 Feb 2019  
**Ian Cronin**  
Project Lead, Future of Production System Initiative, World Economic Forum

Like all good industry trends, the Fourth Industrial Revolution (4IR) for manufacturing has come to mean many things. While most would agree that it involves the incorporation and interconnectivity of new technologies across production systems,

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<sup>12</sup> *Id.* at TSDR 12-19.

<sup>13</sup> *Id.* at TSDR 20-30. This article repeatedly uses 4IR to abbreviate “Fourth Industrial Revolution,” including in the subheadings “Myth #1 – 4IR technologies are too expensive,” *id.* at TSDR 21, “Myth #2 – 4IR will cause widespread unemployment,” *id.* at TSDR 24, and Myth #4 – 4IR is only for large multinational companies in developed markets.” *Id.* at TSDR 26.

Consistent with Applicant's admission that "'4IR' is sometimes used by . . . others in a descriptive manner, namely to describe the 'Fourth Industrial Revolution,'" 10 TTABVUE 4, the Wikipedia entry in the record begins "The Fourth Industrial Revolution (4IR) is the fourth major industrial era since the initial Industrial Revolution of the 18th Century,"<sup>14</sup> and several articles in the record similarly use 4IR as an initialism for "Fourth Industrial Revolution."<sup>15</sup>

We find that 4IR is an abbreviation of "Fourth Industrial Revolution" under the first prong of the *Thomas Nelson* test.

**2. Is "Fourth Industrial Revolution" Merely Descriptive of the Identified Goods and Services?**

As noted above, this prong of the *Thomas Nelson* test is the one to which Applicant devotes most of its arguments. According to Applicant, "[w]hat is in dispute, and what the Examining Attorney did not refute or address in the Examining Attorney's Answer Brief or at any time during prosecution of the application, is that 4IR is not descriptive of any of the goods or services identified in the application." 10 TTABVUE 4. Applicant claims that the "Examining Attorney does not explain how 4IR and its known meaning describes any such goods and services," *id.*, and that "there is no evidence of record that '4IR' or 'Fourth Industrial Revolution' is descriptive of the

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<sup>14</sup> February 4, 2019 Office Action at TSDR 2.

<sup>15</sup> *Id.* at TSDR 6-12 (*i-SCOOP* article entitled "Industrial transformation on the rise: 4IR technology patent application learnings"), 23-31 (article entitled "Four Major Trends in the Current Fourth Industrial Revolution"), 37-40 (*diginomica* article entitled "What if we've got it wrong about 4IR? Time to re-evaluate"). Applicant argues that "[a]ny use of '4IR' by others has been done in an other-than-trademark-use manner," 7 TTABVUE 10, and that "no one (other than Applicant) uses 4IR as a trademark/service mark for the goods/services identified in the application." *Id.* As shown above, however, Applicant's own use of 4IR in its articles is in an identical "other-than-trademark-use manner." *Id.*

goods and services identified in the application. No connection between the term 4IR and the goods and services has been identified whatsoever.” *Id.* at 5.

Applicant further argues that none of the goods and services identified in the application “are in the fields of technology that one would reasonably associate with the ‘Fourth Industrial Revolution’ (e.g. robotics, artificial intelligence, nanotechnology, quantum computing, biotechnology, the Internet of Things, the Industrial Internet of Things (IIoT), decentralized consensus, fifth-generation wireless technologies (5G), additive manufacturing/3D printing and fully autonomous vehicles),” 7 TTABVUE 13, and that consumers will not associate 4IR with the identified goods and services because the Class 16 paper goods “could have existed at the time of the first Industrial Revolution in the 1800s,” *id.* at 12, the Class 35 and 41 services “could also have been provided at the time of the first Industrial Revolution in the 1800s,” *id.*, and the Class 38 services “were being provided long before the ‘Fourth Industrial Revolution’ began.” *Id.* at 13. These arguments are unavailing.

As discussed above, in assessing descriptiveness, “the question is not whether someone presented only with the mark could guess the goods and services listed in the identification. Rather, the question is whether someone who knows what the goods and services are will understand the mark to convey information about them.” *In re Mecca Grade Growers, LLC*, 125 USPQ2d 1950, 1953 (TTAB 2018) (citation omitted). In addressing that question, the Examining Attorney points to specific goods and services identified in the application in arguing that

a relevant consumer seeing this phrase used in connection with the applicant's "Printed matter . . . relating to economic, social and political issues" in International Class 16, "business networking services aimed at promoting discussion with a view to industrial, regional and global issues and changes" in International Class 35, "online chat rooms for social networking purposes, particularly for public-private cooperation and social, political, business and academic leader cooperation" in International Class 38, and "providing on-line publications in the nature of e-books and journals relating to economic, social and political issues" in International Class 41, would immediately understand that the "Fourth Industrial Revolution" as [sic] a feature or subject matter of some or all of the goods and services identified in the Application.

9 TTABVUE 9-10. Accordingly, we will determine whether a consumer who sees the phrase "Fourth Industrial Revolution" used in connection with these particular goods and services "will understand the [phrase] to convey information about them." *Mecca Grade Growers*, 125 USPQ2d at 1953.

The Class 16 goods identified as "printed publications, namely, magazines, books, hand-outs, manuals, research reports, brochures, informational cards and workbooks relating to economic, social and political issues," and the Class 41 services identified as "providing on-line publications in the nature of e-books and journals relating to economic, social and political issues" involve brick-and-mortar-world and online publications. Terms that describe the subject matter of publications are merely descriptive of them under Section 2(e)(1). *See, e.g., In re Cox Enters., Inc.*, 82 USPQ2d 1040 (TTAB 2007) (THEATL merely descriptive of publications that featured news and information of interest to residents of and tourists and visitors to Atlanta, Georgia); *In re Waverly, Inc.*, 27 USPQ2d 1620 (TTAB 1993) (MEDICINE merely descriptive of a periodical journal); *In re Medical Digest, Inc.*, 148 USPQ 570 (TTAB

1965) (OB/GYN merely descriptive of a magazine directed to specialists in obstetrics and gynecology).<sup>16</sup>

As shown and discussed above, Applicant “has published many articles on the ‘Fourth Industrial Revolution’ . . . many of which appear in the evidence submitted by the Examining Attorney.” 7 TTABVUE 10. As used in connection with articles on the “Fourth Industrial Revolution” in the identified paper and online publications, the phrase is “merely descriptive of the subject matter of applicant’s publications that feature” that topic. *Cox Enters.*, 82 USPQ2d at 1045.<sup>17</sup> See also *In re theDot Commc’ns Network LLC*, 101 USPQ2d 1062, 1068 (TTAB 2011) (because proposed mark .music “for publishing of electronic publications and web magazines would immediately convey that the electronic publications would be about music,” it was “merely

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<sup>16</sup> Applicant acknowledges that “it is frequently the case that marks applied to paper goods classified in International Class 016 (e.g., magazines) are suggestive of the topics or the content of articles contained therein,” 7 TTABVUE 13, and gives as examples the marks LIFE, PEOPLE, SCIENCE, and CAR AND DRIVER for magazines discussing “what occurs in people’s lives,” “people (typically celebrities),” “various fields of scientific research,” and “various aspects of cars and driving,” respectively. *Id.* Applicant did not make any registrations of these marks of record, and we thus do not know whether the marks are registered, and, if so, whether they were found to be suggestive, and thus inherently distinctive, as Applicant seems to claim, or were instead found to be merely descriptive, but registrable upon a showing of acquired distinctiveness or on the Supplemental Register.

<sup>17</sup> Applicant “does not dispute that topics of this nature *could be* addressed in Applicant’s goods and services,” but “also notes that there is nothing that restricts or limits Applicant’s goods and services to such topics.” 7 TTABVUE 13. Applicant further argues that “[a]t best, the goods and services *might* include information or discussion about fields in the ‘Fourth Industrial Revolution’ as coined by Applicant’s Executive Chairman. But they are not required to contain such content.” *Id.* at 14. Applicant’s “arguments that the subject matter of its publications is too diverse or broad in scope to be descriptive, and that the publications may also contain other subject matter that does not relate specifically to [the Fourth Industrial Revolution] are not relevant.” *Cox Enters.*, 82 USPQ2d at 1044. “The relevant point is that [4IR] is descriptive of that portion of the subject matter which admittedly does relate specifically to [the Fourth Industrial Revolution].” *Id.*

descriptive when used in connection with music publishing and entertainment services.”).

The same general principles apply to the Class 35 “business networking services aimed at promoting discussion with a view to industrial, regional and global issues and changes” and the Class 38 services identified as “online chat rooms for social networking purposes, particularly for public-private cooperation and social, political, business and academic leader cooperation.” The use of the proposed mark 4IR, “admittedly an acronym for the phrase the ‘Fourth Industrial Revolution,’” 7 TTABVUE 14, in connection with these business and social networking services would likely signal that the discussions that are the object of such networking are intended to have the “Fourth Industrial Revolution” as their subject matter, but such use at a minimum “directly conveys to relevant consumers that the services . . . could encompass” discussion of the “Fourth Industrial Revolution.” *theDot Commc’ns Network*, 101 USPQ2d at 1068. “Therefore, the [phrase] is merely descriptive for those services.” *Id*; *cf. In re Reed Elsvier Props., Inc.*, 77 USPQ2d 1649 (TTAB 2005) (LAWYERS.COM generic for “providing access to an online interactive database featuring information exchange in the fields of law, legal news, and legal services”), *aff’d*, 482 F.3d 1376, 82 USPQ2d 1378 (Fed. Cir. 2007).

We find that the phrase “Fourth Industrial Revolution” is merely descriptive of the specific identified goods and services under the second prong of the *Thomas Nelson* test.

**3. Is a Relevant Consumer Viewing 4IR in Connection with the Specific Identified Goods and Services Likely to Recognize It as an Abbreviation of the Merely Descriptive Phrase “Fourth Industrial Revolution”?**

Applicant argues that even though 4IR “is admittedly an acronym for the phrase ‘Fourth Industrial Revolution,’” 7 TTABVUE 14, “not all people encountering the mark would know this,” and “a consumer would have to know what ‘4IR’ means in order to make an association with the phrase ‘Fourth Industrial Revolution.’” *Id.* Applicant further argues that a “consumer encountering the applied-for 4IR mark would first have to appreciate that it is an acronym for ‘Fourth Industrial Revolution’, which is not an easy task due to the difference between 4 and 4th.” *Id.* at 16. Against the backdrop of Applicant’s admissions that “it is not disputed that the phrase ‘Fourth Industrial Revolution’ has a known origin and meaning,” 10 TTABVUE 3, and that “it is undisputed that the acronym ‘4IR’ is sometimes used by Applicant and by others in a descriptive manner, namely to describe the ‘Fourth Industrial Revolution,’” *id.*, these arguments are unpersuasive.

“Evidence that a term is merely descriptive may come from an applicant’s own usage other than that found on its labels, packaging or advertising materials.” *Omniome*, 2020 USPQ2d 3222 at \*4. Applicant’s use of 4IR as a defined term abbreviating the descriptive phrase “Fourth Industrial Revolution” in the articles shown above leaves no doubt that a “consumer encountering the applied-for 4IR mark would . . . appreciate that it is an acronym for ‘Fourth Industrial Revolution’ . . .” 7 TTABVUE 16. *See N.C. Lottery*, 123 USPQ2d at 1710 (explanatory text on the applicant’s website made it clear that the applied-for mark FIRST TUESDAY

described that the applicant's lottery games appeared on the first Tuesday of each month). "The commercial context here demonstrates that a consumer would immediately understand the intended meaning of [4IR]," *id.*, and we agree with the Examining Attorney that "because the initialism appears in close proximity to the underlying descriptive term, a relevant consumer would immediately recognize it is the equivalent of the descriptive wording it represents." 9 TTABVUE 10. We find that a consumer viewing 4IR in the context of at least the particular identified goods and services would be likely to recognize it as an abbreviation of the merely descriptive phrase "Fourth Industrial Revolution" under the third prong of the *Thomas Nelson* test.

#### 4. Summary

"[P]roof of mere descriptiveness may originate from Applicant's own descriptive use of its proposed mark," *Omniome*, 2020 USPQ2d 3222 at \*4, and such evidence may be "the most damaging evidence," in indicating how the relevant public perceives a term." *Mecca Grade Growers*, 125 USPQ2d at 1958 (quoting *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1112 (Fed. Cir. 1987)). Applicant's own use of 4IR, echoed in the third-party uses in the record, leaves no doubt that the proposed mark is an abbreviation of the phrase "Fourth Industrial Revolution," that relevant consumers of Applicant's print and online publications and business and social networking services are likely to recognize 4IR as such, and that the phrase "Fourth Industrial Revolution" merely describes a feature of those services, namely, their contents or subject matter. Accordingly, the proposed mark 4IR is merely descriptive of at least one good or service in each class in the application, and it is thus ineligible



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for registration on the Principal Register as to all of the goods and services in all four classes in the application in the absence of a showing of acquired distinctiveness.

**Decision:** The refusal to register is affirmed.